

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7854 HOUSE JUDICIARY

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

COPY

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 21, 1993

SUBJECT: 1993 Revisor's Bill (Work Order No. 8-LS0233A)
TO: Representative Eldon Mulder
Chair, Legislative Council
FROM: David R. Dierdorff
Revisor of Statutes

The enclosed work draft was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

* * * shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

To assist in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 4, 8, 9, and 15 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 1 - 3, 5 - 7, 10, 11, 13, and 14 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Section 12 proposes amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. When AS 14.25.050(a) was amended in 1990 to change the contribution percentage for the Teachers Retirement System, AS 14.20.345(d) should have been similarly amended. The amendment proposed in sec. 1 of the bill simply ties the percentage contribution required during leaves of absence to the percentage required

Representative Eldon Mulder
Chair, Legislative Council
January 21, 1993
Page 2

under AS 14.25.050. This will eliminate the need for further amendments if the percentage changes in the future. This error was discovered by the drafting attorney.

Sec. 2. This section corrects a drafting error in ch. 74, SLA 1991, by substituting "judicial districts" for "major election districts." Obviously, there are no "major" election districts, at least not by objective measurement! The error was brought to our attention by an assistant attorney general.

Secs. 3 and 5. These sections correct internal references that should have been changed when AS 16.05.720 was repealed and AS 16.05.722 and 16.05.723 were added by ch. 46, SLA 1988. The oversight was discovered by our office.

Sec. 4. This section deletes an obsolete reference to the commissioner of fish and game's power to revoke a vessel license. That power was repealed in 1977, when license issuance was transferred to the limited entry commission. The proposed amendment updates the style and substitutes a general statement for the obsolete reference. The need for the amendment was discovered by our office.

Secs. 6 and 7. These sections correct two oversights in the legal description of the Kachemak Bay Critical Habitat Area. The Department of Fish and Game and the Department of Law requested the corrections. The changes comply with the legislative intent, expressed in the 1974 Senate Resources Committee letter of intent, that the critical habitat area include "all tide and submerged lands of Kachemak Bay east of a line from Anchor Point to Point Pogibshi." 1974 Senate Journal 1009. The amendment in sec. 6 accomplishes this by excluding Port Graham, which is south and, in part, west of Point Pogibshi and not a part of Kachemak Bay. In sec. 7, the change adds the southeastern end (the head) of Tulka Bay. I have maps and further backup in my files and can make copies available upon request.

Secs. 8 and 9. These bill sections update a reference to federal law. The need for this change was discovered during our routine editorial work.

Secs. 10 and 11. Both bill sections correct references to publications that contain safety standards. The publications were incorrectly described in ch. 37, SLA 1992. The Department of Labor and the Department of Law requested the corrections.

Sec. 12. This section proposes a clarification in the new legislative ethics law, at the request of Representative Finkelstein's office. Because public members of the ethics committee are included within the definition of the term "legislative employees," they would be required to report close economic associations with their supervisors. However, it is clear that the legislature was interested only in relationships between true legislative employees and their supervisors, not the relationships between private sector individuals and their supervisors.

Representative Eldon Mulder
Chair, Legislative Council
January 21, 1993
Page 3

Secs. 13 and 16. Under the terms of ch. 60, SLA 1989, which established the state employees incentive award program, the program (set out in AS 39.51) is repealed July 1, 1993. The amendment to AS 39.35.680(8) proposed in sec. 13 deletes a reference to the program that will be obsolete if AS 39.51 is in fact repealed. Under sec. 16, sec. 13 will take effect only if the repeal takes place. In other words, if this legislature extends the program, sec. 13 will not take effect. We have been aware of the possible need for this technical amendment since 1989, when ch. 60 was signed into law.

Sec. 14. This section proposes a correction in the legal description for the Alexander Creek State Recreation River. The error was discovered by the Department of Natural Resources during plat plotting in connection with the management of the area. Full documentation and a map are in my files and I will make copies available upon request.

Sec. 15. Repeals provisions that are obsolete. Those provisions and the reasons for their obsolescence are:

- AS 08.03.010(c)(12) - the Board of Electrical Examiners sunsetted in 1991;
- AS 08.64.380(5) - this definition should have been repealed in ch. 130, SLA 1992, but was overlooked;
- AS 10.06.960(d) - addresses a provision that was not incorporated in the final version of the revised corporation code;
- AS 18.07.111(10) - defines a term that is not used in the applicable body of law;
- AS 39.25.120(c)(20); AS 44.41.100 - 44.41.130; AS 44.66.010(a)(13) - the statutes were rendered obsolete when the fire commission sunsetted in 1990;

The text of all provisions proposed for repeal is set out in the appendix.

Sec. 17. Gives the bill, except for sec. 13, an immediate effective date.

DRD:gc
93-053.glc

Enclosure

cc: Deborah Behr
Department of Law

COPY

APPENDIX - TEXT OF REPEALED PROVISIONS

AS 08.03.010(c)(12):

(12) Board of Electrical Examiners (AS 08.40.011) - June 30, 1991;

AS 08.64.380(5):

(5) "practice of lay midwifery" has the meaning given in AS 18.05.070;

AS 10.06.960(d):

(d) A director or officer of a corporation organized under the act is not personally liable to the contract creditors specified in AS 10.06.490 except as otherwise provided by law.

AS 18.07.111(10):

(10) "health systems agency" means an entity organized and operated in accordance with 42 U.S.C. 300m(b), engaging in health planning and development functions in a specified health service area of the state;

AS 39.25.120(c)(20):

(20) employees of the Alaska State Fire Commission;

AS 44.41.100 - 130:

Sec. 44.41.100. FIRE COMMISSION. The Alaska State Fire Commission is established in the Department of Public Safety.

Sec. 44.41.110. MEMBERSHIP. (a) The governor shall appoint the members of the commission without regard to political affiliation to serve for terms of four years. Members must have an understanding of basic fire protection principles. A member may serve no more than two consecutive full terms. Membership must include a

- (1) member of the Alaska Fire Chief's Association;
- (2) member of the Alaska State Firefighters Association;
- (3) member of the Alaska Municipal League;
- (4) representative of the field of education;
- (5) representative of the Alaska Federation of Natives;
- (6) representative of the insurance industry;
- (7) representative of the construction industry;
- (8) representative of the oil industry; and
- (9) representative of the transportation industry.

(b) The attorney general and the commissioners of public safety, labor, community and regional affairs, and natural resources or their designated representatives are nonvoting members of the committee.

(c) A vacancy on the commission shall be filled from the appropriate source. The appointee shall serve for the unexpired portion of the term.

(d) Members serve without compensation but are entitled to travel and per diem authorized for members of boards and commissions under AS 39.20.180.

Sec. 44.41.120. PROCEDURES; STAFF. (a) A quorum consists of five members and must include either the chair or the vice-chair of the commission.

(b) The membership shall elect a chair and a vice-chair to serve for terms of one year. The chair may appoint standing and special committees and subcommittees.

(c) The chair, the governor, or three members of the commission may call a special meeting.

(d) The commission may hire staff as necessary. Employees of the commission are in the partially exempt services under AS 39.25.120.

Sec. 44.41.130. POWERS AND DUTIES. (a) The commission shall

(1) develop and adopt a state master plan for fire prevention, control, education, and training, and provide direction and coordination for state fire-related programs;

(2) establish policy and operational guidelines for state agencies with fire protection responsibilities and make recommendations to private industry, local governments, and federal agencies having fire protection programs;

(3) adopt procedural regulations reasonably necessary to carry out the duties imposed by AS 44.41.100 - 44.41.130;

(4) make recommendations for local, federal, and private fire-related programs; and

(5) report on commission activities when requested by the governor or the legislature.

(b) The commission may

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 90

Revision Date: _____
Title: "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor..."
Sponsor: Hse Rules Comm. By Reg. of Leg. Coun.
Requestor: House Judiciary Committee

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Legal Services

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director
Division: Administrative Services

Pamela A. Stoops

Phone: 465-3850
Date: 1/27/93

Approved By: Warren W. Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren W. Endicott

Date: 1/27/93

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

CORRECTION

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

COPY

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(12) Board of Electrical Examiners (AS 08.40.011) - June 30, 1991;

AS 08.64.380(5):

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- (5) representative of the insurance industry;
- (7) representative of the construction industry;
- (8) representative of the oil industry; and
- (9) representative of the transportation industry.

(b) The attorney general and the commissioners of public safety, labor, community and regional affairs, and natural resources or their designated representatives are nonvoting members of the committee.

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(1) develop and adopt a state master plan for fire prevention, control, education, and training, and provide direction and coordination for state fire-related programs;

(2) establish policy and operational guidelines for state agencies with fire protection responsibilities and make recommendations to private industry, local governments, and federal agencies having fire protection programs;

(3) adopt procedural regulations reasonably necessary to carry out the duties imposed by AS 44.41.100 - 44.41.130;

- (4) make recommendations for local, federal, and private fire-related programs; and
- (5) report on commission activities when requested by the governor or the legislature.

(b) The commission may

(1) conduct research, hold public hearings, and study related issues in order to make recommendations for the improvement of fire prevention and control in the state;

(2) accept unrestricted gifts, bequests, devises, grants, matching funds and other consideration for use in promoting the commission's work.

AS 44.66.010(a)(13):

(a) Boards and commissions listed in this subsection expire on the date set out after each:

* * *

(13) Alaska State Fire Commission - June 30, 1990;

DRD:gc
93-048.glc

Enclosure

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 90

Revision Date: _____
Title: "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor..."
Sponsor: Hse Rules Comm. By Req. of Leg. Coun.
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Department Affected: Legislative Affairs Agency
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COMPONENT SERIAL NO:

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OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND						
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OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director
Division: Administrative Services

Pamela A. Stoops

Phone: 465-3850
Date: 1/27/93

Approved By: Warren W. Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren W. Endicott

Date: 1/27/93

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

10

11

12

13

(7)

Date Referred: February 3, 1993

FURTHER REFERRALS:

Date of Committee Action: 4-14-93

The JUDICIARY Committee considered:

CSSSHB 92 (L&C)

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 92(L&C) REGULATION OF NOTARIES PUBLIC

"An Act relating to notaries; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 92 (JUD)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) LT. GOV'S OFF. (1-28-93)

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Janette James</i>	✓				
<i>Keith...</i>	✓				
<i>Joseph...</i>	✓				
<i>Brian Porter</i>	✓				
<i>John...</i>	✓				
		<i>Chip...</i>		✓	

Brian Porter
CHAIRMAN'S SIGNATURE

8-LS04830
Bannister
4/9/93

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 92(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to notaries; and providing for an effective date."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * Section 1. AS 09.63.030(c) is amended to read:

4 (c) If the document is sworn to or affirmed before a notary public of the state,
5 the notary public shall

6 (1) endorse after the signature of the notary public

7 (A) the date of expiration of the notary's commission;

8 (B) the date of the notarization; and

9 (C) the city where the notarization was performed;

10 (2) place [PRINT OR EMBOSS] the notary's seal on the document;

11 (3) comply with AS 44.50 [AS 44.50.060 - 44.50.080] or other
12 applicable law.

13 * Sec. 2. AS 09.63.040(d) is repealed and reenacted to read:

14 (d) If the verification is sworn to or affirmed before a notary public of the

1 state, the notary public shall comply with AS 09.63.030(c).

2 * Sec. 3. AS 09.63.100(b) is repealed and reenacted to read:

3 (b) If a document is acknowledged before a notary public of the state, the
4 notary public shall comply with AS 09.63.030(c).

5 * Sec. 4. AS 44.50.020 is amended by adding a new subsection to read:

6 (b) A person may not be appointed and commissioned a notary public under
7 AS 44.50.010 if the person has been convicted within five years before applying for
8 the appointment of a crime involving theft, dishonesty, fraud, deceit, or
9 misrepresentation.

10 * Sec. 5. AS 44.50.060 is amended to read:

11 Sec. 44.50.060. DUTIES. A notary public shall

12 (1) when requested, demand acceptance and payment of foreign and
13 inland bills of exchange, or promissory notes, protest them for nonacceptance and
14 nonpayment, and exercise the other powers and duties that by the law of nations and
15 according to commercial usages, or by the laws of any other state, government, or
16 country, may be performed by notaries;

17 (2) take the acknowledgment or proof of powers of attorney, mortgages,
18 deeds, grants, transfers, and other instruments of writing, and give a certificate of the
19 proof or acknowledgment, endorsed on or attached to the instrument; [THE
20 CERTIFICATE SHALL BE SIGNED BY THE NOTARY IN THE NOTARY'S OWN
21 HANDWRITING;]

22 (3) take depositions and affidavits, and administer oaths and
23 affirmations, in all matters incident to the duties of the office, or to be used before a
24 court, judge, officer, or board in the state;

25 (4) keep a journal under AS 44.50.095 of the notarial acts
26 performed by the notary [A DEPOSITION, AFFIDAVIT, OATH, OR
27 AFFIRMATION SHALL BE SIGNED BY THE NOTARY IN THE NOTARY'S
28 OWN HANDWRITING, AND THE NOTARY SHALL ENDORSE AFTER THE
29 SIGNATURE THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION].

30 * Sec. 6. AS 44.50.060 is amended by adding a new subsection to read:

31 (b) When a notarial act requires the signature of a notary, the notary shall sign

1 the document and comply with AS 09.63.030(c).

2 * Sec. 7. AS 44.50 is amended by adding a new section to read:

3 Sec. 44.50.065. DISQUALIFICATIONS. A notary is disqualified from
4 performing a notarial act if the notary

5 (1) is a signer of or named in the document that is to be notarized;

6 (2) will receive directly from a transaction connected with the notarial
7 act a commission, advantage, right, title, interest, cash, property, or other consideration
8 exceeding in value the normal fee charged by the notary for the notarial act; or

9 (3) is related to the person whose signature is to be notarized as a
10 spouse, sibling, or lineal ascendant or descendant to the second degree of kindred.

11 * Sec. 8. AS 44.50 is amended by adding new sections to read:

12 Sec. 44.50.072. IMPARTIALITY. A notary may not influence a person to
13 enter or not enter into a lawful transaction involving a notarial act by the notary.

14 Sec. 44.50.074. FALSE CERTIFICATE. A notary may not execute a
15 certificate containing a statement known by the notary to be false or perform an
16 official action with intent to deceive or defraud.

17 Sec. 44.50.076. TESTIMONIALS. A notary may not use the notary's title or
18 seal to endorse or promote a product, service, contest, or other offering.

19 Sec. 44.50.078. UNAUTHORIZED PRACTICE. (a) Unless the notary is an
20 attorney, a notary may not select a notarial certificate, assist another person to select,
21 draft, or understand a notarial certificate, or assist another person to understand a
22 transaction requiring a notarial act.

23 (b) This section does not prohibit a notary who is qualified in, and, if required,
24 licensed to practice, a particular profession from giving advice relating to matters in
25 that professional field.

26 (c) A notary may not make representations to have powers, qualifications,
27 rights, or privileges that the office of notary does not have.

28 * Sec. 9. AS 44.50.080(b) is repealed and reenacted to read:

29 (b) A notary public seal must be on a stamp, contain the information required
30 by (a) of this section, and be printed in black ink. The seal may be circular and not
31 over two inches in diameter, or may be rectangular and not over an inch wide and two

1 and one-half inches long.

2 * Sec. 10. AS 44.50 is amended by adding a new section to read:

3 Sec. 44.50.095. NOTARY JOURNAL. (a) A notary public shall maintain and
4 preserve a chronological, permanently bound journal of the notarial acts performed
5 by the notary and shall retain the journal for a minimum of six years after the date of
6 the last entry in the journal.

7 (b) When a notary performs a notarial act, the notary shall record in the
8 journal at the time of the notarial act at least

9 (1) the date of the notarial act;

10 (2) the type of notarial act;

11 (3) a description of the document or proceeding that is the subject of
12 the notarial act;

13 (4) the name, address, and signature of each person for whom a notarial
14 act is performed; and

15 (5) a description of the evidence used to identify each person for whom
16 a notarial act is performed.

17 (c) If a notary refuses to perform or complete a notarial act because the
18 particular act cannot be performed or completed in compliance with this chapter, the
19 notary shall record the circumstances of the refusal in the journal.

20 (d) The journal is an official record that is available at reasonable times and
21 in the notary's presence for public inspection or reproduction. A notary may charge
22 a fee for reproducing pages of the journal.

23 (e) A notary shall keep the journal in the exclusive custody of the notary. The
24 journal of a notary may not be used by another notary.

25 * Sec. 11. AS 44.50.100 is repealed and reenacted to read:

26 Sec. 44.50.100. ADDRESS PROVIDED TO OFFICE OF LIEUTENANT
27 GOVERNOR. If a notary public resigns, is disqualified, is removed from office, or
28 permanently moves from the state, or if a notary public's commission is not reissued
29 when it expires, the notary shall inform the office of the lieutenant governor of the
30 notary's current address. If a notary public dies, the next of kin or the personal
31 representative of the notary shall notify the office of the lieutenant governor of the

1 address where the notary's seal and public papers related to the notary commission are
2 located.

3 * Sec. 12. AS 44.50.110 is amended to read:

4 Sec 44.50.110. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT
5 [TO REVOCATION OF NOTARY COMMISSION]. The procedures set out in the
6 Administrative Procedure Act (AS 44.62) shall be followed in the revocation of the
7 commission of a notary public and in the adoption of regulations under this
8 chapter.

9 * Sec. 13. AS 44.50 is amended by adding a new section to read:

10 Sec. 44.50.185. REGULATIONS AND HANDBOOK. (a) The lieutenant
11 governor may adopt regulations to carry out the purposes of this chapter. The
12 regulations must include standards for the revocation of the commission of a notary.

13 (b) The lieutenant governor shall produce a handbook for notaries and
14 distribute the handbook to each person who is appointed and commissioned a notary
15 public under this chapter. The handbook must contain a summary of the provisions
16 of this chapter and the regulations adopted under this chapter.

17 * Sec. 14. AS 44.50 is amended by adding a new section to read:

18 Sec. 44.50.200. DEFINITION. In this chapter, "notary" means notary public.

19 * Sec. 15. TRANSITIONAL PROVISION. Notwithstanding AS 44.50.080(b), amended
20 by sec. 9 of this Act, a person who has a valid notary public commission on July 1, 1993,
21 may use a stamp with an ink color other than black or a seal press until the person's
22 commission that is in effect on July 1, 1993, terminates.

23 * Sec. 16. This Act takes effect July 1, 1993.

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: March 31, 1993

Place: Capitol Room 120

HB 92 Regulation of Notaries Public

Subject of Meeting: HB 81 Longevity Bonus
HB 89 Borough Assembly Apportionment

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Dave Diersdorff	LAA-LEGAL				2150	(Y) N	TO ANSWER QUESTIONS ON HB 89
✓ Ruide Andrews	AARP	Juanca	99801	789-7422		(Y) N	HB 81
✓ Gene HERRIOTT	Self	CAPITOL BLDG.			465-4797	(Y) N	HB 92
✓ Patty Tratt	H. Gov. Office	capitol bldg	811		463-3509	(Y) N	ANSWER questions/ testimony HB 92
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

CONFLICTS OF INTEREST IMPARTIALITY

BY GERRY PRICE
Senior Editor

How would you feel if one morning you picked up your daily newspaper and found that the most important story was highly biased thanks to a reporter who couldn't distance himself (or herself) from the issues? You wouldn't trust that reporter any more, would you?

Reporters and Notaries Public don't have much in common — except for one thing.

Readers expect reporters to be unbiased, impartial observers of world events. In the same way, persons receiving notarized documents expect that the Notaries involved are impartial witnesses with nothing to gain.

Reporters often have strong personal opinions about the issues involved in the stories they cover. If they can't keep those opinions out of their stories, journalistic ethics demand that they turn their stories over to other reporters who can.

Notaries face similar ethical dilemmas when asked to notarize documents involving clients and family members. The danger is that the Notary, out of personal interest, might either exert undue influence on the signer, or be persuaded by others to abandon the lawful rules of notarization.

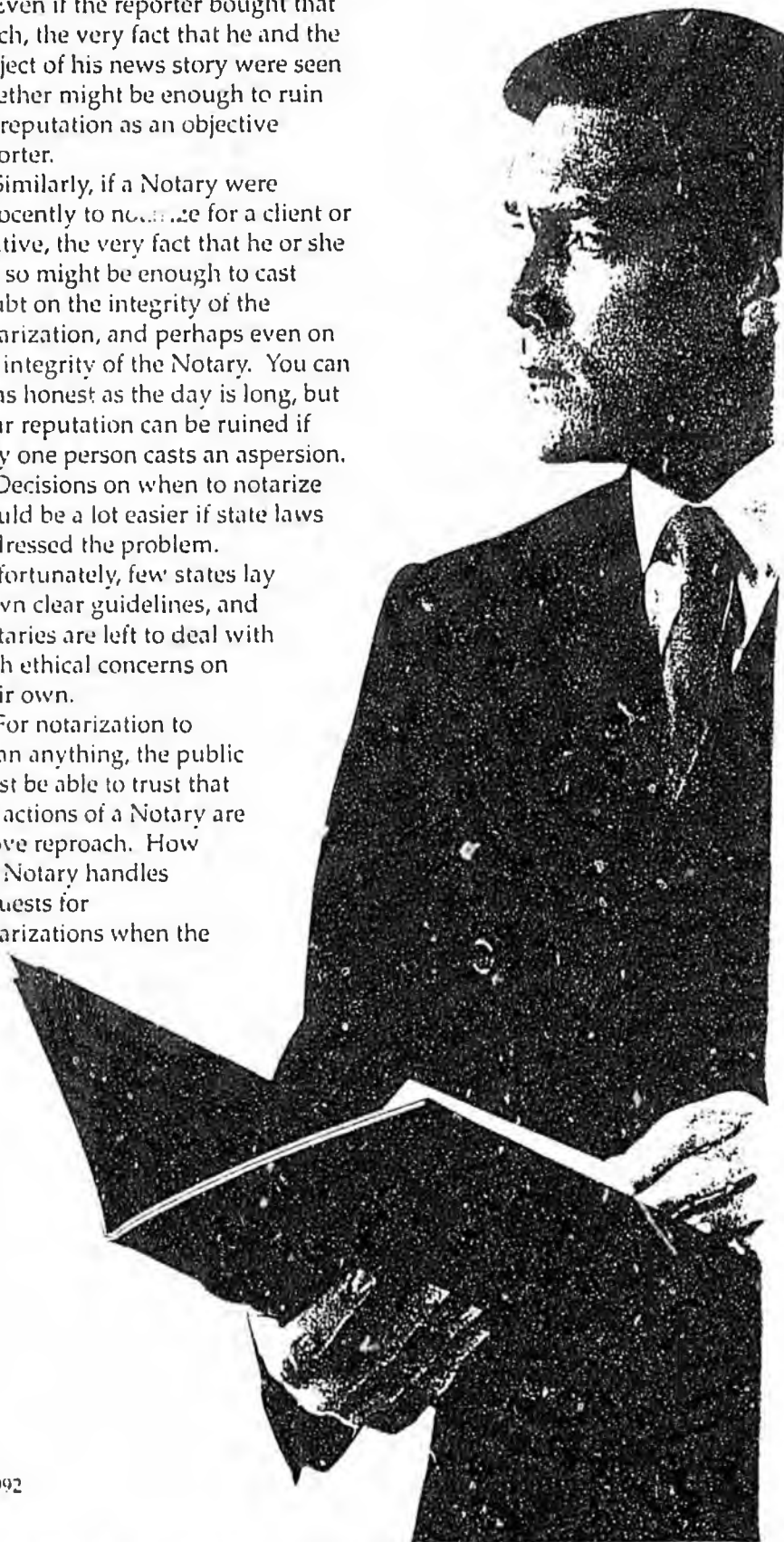
Even if there is no impropriety, the integrity of a notarial act may be impugned or compromised when it appears that the Notary may have had an ulterior motive for acting. The same with the reporter, who may be accused of "going easy" on a public figure because the two were seen having lunch together.

Even if the reporter bought that lunch, the very fact that he and the subject of his news story were seen together might be enough to ruin his reputation as an objective reporter.

Similarly, if a Notary were innocently to notarize for a client or relative, the very fact that he or she did so might be enough to cast doubt on the integrity of the notarization, and perhaps even on the integrity of the Notary. You can be as honest as the day is long, but your reputation can be ruined if only one person casts an aspersion.

Decisions on when to notarize would be a lot easier if state laws addressed the problem. Unfortunately, few states lay down clear guidelines, and Notaries are left to deal with such ethical concerns on their own.

For notarization to mean anything, the public must be able to trust that the actions of a Notary are above reproach. How the Notary handles requests for notarizations when the



UNDER SIEGE

Notary's personal interests are affected will ultimately determine whether that trust is deserved.

Notarizing Not A Family Affair

Whether to notarize for a family member is a question that every Notary eventually must resolve. It can be tough to say "no" when a spouse, parent or adult son or daughter wants to acknowledge a signature.

State laws are of little help. Only six states (Florida, Idaho, Maine, Nevada, North Dakota and Virginia) flatly outlaw notarizing for a family member. Of that group, North Dakota and Virginia just ban notarizing for a spouse, while Idaho only forbids notarizing a deed for a spouse.

Nevada, whose conflict of interest laws for Notaries are among the nation's toughest, has the broadest restriction, forbidding notarization for a "spouse, sibling or lineal ancestor or

descendant."

That's not to say other states aren't concerned. Although the topic is not addressed by state law, official Notary Public handbooks in Alaska, Iowa, Maryland, Massachusetts, Missouri, Rhode Island, South Dakota and Wyoming discourage notarizing for family members, while those in West Virginia and Wisconsin urge caution in doing so.

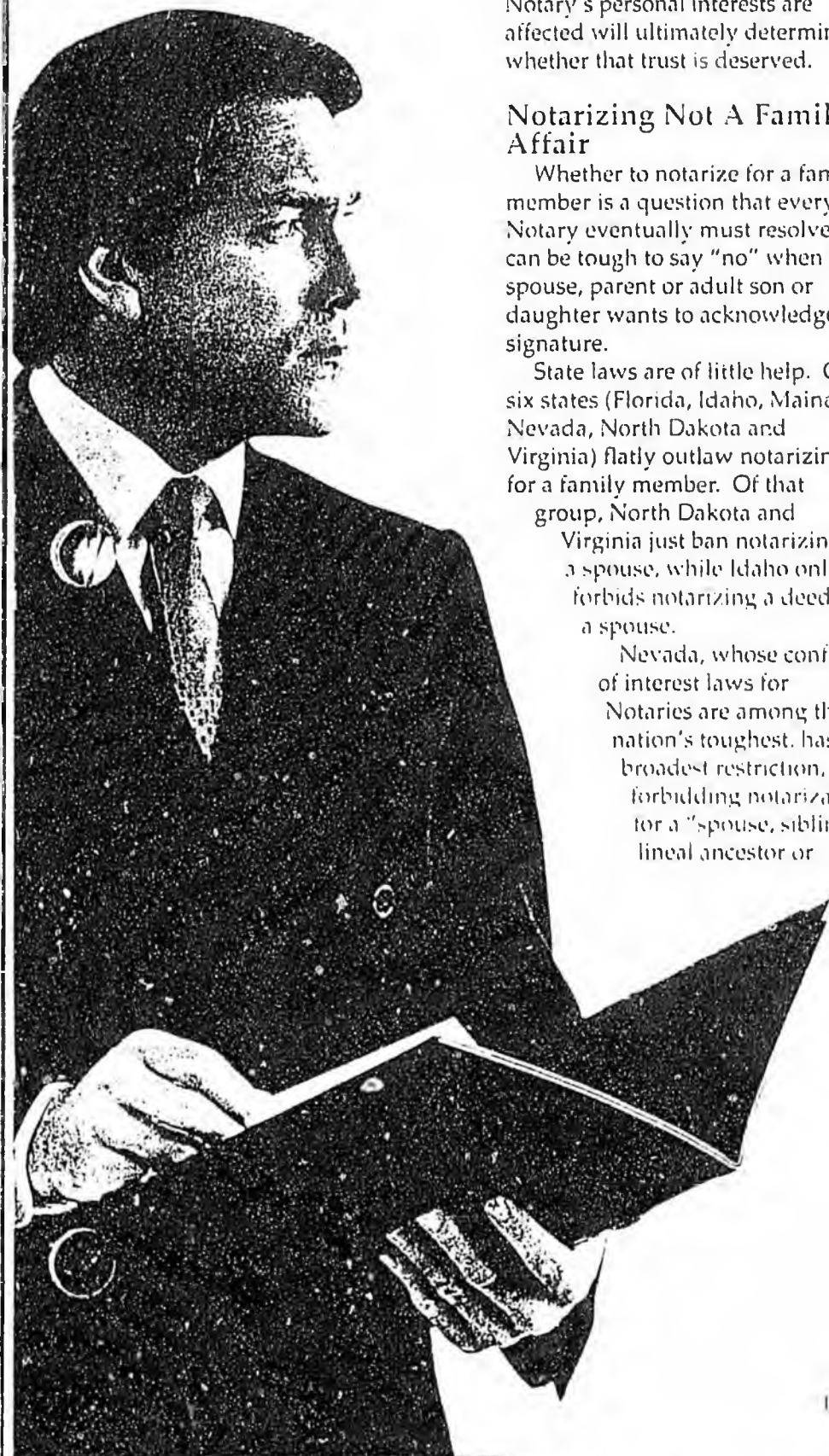
Michigan allows family notarizations, but the secretary of state's office strongly suggests having a third party notarize a document involving a spouse.

What's so wrong with notarizing for a relative? After all, in most cases you're merely taking the acknowledgment of a signature.

The problem is that it's all but impossible to remain aloof where family is involved. While the Notary must be an impartial witness, as a human being you're expected to be concerned about the welfare of a close relative, making you a passionate advocate and adviser for your husband, wife, child or parent.

(In the "Notary Public Education Materials," distributed by the Texas secretary of state, Notaries are warned that notarizing for a spouse can cause trouble since the Notary, as the other spouse, "would always have some interest because of Texas community property laws.")

In addition, notarizing for a relative is much more likely to leave the document open to challenge in court on the basis of undue influence. That's particularly true if the family has become involved in a spat following the notarization. Such disagreements can become vicious, and the Notary's acts in relation to the family might be discredited in a





court challenge. Marjorie C. Grode, chief of Nevada's Notary Division, points out that courts generally take an unfavorable position when faced

with a document notarized by a relative of a signer. "Anytime you go into court and admit that you notarized for your husband, the court would rule that your act was a conflict of interest," Grode said.

It would take King Solomon himself to figure a way out of this dilemma, so the best advice for any Notary is to avoid the problem altogether. Send Mom or Brother Joey to some other Notary.

Attorney Is Advocate, Notary Isn't

Attorneys also face conflicts of interest when it comes to notarizing for clients.

First, how can an attorney, who is expected to be an advocate for a client, also be an impartial witness, as the Notary is required to be?

As an example, an attorney advising a client in a real estate transaction should strongly advise, perhaps even compel, a client to take a particular course of action that the attorney feels is best. A good attorney will work hard to convince the client to sign the documents closing the transaction, and that's all right; that's his or her job as an individual acting in the best interests of the client.

The Notary, of course, is expected to be an impartial witness to the acknowledgment of that signature.

It is one thing to maintain, as one

attorney did, that he simply switches hats from attorney to Notary and back again. It's another thing to remember which hat you're wearing.

"If attorney/Notaries are drawing up papers for people, of course they're going to have conflicts of interest, because they're the ones who know how best to write the papers as advocates for their clients," Nevada's Grode said.

Second, officials in a number of states, including Nevada, maintain that attorneys usually have financial or beneficial interests in the affairs of their clients, since they receive fees for their work. The laws of many states specifically prohibit the notarization of any document in which the Notary has a beneficial or financial interest, other than the typically small notarial fee.

In Nevada, for example, no one may notarize if he or she receives as a direct result of the notarization any "commission, fee, advantage, right, title, interest, property or other consideration in excess of the authorized (notarial) fees."

Grode said her advice to attorneys is always to "get their secretaries to do the notarization."

In Oklahoma, a judicial precedent (*Crawford v. Ferguson*) prohibits attorneys from acting as Notaries on documents to be used in cases involving their clients.

North Carolina's law may be the most specific in setting limits for attorneys who are Notaries: attorneys may notarize for clients while accepting fees for legal services, but they are prohibited from administering oaths for any "paper-writing to be used in any legal proceedings in which (the Notary) appears as attorney." (That still allows the attorney to take an acknowledgment or proof for a document that he or she drafted for filing with a register of deeds. In addition, the state Bar's Ethics Committee has ruled that the attorney/Notary may notarize documents that aren't being filed.)

Four states — California, Kansas,

South Carolina and South Dakota have statutory exemptions that allow attorneys to notarize for clients.

In many other states, attorney would appear to be prohibited from notarizing for clients by statutes prohibit Notaries from having beneficial or financial interests in transactions. These states include Florida, Georgia, Hawaii, Idaho, Maine, Maryland, Michigan, Missouri, Ohio, Oregon, Pennsylvania, Texas, Virginia and West Virginia, plus the District of Columbia. (The West Virginia Bar also advises that an attorney/Notary have a third party notarize any document the attorney has prepared.)

Although the issue is not addressed by state law in Massachusetts, Mississippi and Wyoming, Notaries there are advised by regulating authorities to avoid notarizing in such cases.

Because attorneys dominate almost every state legislature, there is constant legislative pressure to exempt attorney/Notaries from disqualifying interest restrictions. This is done either by keeping disqualifying interest law and creating an exception within it for attorneys, or by discarding the law altogether.

Tragically, the latter course has been taken in recent years by lawmakers in Connecticut and Utah where they have repealed disqualifying interest restrictions that have proven to have value in other states in protecting citizens from high-pressure sales tactics.

Salesperson Has Direct Interest

Perhaps the strongest case for a conflict of interest exists when a salesperson or broker seeks to notarize documents that finalize a sale. Since the salesperson or broker stands to gain monetarily from the documents in the form of a commission or other fee, he or she certainly could have a strong incentive for seeking to influence the buyer, perhaps to the point of undue

influence. We all know of, or have dealt with, high-pressure salespeople who went just a little too far.

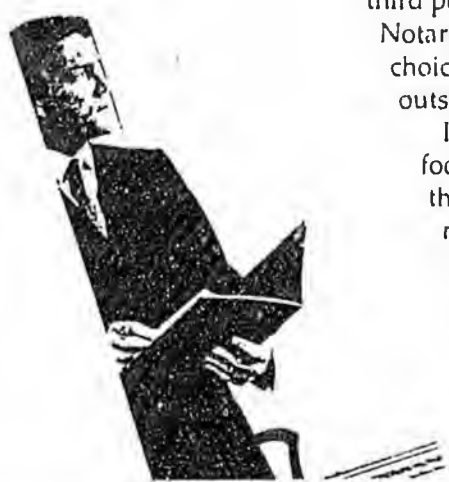
Many states either directly ban notarizations by people who stand to profit as a direct result of that action or strongly advise against such acts in their Notary handbooks.

Of that group, Nevada again uses the strongest language in forbidding notarizations in cases where the Notary would receive as a direct result of the notarization a "commission, fee, advantage, right, title, interest, property or other consideration in excess of the authorized fees."

West Virginia similarly prohibits notarizations by anyone who receives anything more than the statutory Notary fee or his or her regular salary for that act.

Georgia, Hawaii, Idaho, Maine, Maryland, Michigan, New York, Ohio, Pennsylvania, Texas, Virginia and Washington, D.C., also prohibit notarizations by anyone who is either a party to or has a beneficial or financial interest in the transaction.

In contrast, California and Kansas allow sales agents, employees, insurers, escrows or lenders to notarize for a client, while Nebraska allows notarizations by real estate salespersons or brokers, or their employees or associates and North Carolina by licensed real estate brokers or salespersons and motor vehicle dealers. South Dakota makes an exception to allow notarizations by anyone "who is personally interested directly or indirectly or (an) agent . . . to any transaction concerning which he is exercising any function of his office as such Notary Public."



Who Notarizes For Company?

It is a fact that most businesses would prefer to have someone in their organizations available to do needed notarizations so they can avoid the time and expense of bringing in an outside Notary.

But who should do the in-house notarizing?

For example, can a corporate officer — a president, vice president or treasurer — notarize corporate papers?

Many state laws specifically permit corporate officers, directors and stockholders to notarize corporate papers, as long as the Notary is not a party to the document, personally or as a representative.

As a general rule, however, it is not a good idea for a corporate officer, whose personal fortunes may be directly linked to the fortunes of the company, to notarize corporate papers.

It is usually best for a salaried employee, whose future is not directly tied to fluctuations in the performance of the company, to notarize these papers.

This may present a problem in small "ma and pa" firms in which one spouse may be the president and the other the secretary-treasurer. In such two-person companies, there are actually two good reasons that neither person should notarize: first, because the signer is a spouse, and second, because the document will have a direct impact on the affairs of the company and thus the fortunes of the officer/Notary.

If the firm does not have a third person to serve as its Notary, there may be no choice but to bring in an outsider to notarize.

It may seem trivial or foolish to worry about the propriety of notarizing for a brother-in-law, a client or a fellow employee. But there is actually

HUSBANDS AND WIVES ARE INEXTRICABLY LINKED

Even if you don't believe that God actually created Eve from Adam's rib, it is true that the affairs of husbands and wives are inextricably linked.

Take money and other marital assets, as an example. As the old saying goes, "What's yours is mine," especially in states where marital assets are considered community property.

Even if a notarization doesn't involve money or other assets, it is likely to involve the couple's children or some other part of their lives for which they share responsibility.

Thus, it would be very difficult for a wife who notarizes for her husband (or vice versa) to claim that she has no beneficial or financial interest in the transaction.

It's no wonder that states like Nevada almost automatically consider a wifely (or husbandly) notarization to be a conflict of interest, even when the law does not expressly prohibit notarizing for a spouse.

much at stake.

Impartiality is the Notary's most important attribute. Without it, Notaries are accorded no respect in their communities and by their state legislatures. Every Notary has a vital stake in preserving not only the reality of impartiality, but also the perception of impartiality.

To paraphrase an old saying, Caesar's wife must not only be above reproach, she must also be above suspicion.

Likewise, Notaries must remove themselves from situations in which their impartiality might be questioned. Seeming impartial is just as important as being impartial. ■

Alaska State Legislature

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House District 33

House Of Representatives

To: Representative Brian Porter
House Judiciary Committee

From: Representative Gene Therriault 

Date: March 9, 1993

Subject: Request to Schedule HB 92

I would like to request that you schedule HB 92, an Act relating to notaries; for a hearing before the House Judiciary Committee.

As you requested in your memorandum of January 18, 1993, attached to this memorandum are:

- 1) a sponsor statement;
- 2) a fiscal note for the most recent version of the bill;
- 3) a sectional analysis of the bill;
- 4) position papers from agencies/organizations
- 5) a frank statement of probable supporters and possible opponents of the bill;
- 6) additional supporting material.

Those agencies and organizations believed to support the adoption of a notary bill include: the Lieutenant Governor's Office, the Notary Administrator, and various individual notaries and attorneys in the state. Opposition may be expected from some notaries and attorneys.

No teleconference is necessary for this bill.

The adoption of this bill will update archaic notary statutes that have not been substantially revised since 1960. I respectfully request that you schedule a hearing on HB 92 at the committee's earliest convenience. Thank you.

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 92()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to notaries; and providing for an effective date."

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

3 * Section 1. AS 09.63.030(c) is amended to read:

4 (c) If the document is sworn to or affirmed before a notary public of the state,
5 the notary public shall

6 (1) endorse after the signature of the notary public

7 (A) the date of expiration of the notary's commission;

8 (B) the date of the notarization; and

9 (C) the city where the notarization was performed;

10 (2) place [PRINT OR EMBOSS] ~~the~~ notary's seal on the document;

11 (3) comply with AS 44.50 [AS 44.50.060 - 44.50.080] or other
12 applicable law.

13 * Sec. 2. AS 09.63.040(d) is repealed and reenacted to read:

14 (d) If the verification is sworn to or affirmed before a notary public of the

1 state, the notary public shall comply with AS 09.63.030(c).

2 * Sec. 3. AS 09.63.100(b) is repealed and reenacted to read:

3 (b) If a document is acknowledged before a notary public of the state, the
4 notary public shall comply with AS 09.63.030(c).

5 * Sec. 4. AS 44.50.020 is amended by adding a new subsection to read:

6 (b) A person may not be appointed and commissioned a notary public under
7 AS 44.50.010 if the person has been convicted within five years before the
8 appointment of a crime involving dishonesty.

9 * Sec. 5. AS 44.50.060 is amended to read:

10 Sec. 44.50.060. DUTIES. A notary public shall

11 (1) when requested, demand acceptance and payment of foreign and
12 inland bills of exchange, or promissory notes, protest them for nonacceptance and
13 nonpayment, and exercise the other powers and duties that by the law of nations and
14 according to commercial usages, or by the laws of any other state, government, or
15 country, may be performed by notaries;

16 (2) take the acknowledgment or proof of powers of attorney, mortgages,
17 deeds, grants, transfers, and other instruments of writing, and give a certificate of the
18 proof or acknowledgment, endorsed on or attached to the instrument; [THE
19 CERTIFICATE SHALL BE SIGNED BY THE NOTARY IN THE NOTARY'S OWN
20 HANDWRITING;]

21 (3) take depositions and affidavits, and administer oaths and
22 affirmations, in all matters incident to the duties of the office, or to be used before a
23 court, judge, officer, or board in the state;

24 (4) keep a journal under AS 44.50.095 of the notarial acts
25 performed by the notary [A DEPOSITION, AFFIDAVIT, OATH, OR
26 AFFIRMATION SHALL BE SIGNED BY THE NOTARY IN THE NOTARY'S
27 OWN HANDWRITING, AND THE NOTARY SHALL ENDORSE AFTER THE
28 SIGNATURE THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION].

29 * Sec. 6. AS 44.50.060 is amended by adding a new subsection to read:

30 (b) When a notarial act requires the signature of a notary, the notary shall sign
31 the document and comply with AS 09.63.030(c).

1 * Sec. 7. AS 44.50 is amended by adding a new section to read:

2 Sec. 44.50.065. DISQUALIFICATIONS. A notary is disqualified from
3 performing a notarial act if the notary

4 (1) is a signer of or named in the document that is to be notarized;

5 (2) will receive directly from a transaction connected with the notarial
6 act a commission, advantage, right, title, interest, cash, property, or other consideration
7 exceeding in value the normal fee charged by the notary for the notarial act; or

8 (3) is related to the person whose signature is to be notarized as a
9 spouse, sibling, or lineal ascendant or descendant to the second degree of kindred.

10 * Sec. 8. AS 44.50 is amended by adding new sections to read:

11 Sec. 44.50.072. IMPARTIALITY. (a) A notary may not influence a person
12 to enter or not enter into a lawful transaction involving a notarial act by the notary.

13 (b) A notary shall perform notarial acts in lawful transactions for a requesting
14 person who tenders the fee charged by the notary, if a fee is required by the notary,
15 unless the notary has stated a reason for refusal.

16 Sec. 44.50.074. FALSE CERTIFICATE. A notary may not execute a
17 certificate containing a statement known by the notary to be false or perform an
18 official action with intent to deceive or defraud.

19 Sec. 44.50.076. TESTIMONIALS. A notary may not endorse or promote a
20 product, service, contest, or other offering if the notary's title or seal is used in the
21 endorsement or promotional statement.

22 Sec. 44.50.078. UNAUTHORIZED PRACTICE. (a) Unless the notary is an
23 attorney, a notary may not select a document for a notarial act, assist another person
24 to select, draft, or understand a document for a notarial act, or assist another person
25 to understand a transaction requiring a notarial act.

26 (b) This section does not prohibit a notary who is qualified in, and, if required,
27 licensed to practice, a particular profession from giving advice relating to matters in
28 that professional field.

29 (c) A notary may not make representations to have powers, qualifications,
30 rights, or privileges that the office of notary does not have.

31 * Sec. 9. AS 44.50.080(b) is repealed and reenacted to read:

1 (b) A notary public seal must be on a stamp, contain the information required
2 by (a) of this section, and be printed in black ink. The seal may be circular and not
3 over two inches in diameter, or may be rectangular and not over an inch wide and two
4 and one-half inches long.

5 * Sec. 10. AS 44.50 is amended by adding a new section to read:

6 Sec. 44.50.095. NOTARY JOURNAL. (a) A notary public shall maintain and
7 preserve a chronological, permanently bound journal of the notarial acts performed
8 by the notary and shall retain the journal for a minimum of six years after the date of
9 the last entry in the journal.

10 (b) When a notary performs a notarial act, the notary shall record in the
11 journal at the time of the notarial act at least

12 (1) the date of the notarial act;

13 (2) the type of notarial act;

14 (3) a description of the document or proceeding that is the subject of
15 the notarial act;

16 (4) the name, address, and signature of each person for whom a notarial
17 act is performed; and

18 (5) a description of the evidence used to identify each person for whom
19 a notarial act is performed.

20 (c) If a notary refuses to perform or complete a notarial act because the
21 particular act cannot be performed or completed in compliance with this chapter, the
22 notary shall record the circumstances of the refusal in the journal.

23 (d) The journal is an official record that is available at reasonable times and
24 in the notary's presence for public inspection or reproduction. A notary may charge
25 a fee for reproducing pages of the journal.

26 (e) A notary shall keep the journal in the exclusive custody of the notary. The
27 journal of a notary may not be used by another notary.

28 * Sec. 11. AS 44.50.100 is repealed and reenacted to read:

29 Sec. 44.50.100. ADDRESS PROVIDED TO OFFICE OF LIEUTENANT
30 GOVERNOR. If a notary public resigns, is disqualified, is removed from office, or
31 permanently moves from the state, or if a notary public's commission is not reissued

1 when it expires, the notary shall inform the office of the lieutenant governor of the
2 notary's current address. If a notary public dies, the office of the lieutenant governor
3 shall be notified of the address where the notary's seal and public papers related to the
4 notary commission are located.

5 * Sec. 12. AS 44.50.110 is amended to read:

6 Sec. 44.50.110. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT
7 [TO REVOCATION OF NOTARY COMMISSION]. The procedures set out in the
8 Administrative Procedure Act (AS 44.62) shall be followed in the revocation of the
9 commission of a notary public and in the adoption of regulations under this
10 chapter.

11 * Sec. 13. AS 44.50 is amended by adding a new section to read:

12 Sec. 44.50.185. REGULATIONS AND HANDBOOK. (a) The lieutenant
13 governor may adopt regulations to carry out the purposes of this chapter. The
14 regulations must include standards for the revocation of the commission of a notary.

15 (b) The lieutenant governor shall produce a handbook for notaries and
16 distribute the handbook to each person who is appointed and commissioned a notary
17 public under this chapter. The handbook must contain a summary of the provisions
18 of this chapter and the regulations adopted under this chapter.

19 * Sec. 14. AS 44.50 is amended by adding a new section to read:

20 Sec. 44.50.200. DEFINITION. In this chapter, "notary" means notary public.

21 * Sec. 15. TRANSITIONAL PROVISION. Notwithstanding AS 44.50.080(b), amended
22 by sec. 9 of this Act, a person who has a valid notary public commission on July 1, 1993,
23 may use a stamp with an ink color other than black or a seal press until the person's
24 commission that is in effect on July 1, 1993, terminates.

25 * Sec. 16. This Act takes effect July 1, 1993.

Alaska State Legislature

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House Of Representatives

Sponsor Statement

House Bill 92 deals with three important notary issues. First, it would require that all notaries maintain a current journal. Keeping a journal is not only a prudent, businesslike practice, but protects the public by providing valuable documentary evidence of a notarization should memory fail or an original document become altered or misplaced. A journal also may preclude a baseless lawsuit by showing that a Notary did use reasonable care or that a transaction did occur as recorded.

Secondly, HB 92 would mandate notaries use a rubber inking stamp instead of the more familiar embossed seal. AS 44.50.080 mandates that notaries use a seal "which legibly reproduces under photographic methods..." Unfortunately, many of the embossed seals that are used today can not be legibly reproduced when the document is copied or faxed. The use of a rubber inking stamp would almost eliminate the problem of illegible seal impressions.

The basic duty of a notary is to serve the public as an impartial witness. Current notary statutes do not offer the notary guidelines on their role as an appointed ministerial official of the State of Alaska. This legislation will give Alaskan notaries specific guidelines on impartiality, disqualifying interests, and the unauthorized practice of law.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSSHB 92 (L&C)

Revision Date: _____

Department Affected: Office of the Governor

Title: "An Act relating to notaries:..."

BRU: Executive Operations

Sponsor: Representative Therriault

Component: Office of the Lt. Governor

Requestor: _____

COMPONENT SERIAL NO. 0011

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: none

ANALYSIS: (Attach a separate page if necessary.)
no fiscal impact

Prepared by: Patty Trott, Notary Administrator *Patty Trott*

Phone: 465-3509

Division: Office of the Lt. Governor

Date: 3/11/93

Approved by Commissioner: Lieutenant Governor John B. "Jack" Coghill

Agency: Office of the Lt. Governor

Date: 3/11/93

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Sectional Analysis
CS for Sponsor Substitute for House Bill 92

Section 1. Requires the notary to include the date of notarization, city where the notarization was performed. In reference to the notary's seal, this section would replace the words "print or emboss" with the word "place" to comply with Section 9.

Section 2. Requires information supplied in Section 1 for verifications.

Section 3. Requires information supplied in Section 1 for acknowledgements.

Section 4. Adds a new subsection preventing persons who have been convicted of a crime involving dishonesty from applying for a notary commission for five years after the conviction.

Section 5. (2) Referencing taking acknowledgments, this section deletes [The certificate shall be signed by the notary in the notary's own handwriting]. This section is no longer needed because of the enactment of section 1.

(4) Requires the notary to keep a journal under AS 44.50.095 which is referenced in section 10. Deletes [A deposition, affidavit, oath, or affirmation shall be signed by the notary in the notary's own handwriting, and the notary shall endorse after the signature the date of expiration of the notary's commission.]

Section 6. Requires a notary to sign the notarial act and the notary must also insert the information required by AS 09.63.030(c), regarding the expiration date and placement of the notary stamp on the document.

Section 7. Adds a new section to 44.50 defining what would prohibit a notary from performing a notarial act. The notary would be disqualified if the notary is (1) a signer of or named in the document (2) will receive directly from a transaction connected with the notarial act a commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the normal fee charged by the notary (3) is related to the person whose signature is to be notarized as a spouse, sibling, or lineal ascendant or descendant to the second degree of kindred.

Section 8. Adds a section defining impartiality, and requires a notary to perform notarial acts in lawful transactions, unless the notary has stated a reason for refusal.

Prohibits a notary from knowingly executing a false certificate, and from endorsing or promoting a product, service, contest, or other offering if the notary's title or seal is used in the endorsement or promotional statement.

Prohibits the notary, unless the notary is an attorney, from selecting or assisting another person in drafting, completing, selecting or understanding a document or transaction requiring a notarial act, but does not prohibit a notary who is qualified in, and, if required, licensed to practice, a particular profession from giving advice relating to matters in that professional field.

Prohibits the notary from making representations to have powers, qualifications, rights, or privileges that the office of notary does not have.

Section 9. Repeals AS 44.50.080(b) and reenacted to require a notary to use a rubber inking stamp rather than a seal press. The stamp must also contain the notary's name and the words "Notary Public" and "State of Alaska" as set forth in section (a) of this chapter.

Section 10. Amends 44.50 by adding a section requiring notary publics to (a) maintain and preserve a chronological, permanently bound journal of notarial acts performed by the notary. (b) at the time of the notarial act the notary must record at least the following information:

- (1) the notary would have to record the date of notarial act;
 - (2) the type of notarial act;
 - (3) a description or proceeding of the document;
 - (4) the name, address and signature of each person for whom a notarial act is performed;
 - (5) a description of the evidence used to identify each person for whom a notarial act is performed;
- (c) the notary shall also record the circumstances of refusal for performing a notarial act in the journal.
- (d) the journal is an official record that is available at reasonable times and in the notary's presence for people to look at and it may be reproduced for which the notary may charge.
- (e) the journal will be kept by the notary and prohibits others from using the same journal.

Section 11. Repeals AS 44.50.100 which requires the notary to return all papers to the Lieutenant Governor's if the notary resigns, is disqualified, removed from office, or removes from the state. AS 44.50.100 is reenacted to require that if a notary public resigns, is disqualified, is removed from office or permanently moves from the state, or if a notary public's commission is not reissued when it expires, the notary

shall inform the office of the lieutenant governor of the notary's current address where the seal and papers related to the notary commission are located.

Section 12. In the application of the Administrative Procedures Act this section would delete [To revocation of notary commission] from AS 44.50110 and adds "and in the adoption of regulations under this chapter."

Section 13. Amends 44.50 by adding a new section (44.50.185) giving the lieutenant governor the authority to adopt regulations to carry out the purposes of AS 44.50. Requires the lieutenant governor to produce, and distribute a handbook with a summary of the provisions of AS 44.50 and any adopted regulations.

Section 14. Defines notary as notary public.

Section 15. Allows for a transition period for these changes to go into effect.

Section 16. The Act takes effect on July 1, 1993.



JOHN B. COGHILL
LIEUTENANT GOVERNOR

STATE OF ALASKA

P. O. Box 110015
JUNEAU, ALASKA 99811-0015
(907) 465-3520

**House Bill 92
Position Paper**

"An Act relating to notaries; and providing for an effective date."

A notary is a ministerial official appointed by the State to serve the public as an impartial witness, with specific duties prescribed by law.

Alaskan notaries are faced with a number of urgent problems. Currently, notaries are not required to keep a record of completed notarial acts. Requiring notaries to maintain a journal is important for two reasons; it would help in deterring fraud, and protects the notary against potential lawsuits. This legislation would require notaries to record specific information regarding the completed notarial act in a permanently bound journal.

The notary office receives a number of inquiries each week regarding documents that have been notarized with illegible seal impressions. This legislation would require all notaries commissioned after July 1, to use a rubber inking stamp instead of an embossed seal. This would practically eliminate the dilemma of illegible seal impression. This particular clause would also add to the efficiency of government by eliminating the smudging process on documents that have to be recorded.

HB 92 also offers specific guidelines in disqualifications, impartiality and the unauthorized practice of law. The basic duty of a notary is to serve the public as an impartial witness. Current notary statutes do not offer the notary guidelines on what would be considered impartial or a disqualifying interest. These specific guidelines will help notaries in understanding their duties as a ministerial official of the State.

The notary program receives a number of calls from notaries inquiring about the type of notarial certificate to use when completing a notarization. A notarial certificate states the particulars of a notarization and appears at the end of a signed document. It is not within the function of a notary to decide on this certificate. Unfortunately, the public has a way of putting this burden on the notary. This legislation would require the document to be completed with a notarial certificate when presented to the notary for notarization, thus eliminating the potential for the unauthorized practice of law.

The notary statutes have not been updated, with the exception of the fee increase, since they were written in 1961. House Bill 92 offers improvements to the statutes which are designed to protect the notary.

For more information regarding HB 92 please contact Patty Trott, Notary Administrator, extension 3509.

Ms. Sheila Roehl 274-8638
Box 93330

Anchorage AK 99509

Date POM Sent	Constituency	Bill Number	Response	Subject
02/22/93	N	HB 92	SUPPORTS	

I AM IN SUPPORT OF HB 92 AND SB 68 AND PASSING AS A GOOD START IN UPDATING OUR NOTARIES LAWS.

Mrs. Janice Royce 346-2250
5721 E. 97th Ave.

Anchorage AK 99516

Date POM Sent	Constituency	Bill Number	Response	Subject
02/22/93	N	HB 92	SUPPORTS	

I AM IN SUPPORT OF HB 92 AND SB 68, AN ACT RELATING TO NOTARIES PUBLIC AND PROVIDING FOR AN EFFECTIVE DATE. I ENCOURAGE YOU TO PASS BOTH OF THESE BILLS.

Mrs. Norma Jackson 243-8249
3075 Telequana Dr., #7

Anchorage AK 99517

Date POM Sent	Constituency	Bill Number	Response	Subject
02/23/93	N	HB 92	SUPPORTS	

I AM A NOTARY IN THE STATE OF ALASKA. I WISH TO SUPPORT HB 92 AND SB 68 TO UPDATE THE NOTARY STATUS WHICH HAS NOT BEEN CHANGED SINCE 1961.

Mrs. Barbara Hastly 789-1776
Box 1776

Juneau AK 99802

Date POM Sent	Constituency	Bill Number	Response	Subject
02/25/93	N	HB 92	SUPPORTS	

I SUPPORT THE NOTARY BILL.

Kari Replinger
9455 Berners Avenue
Juneau, AK 99801
(907) 465-4021 day

February 9, 1993

The Honorable Gene Therriault
Alaska State Representative
State Capitol, Room 104
Juneau, AK 99801-1182

Re: HB 92

Dear Representative Therriault:

I have been a Notary Public for the State of Alaska for approximately 12 years. I have been subpoenaed on two separate occasions to testify in the Superior Court about the circumstances surrounding the notarization of signatures. On both occasions the situation most probably would have been remedied had the facts surrounding the notarizations been entered in a journal. Because of the span of time that took place between the actual notarization of the signatures and the events leading up to the court hearings, it would have been very easy to forget the circumstances at the signings. A journal entry would have clarified that for myself as the Notary Public and the parties to the court proceedings who could have used the journal instead of my testimony as evidence.

Very truly yours,



Kari Replinger
Notary Public for Alaska

March 2, 1993

Rep. Gene Therriault
House of Representatives
Juneau, Alaska 99811

Dear Rep. Therriault,

Thank you for updating the notary statutes by introducing House Bill 92. Although I am not a notary, I have used their services many times over the years, and have been continually amazed by the lack of conformity among these appointed officials. Some do not ask for identification (which is required by law), while others treat you as potential criminals. It is time to update these archaic statutes so I can have an idea on what to expect the next time I need a notary.

Sherrill K... Box 295 Nenana Ak. 99760
Kristine L. Fuge Box 450 Nenana AK 99760
Paula R Kauter Box 635 Nenana, AK 99760
Will B. Olson Gen Del. Nenana AK.
Nancy L. Fuge P.O. Box 265 Nenana, Alaska 99760
Debi Lundt P.O. Box 247 Nenana, ak 99760

Title Ms.
First Name Mary Ann
Last Name Lisenby
Address 1 8511 Pioneer Dr.
Address 2
City Anchorage
State AK.
Zip 99504
Telephone Number 278-9631
Date POM Sent 02/25/93
Constituency N
Bill Number HB 92
Response SUPPORTS
Subject
message 1 & SB 68. I WANT THIS LAW. MANY
NOTARIES IN THE STATE DO NOT REALIZE
THE IMPORTANCE OF THEIR JOBS AS A
NOTARY. WE MUST HAVE LAWS,
CURRENT LAWS, THAT SUPPORT AND
PROTECT THE POSITION THAT WE AS
NOTARIES FILL. PLEASE SUPPORT
message 2 THESE BILLS FOR OUR PROTECTION.

Title Mrs.
First Name Betty
Last Name Denny
Address 1 P.O. Box 459
Address 2 Tok
City Tok
State AK
Zip 99780
Telephone Number 883-5157
Date POM Sent 02/25/93
Constituency N
Bill Number HB 92
Response SUPPORTS
Subject
message 1 I SUPPORT HB92.

message 2

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

DIVISION OF MANAGEMENT

TO: Sharon Barton
Director

DATE: January 24, 1992

FILE NO: 8-300

TELEPHONE NO.: 762-2437

FROM: Linda Plumb
State Recorder

SUBJECT: HB 394

Yesterday I received a call from the Lieutenant Governor's Office requesting our support for HB 394 "An Act relating to notaries; and providing for an effective date." While most of this bill does not affect the Recorders/UCC Section, the proposed amendments to Sec. 44.50.080. SEAL.(b), would require that the notary seal be printed and in black ink that legibly reproduces under photographic methods. Current statute is not specific on this point and many of the attested documents that Recorders receive bear seals that are illegible, thus often rendering expiration dates and notary names unreadable. HB 394 would provide the statutory authority to reject documents that bear illegible notarial seals.

Unless this bill undergoes significant change before it reaches the floor vote, I request that the Department support its passage.

The only caveat I would like to bring up regarding this bill involves Sec. 44.50.185. Regulations and Handbook. and would be as an advisory note only. If a printed seal becomes a requirement under statutory directive, a portion of the notary handbook should require that the seal not encroach on any printed or signed portion of a document. Currently, no such information is given to notaries on receiving their commission and many do not realize the affect of placing the seal over signatures or on top of the certificate of acknowledgement or a portion of the document's text. After recording and microfilming, these printed seals may obliterate important elements of a document that may culminate in litigation for the parties involved.

Attachment: HB 394

cc: Meg Hayes, Assistant Director
Patty Trott, Lt. Governor's Office

Judy A. Clouse
PO Box 295
NANANA, Alaska 99760

March 2, 1993

The Honorable Gene Therriault
Alaska House of Representatives
State Capitol
Juneau, AK 99811

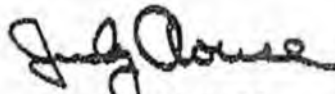
Dear Representative Therriault:

I would like to thank you for introducing House Bill 92, relating to notary publics. I followed the notary bill last year (HB392) and was very disappointed when it failed to pass out of a committee in the Senate.

Many people, especially those who are not notaries, fail to realize how difficult it is to perform a duty when there are no statutes to fall back on. This bill will finally give notaries of the State of Alaska some guidelines on their duties and responsibilities.

Again, thank you for introducing this bill.

Sincerely


Judy Clouse

Mr. Anthony

Petrone

344-2286

616 E. 72nd St

Anchorage AK 99518

Date POM Sent	Constituency	Bill Number	Response	Subject
02/22/93	N	HB 92	OPPOSES	

AND SB 68: I WOULD LIKE TO EXPRESS MY OPPOSITION TO BOTH OF THESE BILLS. JUST BECAUSE OTHER STATES DO THINGS IN A CERTAIN WAY, I DO NOT FEEL ALASKA SHOULD CONFORM. PRESENTLY I AM NOT AWARE OF ANY PROBLEMS WITH THE WAY

NOTARY PUBLICS ARE PERFORMING THEIR DUTIES AT THIS TIME. THESE BILLS WOULD AD TO THE BUREAUCRACY WITH ADDITIONAL PAPER WORK TO OUR JOB.

Alaska State Legislature

REPRESENTATIVE
GENE THERRIALT

P.O. Box 55326
North Pole, Alaska 99705
(907) 488-0862

House District 33



Write in Russian
State Capitol
Juneau, Alaska
99801-4182
(907) 485-4797

House Of Representatives

March 10, 1993

Anthony Petrone
616 E. 72nd Street
Anchorage, AK 99518

Dear Anthony:

Representative Sean Parnell referred your Public Opinion Message regarding the Notary Public legislation to my office. As sponsor of House Bill 92, I welcome the opportunity to respond to your concerns and hope that I can answer your questions concerning the need for this legislation.

I introduced this legislation at the request of the Lieutenant Governor's Office, which commissions notaries in the State of Alaska. I conferred with Patty Trott, the Notary Administrator in the Lieutenant Governor's office, to answer your questions.

Over the past five years, the Lieutenant Governor's Office has seen a growing number of cases regarding the validity of certain notarizations. The cases involve people claiming that they did not appear before the notary or that the notary notarized a forged signature. Most notaries cannot remember the circumstances of a notarization performed two, four or six years ago. For example, what if an attorney needs to know what type of identification (which is required by Alaska Statutes) was requested from a client regarding a notarization performed on the sale of property in October 1986? What if the client claimed he did not appear before the notary when the notarization took place? Would the notary be able to prove that the client did? Unfortunately, most notaries cannot.

Keeping an accurate record of the notarizations performed is the only way a notary can prove that he executed his duties according to Alaska Statutes. Essentially, keeping a journal is an inexpensive

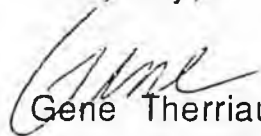
Anthony Petrone
March 10, 1993
Page 2

form of insurance for the notary. Keeping a journal does increase the duties of a notary, but only by about 30 seconds per transaction, which is how long it takes to fill out the information required in House Bill 92. The journal is the document that would provide valuable documentary evidence should the notary's memory fail or an original document become altered or replaced.

The bill also provides other protections for the notary, such as clarifying that it is not the notary's responsibility to decide the type of notarial certificate to use for a notarization. It is not within the function of a notary to decide the certificate, but the public, unfortunately, has a way of placing this burden on the notary. House Bill 92 would eliminate this potential for the unauthorized practice of law.

I hope this letter addresses your concerns. If you have any further questions, please do not hesitate to contact my office at 465-4797 or Patty Trott at 465-3509. Thank you for giving me the opportunity to respond to your inquiry.

Sincerely,


Gene Therriault
Representative

cc: Representative Sean Parnell

ALLAN RICE
3440 LINDALL ROAD
NORTH POLE, AK
99705-6756

January 27, 1993 8:23 PM

REPRESENTATIVE GENE THERRIAULT
HOUSE of REPRESENTATIVES
STATE CAPITOL,
JUNEAU, AK 99801-1182

REF.: ACT RELATING TO NOTARY PUBLICS

GENE

I have a few comments regarding this bill, some of which we may have discussed before;

1 - I do not see why the fee charged or the amount of that charge is any one's business except the notary. It has no business in a log of any type, and I can only see it being used against the notary at some time. You would not keep a log of charges if you ran a business. In my case, I have not had a fee unless it was an unusual incident (like a 2 AM request to notarize a document)

2 - I highly recommend a standard journal, created by the state to insure it contains what the state wants. It should be furnished with each Notary License and if needed, a break-even cost could be added to the fee charged to become a notary. Replacement journals should be available from local state offices and completed ones could be returned to these same offices to get another.)So long as it is not cluttered up with unnecessary gobbledygook, just a straightforward exchange)

3 - The signature of the person who is having a document notarized should appear on the document and the journal. It could serve as a cross check at a later date if needed.

4 - The test included with the last commission I applied for was a great idea. I would have liked to know what questions I got wrong as it would certainly insure I did not make an error, whereby I now am only aware that I did get some answers wrong. This could be sent back with the commission.

5 - I can see no real reason to send back a seal that I have paid for if I decide to not renew my commission. I do not have any real strong objection, just do not see the reasoning for this.

I know this probably would not be in a bill, but I do recommend some consideration for periodic classes for Notaries by local community schools. The world is changing around us quickly and the constant changes make these schools a necessity, and they should be mandatory before future commission are issued (make that "successful completion of one of these classes before future commission are issued)

February 1, 1993

FEB 2 1993

Representative Thierrault
Alaska State Legislature
State Capitol Building
Juneau, AK 99901

RE: House Bill No. 92
An act relating to Notaries

Dear Representative Thierrault:

I am both a private Notary and a Notary for the State of Alaska. The requirements under this bill, should this legislation pass, would be so onerous that I would no longer wish to serve in this capacity.

The bill provides that the Notary seal must be on a stamp and be printed in black ink. The liability for notarizing a document lies solely upon me. My bond is for the protection of those involved in the transaction, not for any liability I may incur. I have always used an embossed seal rather than a stamp because the embossed seal cannot be tampered with. With copier technology as advanced and readily available as it is today, a stamped seal, especially one required to be in black ink, can be easily duplicated, lending itself to fraud. An embossed seal cannot be easily forged but can still be seen on copies by simply running a pencil over the seal. I feel the liability protection afforded the Notary is worth the second or two it takes to do this.

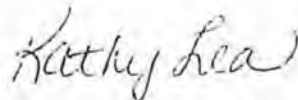
A journal of notary actions has always been suggested and when I notarize private documents under my private bond, I generally do keep enough information so I can recall the action. However, in my capacity as a notary for the State, the sheer volume of notarizing I do makes the journal requirement impractical at best. I often receive upwards of seventy Child Support Enforcement Orders at one time to be notarized within a very short period of time. Just completing the certification and the seal takes a considerable amount of time. Completing a journal as required under this bill for each action would increase the time twofold if not more.

I also object to the requirement that in the event I choose not to renew my notary bond, the state would require me to deliver my notary seal to the office of the lieutenant governor. The seal is my personal property that I have had to pay for from my own pocket. In my case, the embosser costs over \$100.00. I would like to know by what authority the State can seek to remove my personal property from me. If the seal was provided by the state, I could see where this provision would be reasonable, but not when the Notary must pay for it themselves.

Notaries perform their duties usually for no remuneration but as a service to customers. I have personal knowledge of two persons who have not renewed their commission

simply because the lieutenant governor's office is now requiring a test be taken. I will not renew my personal Notary commission when it expires this month because of the increased cost of the bond and because of the increased liability involved. The point I am trying to make is a Notary gets very little in return anymore for the trouble involved in obtaining the commission and the personal liability involved. If you pass this legislation, I feel more people will choose not to become Notaries or not renew their commission because of the increased work involved. I know I will be one of them.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Lea".

Kathy Lea
4407 Portage Blvd
Juneau, AK 99801

MAR 20 1993



Taku Stenographic Reporters

Computerized Reporting Services

Lynda Batchelor, RPR, CM
Rebecca L. Zimmerman, RPR, CSR
Julia Swenson, RPR
Danni Kealakai, RPR, CSR
Carroll Lowe, RPR

March 17, 1993

9218 Lee Smith Dr.
P.O. Box 32340
Juneau, AK 99803
(907) 789-9319
FAX: (907) 789-4372

Representative Therriault
State Capitol, MS 3100
Juneau, Alaska 99811

Dear Sir:

I am writing to let you know I fully support passage of House Bill 92 regarding the clarification of the duties of a Notary Public in the State of Alaska. I have been a Notary since moving here in 1980, and was surprised to find out that no Notarial Journal was required to be kept of notarial acts as it was in the state I moved from, Washington. I feel that keeping a journal, while it may be a nuisance at times, is an important safeguard to the public and adds a level of professionalism to services provided by notaries.

Additionally, I feel that HB 92 will provide important guidance to notaries regarding their impartiality in performing notarial acts. I have been a court reporter for 17 years, and impartiality is of the utmost importance to people in our profession in providing services. Putting guidelines in the Act will serve to inform notaries as well as the public of situations where it may be improper to perform notarial services.

In general, passage of HB 92 will bring the laws concerning notaries public in Alaska current with those promulgated by other states and will serve as important guidelines and safeguards in the performance of these very important but often underestimated duties.

Thank you very much for your efforts in this regard, and if I can be of assistance in helping this become law, please let me know.

Very truly yours,

A handwritten signature in cursive script that reads "Lynda Batchelor".

Lynda Batchelor

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT
P.O. Box 55326
North Pole, Alaska 99705
(907) 488-0662



White Salmon
State Capitol
Juneau, Alaska
99801-1132
(907) 586-4207

House District 33

House Of Representatives

March 16, 1993

Kathy Lea
4407 Portage Blvd
Juneau, AK 99801

Dear Kathy:

I would like to respond to your concerns regarding House Bill 92, an act relating to Notaries. As sponsor of House Bill 92, I welcome this opportunity and hope that I can answer your questions.

I introduced this legislation at the request of the Lieutenant Governor's Office, which commissions notaries in the State of Alaska. I conferred with Patty Trott, the Notary Administrator in the Lieutenant Governor's office, to answer your questions.

In response to your concerns about the rubber inking stamp, this clause was introduced for two specific reasons. First, Alaska Statute 44.50.080 states that a notary must procure ". . . a seal press or stamp that will print or emboss a seal which **legibly** reproduces under photographic methods. . ." The Lieutenant Governor's Office receives approximately five inquiries a week regarding notarizations that have been photocopied or faxed and are not legible, requiring a lengthy computer search to try to find the notary. Switching to a rubber inking stamp will actually bring Alaskan notaries into compliance with existing statutes. Second, the Lieutenant Governor's Office is also responsible for certifying that notaries are true, commissioned notaries for the State of Alaskan on documents belonging to people who are travelling to foreign countries. Most of these certifications are for couples adopting foreign children. Certifying the notary is usually the last step the couple takes before they leave the United States to pick up their children. If a notarization on just one of the documents is illegible, the entire adoption packet must be sent back or unnecessarily delayed. The result is often heart-wrenching for couples who have perhaps worked for years on the adoption, only to have the process delayed further because they miss scheduled departure times. Requiring Alaskan notaries to use a rubber inking stamp will eliminate problems such as these.

If a notary is concerned that the documents he or she is notarizing might be fraudulently duplicated, this legislation does not prohibit the notary from using an embossed seal along with the rubber inking stamp.

Kathy Lea
Page 2
March 16, 1993

Regarding your concern about recording multiple notarizations in the journal, the Lieutenant Governor's Office understands that many notaries notarize hundreds of documents a year. In situations such as yours, in which you receive 70 Child Support Enforcement Orders at once, the task need not be time-consuming. If the notarization components are the same, you may record the required information and note in the journal that it was for 70 separate documents.

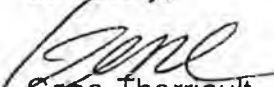
As for the notary test, which is open-book and multiple choice, we do not believe that it is an undue burden on notaries. Notaries are ministerial officials appointed to serve the state as unbiased witnesses with specific duties described in law. The Lieutenant Governor's Office has been commissioning notaries in the State of Alaska for the past 32 years, but except for mailing out a booklet and recommending that notaries read it, the Office has not provided any educational training for these appointed state officials. The test you mentioned was enacted to help educate Alaskan notaries on their duties and responsibilities. It is a test that has been acclaimed in both Alaska and the United States. If it prevents one notary from being sued, we believe it has served its purpose.

Concerning the requirement that a notary return the notary seal to the state when his or her commission expires, this clause has been removed from the bill.

You also mention the increased cost of the bond and liability. However, House Bill 92 would not affect either of these issues. For more information on this, you may wish to contact Patty Trott at 465-3509.

I hope this letter addresses your concerns. I apologize for the delay in getting back to you. If you have any further questions, please do not hesitate to contact my office at 465-4797. Thank you for giving me the opportunity to respond to your inquiry.

Sincerely,


Gene Therriault
Representative

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 1, 1993

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/02/93

The LABOR AND COMMERCE Committee considered:

SSHB 92

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 92

REGULATION OF NOTARIES PUBLIC

"An Act relating to notaries; and providing for an effective date."

RECOMMENDATIONS:

be replaced with Committee Substitute for

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Sp. Amendments Re.

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Bill Hudson</u>	<input checked="" type="checkbox"/>	<u>Brian D Porter</u>		<input checked="" type="checkbox"/>	
		<u>W.R. Williams</u>		<input checked="" type="checkbox"/>	
		<u>Joseph D. ...</u>		<input checked="" type="checkbox"/>	

Bill Hudson
CHAIRMAN'S SIGNATURE

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT
P.O. Box 55326
North Pole, Alaska 99705
(907) 466-0862

House District 33



Whelan Bureau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797

House Of Representatives

March 29, 1993

Jane S. Huycke
Huycke General Agency
2904 Boniface Parkway
Anchorage, AK 99504

Dear Jane:

Senator Tim Kelly referred your letter of February 10, 1993, regarding the Notary Public legislation, to my office. As sponsor of House Bill 92, I welcome the opportunity to respond to your concerns and hope that I can answer your questions concerning the need for this legislation.

I introduced this legislation at the request of the Lieutenant Governor's Office, which commissions notaries in the State of Alaska. I conferred with Patty Trott, the Notary Administrator in the Lieutenant Governor's office, to answer your questions.

Your first concern is that under the new law you will no longer be able to notarize your husband's signature on papers for the Division of Insurance. Unfortunately, this practice is contrary to the intended purpose of notary publics. According to the Alaska Notary Handbook, "A notary is an **impartial witness**, appointed by the State to serve the public with specific duties prescribed in law." The definition of a notary as an impartial witness has been the policy of the Notary Program in the State of Alaska since its inception. Notary educational associations across the nation agree with this definition. For example, the Intermountain Notary Institute defines a notary public as a "public ministerial officer, and an impartial agent for the state." The National Notary Association, in its home study guide, states, "Anyone, of course, can be a witness, but notaries must be impartial witnesses, disinterested in the transactions they observe. Because they will neither gain nor lose as a result of a transaction, their motives are above suspicion."

You stated that the Division of Insurance agreed to accept certain forms that had been notarized by a notary who was a family member. The Notary Program has no record of having been contacted regarding this policy. As the commissioning authority in the State of Alaska, the Lieutenant Governor's Office has informed the Division of Insurance and the Commissioner of the Department of Commerce and Economic Development of its opposition to this

March 29, 1993
Page 2

policy. The Lieutenant Governor's Office will continue to educate and recommend that notaries **never** notarize the signatures of relatives.

Your second concern is that the journal requirements will be time-consuming. However, keeping an accurate record of the notarizations is the only way a notary can prove he or she executed his or her duties according to Alaska statutes. Over the past five years, the Lieutenant Governor's Office has seen a growing number of cases in which people claim that they did not appear before the notary or that the notary notarized a forged signature. The journal is the only way to address this problem. Essentially, keeping a journal is an inexpensive form of security for the notary.

The Lieutenant Governor's Office understands that many notaries, both state and private, notarize hundreds of documents a year. There is a simple solution for recording this information in the journal. If, for example, a notary is required to notarize 20 Report of Surplus Lines Transactions for the same person, the notary would record the required information once in the journal and make a note that it was for 20 separate documents.

I hope this letter addresses your concerns. If you have any further questions, please do not hesitate to contact my office at 465-4797 or Patty Trott at 465-3509. Thank you for giving me the opportunity to respond to your inquiry.

Sincerely,

Gene Therriault
Representative

Alaska State Legislature

MAR 23 1993

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Drue Pearce
Senator Judy Salo
Senator Georgianna Lincoln



SENATE LABOR AND COMMERCE
COMMITTEE

STATE CAPITOL, SUITE 101
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-3822
FAX: (907) 465-3756

3111 C STREET, SUITE 550
ANCHORAGE, ALASKA 99503
(907) 561-7612

March 22, 1993

To: Senator Robin Taylor
Rep. Gene Therriault ✓

From: Senator Tim Kelly TDK

Subj: SB-68 / HB-92, relating to public notaries

The attached correspondence is from constituents of mine who are concerned about your legislation referenced above and the impact it will have on their small business. (Please note they have included copies of letters exchanged with former Senator Sam Cotten from 1992 on the same subject.)

If their interpretation is accurate and if I correctly understand the ramifications of your bills it appears my constituents will be unduly overloaded with excessive paper work. I thought we want to help small businesses in Alaska, not discourage them.

Please contact me or my assistant, Max Gifford, and let us know what gives. If necessary, might there be amendments that could resolve the problems referenced in the enclosed materials?

Thank you for your consideration.

Huycke General Agency

AAMGA

FAX 907-338-7234

2904 Boniface Parkway
Anchorage, Alaska 99504

February 10, 1993

907-338-0491

Honorable Senator Tim Kelly
State Caopitol
Juneau, Alaska 99801

Re: SB 69 and HB 92
Public Notaries

Dear Senator Kelly:

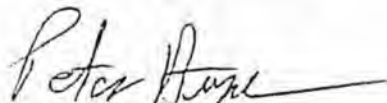
These are essentially identical with last year's HB 394 which did not make it out of committee.

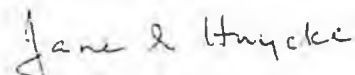
Attached are copies of last year's correspondence between us and ex-Senator Cotten. Also attached are copies of the four forms discussed in our letters.

We wish to register the same objections to these two bills. For the same reasons. Again for the record, 08-1237, 08-1237 and 08-200SL are the only forms that Jane notarizes Peter's signature.

Thank you, and

Very truly yours,


Peter C. Huycke


Jane S. Huycke

Constituent
[Handwritten mark]

Huycke General Agency

2904 Boniface Parkway
Anchorage, Alaska 99504



FAX 907-338-7234

April 22, 1992

907-338-0491

Honorable Senator Sam Cotten
P.O. Box V
Juneau, Alaska 99811

Re: CS 394 (L&C)

Dear Senator Cotten:

I wish to register my violent opposition to this bill. The original proposal was bad enough, but the newest revision is terrible.

I have been a notary public since 1976, solely to notarize the paper work required by the Alaska Division of Insurance. We are a small mom and pop organization with my husband holding the required licenses. Before I applied and received my notary in 1976, it was determined that I could notarize my husband's signature on the required papers for the Division of Insurance. The new bill would effectively deny my right to notarize his signature.

The journal requirements along with the new requirements in Section I will be more than time-consuming. To date in 1992 I have notarized approximately 200 signatures. Knowing they are all for the State of Alaska, have not kept a journal, feeling that if necessary to prove, the Division of Insurance has all the originals, plus copies. Can you imagine the paper work and time involved in handling close to 1,000 notaries per year.

Please do whatever you can to kill this bill.

Very truly yours,

A handwritten signature in cursive script that reads "Jane S. Huycke".

Jane S. Huycke

ALASKA STATE LEGISLATURE



P. O. Box 770296
Eagle River, Alaska 99577
(907) 694-6683

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3711

3111 C Street, Suite 540
Anchorage, Alaska 99503
(907) 561-8459

SENATOR SAM COTTEN

April 29, 1992

Jane S. Huycke
Huycke General Agency
2904 Boniface Parkway
Anchorage, AK 99504

Dear Jane:

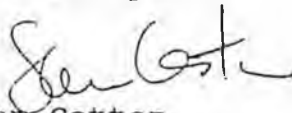
Thank you for your letter concerning CS HB 394 (Labor and Commerce), An Act relating to notaries.

While I can understand your resistance to change, I feel that the bill is a good one and puts into law what has been the unwritten understanding of many notaries for some time. The tightening up of these laws can only ensure that the notary process is above suspicion and held to a high standard.

Your comments regarding notarizing your husband's signature concerned me. Patty Trott (Notary Commissions Administrator, Lt. Governor's Office) provided me with some information about this practice. Prudent notary practices would indicate that a notary never notarize a document containing a relative's signature (see enclosed article from The National Notary). Ms. Trott advises that a Notary is supposed to be an unbiased witnesses and that any documents notarizing the signature of a notary's relative could be called into question if any court case was involved. If you have any questions on this practice, you may wish to contact Ms. Trott at 465-3509.

You may also wish to contact the National Notary Association, 8236 Remmet Avenue, PO Box 7184, Canoga Park, CA 91304-7184. Ms. Trott advises that one of the things this group does is conduct.s educational seminars for notaries (including ones in Alaska).

Sincerely,


Sam Cotten
State Senator

RECEIVED

MAY 7 1992

HGA

Huycke General Agency



FAX 907-338-7234

2904 Boniface Parkway
Anchorage, Alaska 99504

May 7, 1992

907-338-0491

Honorable Senator Sam Cotten
P.O. Box V
Juneau, Alaska 99811

Re: CS HB 394

Dear Senator Cotten:

Thank you for your prompt response to my wife's April 22 letter. She passed your letter along to me for a reply. Perhaps the solution is to exempt insurance from this bill?

There are three primary areas of insurance requiring notarizations: certain proofs of loss; certain forms making up part of an application for a bond; and transactions involving surplus lines. We are specifically concerned about surplus lines. Every policy issued by a surplus lines insurer prompts two notarizations; 08-1236 by the producer and 08-1237 by us, the broker (samples attached). Then monthly every broker has to notarize attached form 08-1238. Then yearly every broker has to notarize attached 08-200SL.

We do about \$3 Million a year, averaging 1,000 policies/notarizations. The surplus lines industry fluctuates between \$45 and \$60 Million a year. Only the Division of Insurance can tell you how many of these forms are filed with them annually.

Long ago, recognizing the hardship mom and pop shops like us would be faced with (paying a notary for each transaction), the Division agreed to accept these forms signed by a notary who was a family member. For the record, these are the only forms that my wife notarizes my signature.

Your thoughts on an insurance exemption will be most appreciated.

Thank you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Peter C. Huycke", is written over a horizontal line.

Peter C. Huycke

PCH:jsh

Department of Commerce and Economic Development
Division of Insurance
P.O. Box 10805 Juneau, AK 99801-0805
(907) 465-2584

Producing Broker's Surplus Lines Affidavit of Due Diligence
AS 21.34.080(b)

Name of Producing Broker Firm	Alaska License #	
Mailing Address of Firm	Phone #	
Insured's Name	Policy Term	Date Bound
Kind of Insurance	Policy Type Code	

Declinations

- A. Placement From Surplus Lines Placement List
B. Other Placements

1. _____
Admitted Insurer _____ Date _____

Underwriter _____ Location _____ phone # _____
Reason for Declination _____

2. _____
Admitted Insurer _____ Date _____

Underwriter _____ Location _____ phone # _____
Reason for Declination _____

3. _____
Admitted Insurer _____ Date _____

Underwriter _____ Location _____ phone # _____
Reason for Declination _____

I certify that coverage for the amount or kind of insurance requested by the insured(s) cannot be obtained from an insurer admitted in Alaska after conducting a diligent search in accordance with 3 AAC 25.030.

I further certify that, per 3 AAC 25.070, the insured(s) has/have received in writing the surplus lines notice as required in AS 21.34.110.

Date _____ Signature _____ Producer License No. _____

subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public _____ My commission expires _____

Original to Producing Broker, One copy to Surplus Lines Broker, and
One copy to the Alaska Division of Insurance

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
 DIVISION OF INSURANCE
 P.O. BOX 110805, JUNEAU, AK 99811-0805
 (907) 465-2596

MONTHLY PREMIUM REPORT SUMMARY
 AS 21.34.170 through 21.34.190

Month: _____

Name of Insurer: _____

Surplus Lines Broker Firm: _____

Alaska Surplus Lines Firm Broker License No.: _____

POLICY TYPE CODE	GROSS PREMIUM	LESS	GROSS RETURN PREMIUM =	NET PREMIUM	27% TAX*	1% FILING FEE
01	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
02	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
03	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
04	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
05	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
08	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
11	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
12	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
16	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
17.1	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
17.2	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
17.3	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
17.4	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
17.5	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
17.6	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
17.7	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
19.2	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
19.4	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
21.1	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
21.2	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
22.1	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
22.2	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
23	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
24	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
25	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
26	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
27	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
31	\$ _____	\$ _____	= \$ _____	\$ _____	\$ _____	\$ _____
* Net premium less exempt premium (list exempt premium on attached statement.)						

TOTALS: \$ _____ \$ _____ \$ _____

STATE OF _____, being duly sworn, say that I am the principal of the above-named surplus lines broker license, and that the surplus lines monthly premium report of premiums, taxes and fees is complete, true and correct and includes all premiums, taxes and fees on surplus lines insurance for risks resident, located, or to be performed in Alaska placed by the above-named surplus lines licensee during the month ended _____, 19 _____.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19 _____

(Principal on License)

(Notary Public)

My Commission Expires: _____

Original and one copy to the Alaska Division of Insurance and
 a copy in the surplus lines broker's tax payment file.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
 DIVISION OF INSURANCE
 P.O. BOX 110805, JUNEAU, AK 99811-0805
 (907) 465-2596

ANNUAL PREMIUM TAX REPORT
 AS 21.34.180 and 21.34.190

ANNUAL PREMIUM TAX REPORT DUE AND POSTMARKED ON OR BEFORE MARCH 2.

Surplus Lines Broker Firm: _____
 Alaska Surplus Lines Firm Broker License Number: _____

MONTH	MONTHLY NET PREMIUM TOTAL	MONTHLY TAX	MONTHLY FEE
JANUARY	\$ _____	\$ _____	\$ _____
FEBRUARY	\$ _____	\$ _____	\$ _____
MARCH	\$ _____	\$ _____	\$ _____
APRIL	\$ _____	\$ _____	\$ _____
MAY	\$ _____	\$ _____	\$ _____
JUNE	\$ _____	\$ _____	\$ _____
JULY	\$ _____	\$ _____	\$ _____
AUGUST	\$ _____	\$ _____	\$ _____
SEPTEMBER	\$ _____	\$ _____	\$ _____
OCTOBER	\$ _____	\$ _____	\$ _____
NOVEMBER	\$ _____	\$ _____	\$ _____
DECEMBER	\$ _____	\$ _____	\$ _____

YEAR TOTAL T1 \$ _____ T2 \$ _____ T3 \$ _____

PREMIUM TAX AND FEE PAYMENT ATTACHED: (T2 + T3) \$ _____

STATE OF _____
 I, _____, being duly sworn, say that I am the principal of the above-named surplus lines broker license, and that the surplus lines annual premium tax report of premiums, taxes and fees is complete, true and correct and includes all premiums, taxes and fees on surplus lines insurance for risks resident, located, or to be performed in Alaska placed by the above-named surplus lines licensee during the month ended December 31, 19 _____.

 (Principal on License)
 SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19 _____.

 (Notary Public)
 My Commission Expires: _____

Original and one copy to the Alaska Division of Insurance with payment of premium tax and filing fee and a copy in the surplus lines broker's tax payment file.

H B

9 3

Rep. Brian Porter, Chairman

HB 188 Forfeiture of Property

House Judiciary Committee

Date: April 6, 1993
Place: Capitol Room 120

Subject of Meeting: HB 167 Air Quality Control
HB 93 VPSO Program; HB 119 Use of Day Fines

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Larry LaBolle	Rep. Foster	State Capitol, Inc	99801	371	3789	(Y) N	HB 93
✓ Russell Heath	AK ENVIRONMENTAL LOBBY	PO Box 22151 Juneau AK	99802		463-3366	(Y) N	HB 167
Margot Knuth	Law - Crim	11030N - 99811			5-3428	(Y) N	HB 167
Shelley K. Owens	AK Civil Liberties Union	1755 Franklin St, Suite 312 JNU	99801		463-4166	(Y) N	HB 188
✓ Resa Terrel	NFIB	9159 Skywood Lane	99801		289-4278	(Y) N	HB 167
* Tom Chapple	ADEC	410 Willoughby	99811			Reference Only Y N	HB 167
Margaret Pugh	Rep. Frank Miller					Y N	119
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

04/06/93
13:28:21

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
SCHEDULED FOR: 04/06/93 13:00 TO 15:00
HOUSE JUDICIARY

LTN1150
BY:ANC
FOR:ANC

LOCATION: ANCHORAGE
HB 93
HB 93 ✓
HB 188
HB 167 ✓
HB 167 ✓
HB 167 ✓

SHAROLYN
THOMAS
PAUL
AIMEE
CLAUDIA
CHERYL

KRAUSE
STEARNS
HARRIS
BOULANGER
ECHAVAMA
RICHARDSON

DEPT P.S.
TROOPERS
AK CNTR ENVIRON

OBSERVE
TESTIFY
TESTIFY
TESTIFY
TESTIFY

04/06/93
13:00:06

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN:30491 SCHEDULED FOR:04/06/93 13:00 TO 15:00
PUBLIC HEARING HOUSE JUDICIARY

LTN1150
BY:DLG
FOR:DLG

LOCATION:DILLINGHAM
HB 93 MR.

CHUCK

GREDIAGINA ✓

BBNA VPSO PROGRATESTIFY

04/06/93
13:05:06

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN:30491 SCHEDULED FOR:04/06/93 13:00 TO 15:00
PUBLIC HEARING HOUSE JUDICIARY

LTN1150
BY:KOD
FOR:KOD

LOCATION:KODIAK
HB 93 MS.

MS.

MARGIE

DERENOFF ✓

SELF

TESTIFY

Village Public Safety Officer Program

In the late 1970's, the Department of Public Safety recognized that there was a need for a wider range of public safety services in the villages than was provided by the Village Police Officer Program.

Bush conditions in Alaska are so completely at variance with urban conditions that they defy attempts to transpose urban public safety response mechanisms into rural villages. Needed was an approach to village public safety problems that is consistent with rural conditions, sensitive to ethnic lifestyles, cost effective, and gives some reasonable promise of being successful over the long term. This realization, coupled with the decline of the Village Police Officer Program, led to a proposal for a new public safety program tailored specifically for bush Alaska--the Village Public Safety Officer (VPSO) Program. The concept of the VPSO program was to train an officer in five public safety areas: fire suppression, law enforcement, search and rescue, water safety and emergency medical services. It was thought that this type of training would provide the VPSO with the rudimentary tools required to handle most incidents which are serious threats to life and property in the bush.

In 1979 a small pilot program was launched with 19 officers. Originally, the funding for the VPSO program was provided by a small Law Enforcement Assistance Administration (LEAA) grant; it was subsequently continued through the CETA Manpower programs of the regional Native corporations. The original program requested \$500,000 for fiscal year 1981; the legislature funded the project for \$2.9 million, supporting 52 VPSO positions. As the program developed and expanded, funding increased along with the number of officers authorized. By fiscal year 1982 the program had grown to 108 VPSO positions and 7 oversight troopers with a budget of \$6.7 million. Today the program supports 124 positions in the 123 villages with a budget of \$6.8 million.

Problems which the VPSO Program attempts to address

Many social and criminal problems requiring the public safety services stem from the widespread abuse of alcohol among village residents. Alcohol abuse stands as the primary crime-related factor in the villages. The VPSOs are proactive in enforcing Title 4 alcohol prohibition statutes, drinking and driving laws and providing drug and alcohol awareness messages at schools and in the villages.

Reduce water-related fatalities in Rural Alaska. Most of these deaths are alcohol related, although cold water and lack of knowing how to swim are contributing factors. The Oversight Troopers, as well as VPSOs, are thoroughly familiar with preventative methods, regulations, and laws relating to water safety. The Department of Public Safety provides training in the areas of boating safety, boating regulations, use of personal flotation devices (PFDs),

medical treatment, and public awareness through the VPSCs, media presentations, and publications.

Prior to the VPSO Program, on-site emergency medical situations were primarily the responsibility of the federally funded community health aide in villages that had this service. VPSCs receive 50 hours of emergency trauma and treatment training during their six weeks at the Public Safety Academy. This provides each VPSO community with on-site personnel trained and qualified to be the first responder or backup responder to emergency medical situations.

In addition to the aforementioned VPSO responsibilities, search and rescue is also a primary function of the VPSO. Each is given training in search and rescue methods and in the formation of rescue groups within their communities.

Funding

Funding for the Program is set up through a separate budget request unit with the Division of State Troopers' budget. The legislature provides funds for the Program. These funds are then channeled by individual contracts to ten regional non-profit Native corporations on a cost reimbursement basis. The primary purpose of regional contracting is to place the local administration of the Program into the hands of an organization sensitive to the specific needs of the areas to be served and to deal with a workable number of contracts while retaining a certain amount of regional flexibility. Each contractor, with the concurrence of the Division of State Troopers, selects which communities will participate.

Once the community has been selected, the local community, with the assistance of the State Troopers and contractor, is responsible for the selection and the daily activities of the VPSO. The contractor arranges for all salary payments based on the submission of time sheets from the communities. Group insurance plans, retirement plans, and maintenance of full financial accountability of contracted funds is also the responsibility of the contractor.

Support

Once selected, the VPSO receives support from the Alaska State Troopers. These "Oversight Troopers" assist on a day to day basis and provide to each a wide spectrum of the on-the-job training.

Law enforcement in most rural areas is the responsibility of the State Troopers. From bush outposts the Troopers attempt to respond immediately to emergencies, as quickly as possible to felony cases, and as soon as possible to misdemeanors. Their efforts, however, are often hampered by delayed notification, long response distance, the uncertainties of weather and transportation, and limited manpower. In communities associated with the VPSO Program, citizens are afforded immediate response to all emergencies without delays caused by weather, distance, or budgetary restraints.

Although VPSOs are not expected to handle high risk or complex investigative situations, they do act as a valuable communications link with the Troopers, and their immediate action, as directed by the Oversight Trooper, can extinguish many potentially volatile situations and can often protect items of evidentiary value until trooper arrival.

Training

Currently, all Village Public Safety Officer recruits must pass a six-week resident training course held at the Department of Public Safety Academy in Sitka, Alaska. The basic VPSO course includes training in emergency trauma and treatment, procedural law, search and rescue, water safety, and arrest. Participants must also complete a required physical fitness program. Annual regional training, in one week increments, is also mandatory for VPSOs.

Through the Department of Public Safety's Fire Service Training Division, VPSOs receive 90 hours of training in basic fire fighting techniques, as well as instruction into the development of volunteer fire departments. A primary objective of the VPSO Program is to encourage the establishment of volunteer fire departments through concerted efforts by the Department of Public Safety, State Troopers, and VPSOs.

Once a VPSO is selected, he is assigned an "Oversight Trooper" (a commissioned Alaska State Trooper) to act as mentor and to provide technical assistance and on-the-job training. Oversight visits to the village are made by the trooper. During the visits the trooper provides on-the-job training in criminal investigation, fire safety, and other public safety areas. The Trooper meets with village leaders and the VPSO to discuss issues relating to the village's public safety needs and the VPSO's job performance.

Part of the conceptual design of the VPSO Program is to provide a long term career ladder for the rural, often native, individual seeking advancement in the public safety field. The Department of Public Safety provides advanced training to those qualified individuals recommended by their villages, the non-profit, and Oversight Trooper, thereby enhancing their chances for employment in municipal police and fire departments, or with the State of Alaska as a State Trooper, or Fish and Wildlife Trooper, state or local corrections officers, or in a government or private security position.

VPSO Job Description and Duties

The city manager, mayor and/or the village council in conjunction with the Oversight Trooper, decide what the VPSOs specific day to day duties will be. VPSO duties will often vary from village to village.

The following is a list of possible duties. It does not cover all public safety-related duties now being performed by VPSOs in the state but is a minimum guide of services the VPSO will provide.

1. Law Enforcement
 - a. Patrol on foot and enforce State laws and local ordinances.
 - b. Investigate misdemeanor crimes, traffic violations, and write reports.
 - c. Assist Troopers during felony investigation.
 - d. Transport prisoners
2. Fire Protection
 - a. Maintain fire equipment.
 - b. Conduct fire drills in schools.
 - c. Conduct fire department meetings.
 - d. Train volunteer firefighters in firefighting.
 - e. Conduct fire prevention surveys.
3. Search and Rescue
 - a. Organize a search and rescue team and act as a liaison for DPS in the community.
 - b. Train SAR team members.
 - c. Maintain a list of available SAR equipment and supplies on hand.
 - d. Direct SARs by coordination with the Alaska State Troopers.
4. General Public Safety Duties
 - a. Assist health aides in emergency situations.
 - b. Provide public safety information to schools and the public.
 - c. Provide dog control and vaccinate for rabies.
 - d. Water and snowmachine safety.

VPSOs WHO HAVE ADVANCED

* Jerry Barr	. CSO, Trooper	VPSO/MPA Course
* Joe Masters	Trooper	
* Chris Masters	Sand Pt. / Unalaska PD	
John Terrall	Bristol Bay Borough PD	VPSO/MPA Course
Robert Beasley	FWEO	VPSO/MPA Course
Tom Clark	Juneau Fire Department	VPSO/MPA Course
* Larry Dirks	Unalaska PD	VPSO/MPA Course
Steve Gomez	Manilaq VPSO Coordinator	VPSO/MPA Course
Kenneth Jewell	Kotzebue PD / Parole Officer	VPSO/MPA Course
* Howard Amos	AVCP VPSO Coordinator	
Ron Reynolds	FAA Aviation Security	
James Agner	Sand Pt. PD	
Ronald Avery	Aspen, Co. PD	
John Bilyeu	Bethel PD	
Scott Eddy	Greens Crank Mine Medic	MFA
* James Galaktianoff	Constable	
* Calina James	Corrections Officer	
* Dennis Lincoln	Nome PD	
Paul Longpra	Bethel PD	
Kenneth Luce	Wrangell PD	
* Jerry Mackie	State Legislator	
Daniel Pasquariello	Dillingham PD	
* Elliott Reid	CSO	
* Wassillia Roland	Corrections Officer	
* William Roland	Corrections Officer	
* Walter Shane	St. Paul PD	
Kevin Short	Bethel PD / Cordova PD	
* Jon - '39	Nome PD	
* Dean Westlake	Kotzebue PD	

* Alaska Native

VILLAGE PUBLIC SAFETY OFFICER TRAINING SYLLABUS

WEEK 1

<u>ADMINISTRATIVE, TESTING AND PHYSICAL EVALUATIONS</u>	8.0
<u>PHYSICAL LECTURE AND CLASS TIME</u>	46.0
<u>PATROL PROCEDURES</u>	5.0
<u>ROLE OF THE CRIMINAL JUSTICE SYSTEM</u>	2.0
<u>USE OF FORCE</u>	2.0
<u>PROBABLE CAUSE</u>	2.0
<u>CRIME PREVENTION</u>	8.0
<u>OFFICER SAFETY</u>	7.0
<u>ROLE OF POLICE</u>	2.0
<u>JUDICIAL PROCESS</u>	1.0
<u>POLICE ETHICS</u>	2.0
<u>ROLE OF THE COURT</u>	2.0
<u>ROLE OF THE DISTRICT ATTORNEY</u>	2.0
<u>TESTING</u>	2.0
<u>TOTAL</u>	91.0

WEEK 2

<u>CRIMINAL CODE</u>	16.0
<u>REPORT WRITING</u>	16.0
<u>VPSO CONCEPT & HISTORY</u>	8.0
<u>TESTING</u>	2.0
<u>TOTAL</u>	42.0

WEEK 3

<u>CPR</u>	8.0
<u>EMERGENCY TRAUMA TRAINING</u>	32.0
<u>TESTING</u>	2.0
<u>TOTAL</u>	42.0

WEEK 4

<u>HAZARDOUS MATERIALS</u>	7.5
<u>SEARCH AND RESCUE</u>	10.0
<u>LOCAL EMERGENCY PLANNING</u>	12.0
<u>CORONERS PROCEDURES</u>	3.0
<u>COLD WATER SURVIVAL</u>	4.0
<u>TESTING</u>	2.0
<u>TOTAL</u>	40.5

Village Public Safety Officer Training Syllabus. Con't

WEEK 5

<u>CHILD SEXUAL ASSAULT</u>	2.0
<u>DOMESTIC VIOLENCE</u>	4.0
<u>ADVANCED SOBRIETY TECHNIQUES</u>	9.0
<u>INTERVIEW AND INTERROGATION</u>	3.0
<u>RULES OF EVIDENCE</u>	7.0
<u>VIOLENT CRIMES/VICTIM-WITNESS PROGRAM</u>	1.0
<u>ROLE OF THE PUBLIC DEFENDER</u>	2.0
<u>MIRANDA</u>	1.0
<u>LAWS OF ARREST</u>	1.0
<u>HOW TO HANDLE THE MENTALLY ILL</u>	3.0
<u>TESTING</u>	2.0
	<u>TOTAL</u> 38.0

WEEK 6

<u>CRIMINAL INVESTIGATIONS</u>	6.5
<u>SEARCH WARRANTS/CRIMINAL COMPLAINTS</u>	4.0
<u>LATENT PRINTS</u>	4.0
<u>CRIME SCENE PRACTICAL</u>	8.0
<u>REPORT REVIEW</u>	1.0
<u>COURTROOM TESTIMONY /DEMEANOR</u>	7.0
<u>MOOT COURT</u>	4.0
<u>FINAL EXAM</u>	3.0
	<u>TOTAL</u> 33.5

TOTAL OF ALL WEEKS 287

The VPSO program BRU has three components, the largest is for contracts with regional non-profit native corporations. The VPSO program was authorized more positions than it could consistently fill and funds which would otherwise have been used for authorized positions lapsed. Therefore, when budget reduction scenarios emerged during the mid 1980's, funding was reduced from contracts to account for the equivalent of "vacancy and turnover savings". However, aggressive program management combined with the ability to fill all positions would provide the Contractors with a dilemma. They would have the ability to fill all positions, but would be required to "force vacant" positions to stay within the authorized funding. This, of course, defeats the purpose of having authorized VPSO positions.

Estimate to reduce underfunding/vacancy factor: \$380,000

In some instances, not all contract funds allocated for VPSO positions could be spent due to high VPSO turnover or inability to recruit VPSOs. Funds have then been used for other VPSO Contractor administrative expenses by contract amendment. In state terminology that would be the same as transferring personal services to other line items.

One approach would be to more fully fund the contracts for direct VPSO costs (e.g. salary, benefits etc.) and disallow any contract amendment which would transfer those funds to other line items of expenditures. This, however, prevents the VPSO Contractor from utilizing available funds to cover legitimate needs.

RECEIVED MAR 24 1993

VPSO Program MANAGERS
RESOLUTION - 93-01

At a meeting of the VPSO Program Managers regarding the future of the Village Public Safety Officer Program the managers representing 124 rural communities felt compelled to submit to the Alaska Legislature the following statement:

WHEREAS the Village Public Safety Officer Program over the past 12 years has shown itself to be a needed and effective program for providing basic public safety services such as law enforcement, emergency medical services, search and rescue and fire prevention and suppression in rural Alaska, and

WHEREAS this provides a safe environment that enhances the quality of life, is conducive to economic development, and through prevention and early intervention saves costs associated with public safety, and

WHEREAS up to 55% of the rural population utilized the services of the VPSO during the past year, and

WHEREAS the authority for the VPSO Program currently resides ONLY as a line item in the budget of the Department of Public Safety and is at risk without statutory protection,

NOW, THEREFORE BE IT RESOLVED that the VPSO Program Managers representing 124 rural VPSO communities urge the Alaska State Legislature to adopt Senate Bill #15 and House Bill #93 to place authority for the VPSO Program into the Alaska Statutes.

Dated this 24th Day of March, 1993.

Joseph King *Howard J. Ames* *Daisy Stevens*
Reserve Swann *Chip Richards* *Charles T. Fruchiger*
George Cole *Robert...* *[Signature]*



CENTRAL COUNCIL
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ANDREW P. HOPE BUILDING
320 West Willoughby Avenue • Suite 300
Juneau, Alaska 99801-9983

March 24, 1993

Honorable Walter J. Hickel
Capitol Building
Juneau, Alaska 99801

Dear Governor Hickel:

During the general election in October, 1992 a survey about the VPSO Program was handed to 10% of voters as they exited voting booths in 10 Southeastern Communities. 50% of the surveys were returned.

The survey explored how the residents felt about the program as well as soliciting information about program direction, use and understanding.

55% of those responding used the services of the VPSO in the year preceding the survey. There is strong feelings that the program is needed in each and every community that has a VPSO. Law Enforcement and Emergency Medical Services rate the highest in importance on the minds of rural residents.

There is widespread concern regarding the illegal use of alcohol and drugs. Residents want to see more enforcement presence, not less. As one respondent stated, "When we don't have some form of law here, the teens and some adults go rampant with drugs and alcohol."

The following pages are copies of slides presented to the VPSO Program Managers outlining the results of this survey. Similar surveys conducted in other VPSO regions yielded similar results. Please call me if you have any questions about this.

Sincerely,

George B. Cole
VPSO Program Manager

cc: Members of the Alaska Legislature



Central Council VPSO Community Survey

- ◆ A. Why do a survey in the first place?
- ◆ B. Who should we ask?
- ◆ C. What questions should we ask?
- ◆ D. What were the results?
- ◆ E. What do the results mean?
- ◆ F. What should we do with the results?

A - Why do a survey?

- ◆ 1. Find out how we are doing
- ◆ 2. Determine problem areas
- ◆ 3. Establish statistical base
 - » Measure future progress
 - » Show work results
- ◆ 4. Help with resource allocation
 - » Training
 - » Positions
 - » Travel/Communications
 - » Equipment

B - Who to ask?

- ◆ a. Who would respond?
- ◆ b. Who would be listened to?
- ◆ c. Who would respond reasonably?

Voters

C - What to ask?

- ◆ 1. **Our concerns**
 - » Field personnel (VPSOs)
 - » Management interests

- ◆ 2. **Funding agency concerns**
 - » Meeting program goals
 - » Worth the money?

- ◆ 3. **Served population concerns**
 - » Needs assessment
 - » Gripes
 - » Accolades

C - 1 Our Concerns

- ◆ a. **From regional training**
 - They don't know VPSOs are peace officers
 - People don't know what roles the 3 entities play in the program

- ◆ b. **From Management**
 - How does the community feel
 - » About the program?
 - » About the personnel?
 - » About the service?
 - Is the service being used?
 - » Which are most important?
 - General comments

C - 2 Funding Agency Concerns

- ◆ a. **Training**
 - » Especially new hires
- ◆ b. **Entity roles defined**
 - » Local councils understand roles
 - » Non-profits explaining program
- ◆ c. **Program effectiveness**
 - » Do people know what the program provides
 - » Do people use the program

C - 3 Client Concerns

- ◆ a. **About the overall program**
 - » Local participation
 - » Trooper participation
 - » THCC participation
- ◆ b. **Competency of VPSO**
 - » Level of training
 - » Personal confidence
- ◆ c. **General comments**

C - Survey Breakdown

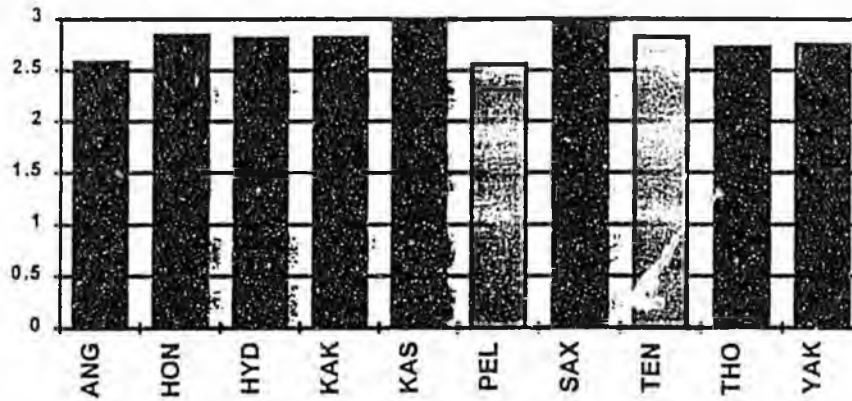
- ◆ 4 Sections
 - » General feelings about the program
 - » Rank services in order of importance
 - » T/F about roles, training, feelings, use
 - » Comments section

D - What were the results?

Community	Registered Voters	Surveys Sent	Surveys Returned	Percent Returned
Angoon	440	44	38	86%
Hoonah	439	44	19	43%
Hydaburg	270	27	16	59%
Kake	382	38	22	58%
Kasaan	105	11	11	100%
Pelican	173	17	9	53%
Saxman	778	78	10	13%
Tenakee	203	20	17	85%
Thorne Bay	412	42	29	69%
Yakutat	342	34	8	24%
Totals	3544	355	179	50%

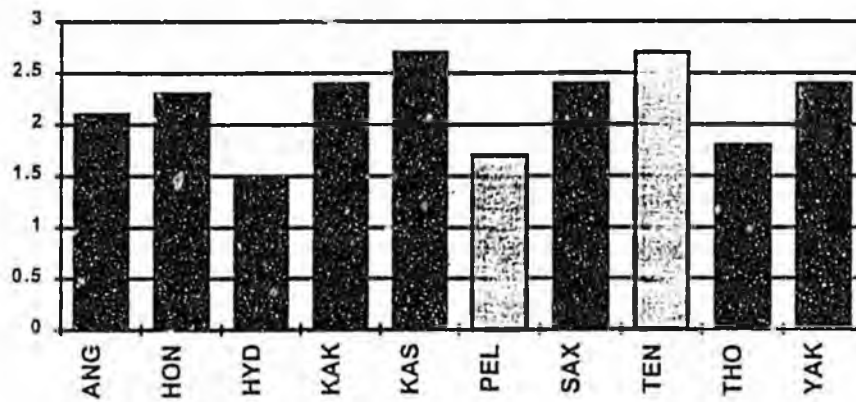
D.I.1 - The VPSO Program is needed in [your community]

0=strongly disagree, 1=somewhat disagree,
2=somewhat agree, 3=strongly agree



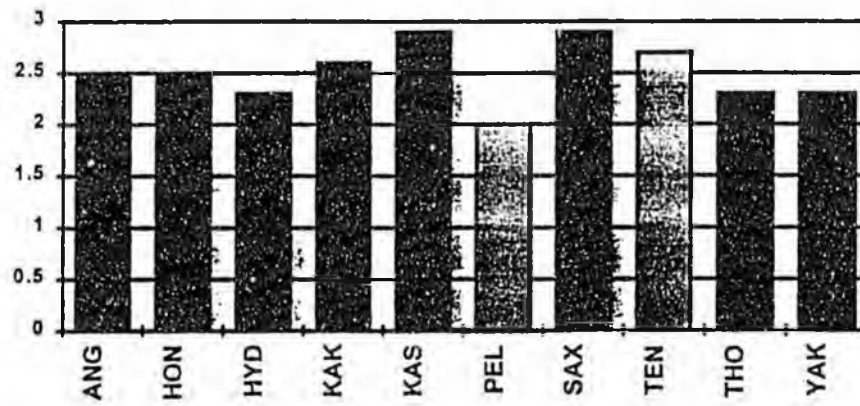
D.I.2 -The Program meets [your comm] public safety needs

0=strongly disagree, 1=somewhat disagree,
2=somewhat agree, 3=strongly agree



D.I.3 - You feel secure calling on your VPSO

0=strongly disagree, 1=somewhat disagree,
2=somewhat agree, 3=strongly agree



D.I.4 - I understand what services the VPSO offers

0=strongly disagree, 1=somewhat disagree,
2=somewhat agree, 3=strongly agree

