

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7954 HOUSE LABOR & COMMERCE

organizations and continues to license qualified pilots regardless of their affiliation. Although the composition of the board creates conflict of interest issues, we believe it has made every effort to address its business in a fair and impartial manner.

On page 17, the auditors place the burden of proof upon the board to demonstrate that competition is detrimental to protecting the interests of the state before it establishes goals which are contrary to its mandated policy. Albeit the audit then continues to make the board's point by stating several major flaws in the present system.

On page 17 of the report, the auditor cites examples where competition has been detrimental to providing training opportunities that would further the state's interest by licensing a better qualified pilot.

On page 18, the auditors cite an example of problems with the dispatch of pilots (the Western Region incident). The idea of a competitive piloting system walks a fine line between acting in the state's best interest (protecting life, property, and the environment) and violating the provisions of AS 08.62.157 and AS 08.62.163. By allowing pilots, through their organizations, to enter directly into contractual agreements with shipping companies, competitive piloting has the potential to compromise the pilot's ability to act independently, and therefore has the potential to compromise safety.

On pages 16 and 21, the auditors cite examples of how competitive piloting has impeded the board in acting in the best interest of the state by creating conflict of interest situations under the Alaska Executive Branch Ethics Act. Four ethics violations have been filed against members of the Board of Marine Pilots; none of these complaints have been sustained.

#### Recommendation No. 2

Statutes and regulations should be revised and strictly enforced to adequately protect the best interest of the state.

The department has taken a neutral position on how the statute and ultimately the regulations should be changed. The audit illustrates the overall problems with the current statute but has not probed deeply enough to validate the feasibility of their recommendations.

#### Recommendation 2(A)

Competition requires statutes and regulations to ensure access of adequate training and dispatching of services.

The department does not consider this recommendation a realistic solution to the problem.

The auditors state that due to the competitive economic structure of marine pilotage in Alaska, the Board of Marine Pilots should be given statutory authority to compel pilot organizations to provide training opportunities to all qualified pilot trainees. However, in the preceding paragraph the auditors state, "Naturally, a competing association is not likely to make the vessels they have contracts with, and their experienced pilots, available to competitors for training purposes." Due to the need of the members of competing pilot organizations to increase their numbers in order to gain an economically viable share of the market, Pilot Docking Evaluation Reports have already lost their objectivity. These reports are the basis by which the Division of Occupational Licensing tracks a trainee's progress and evaluates his/her experience prior to licensure. If a pilot organization needs these trainees to be licensed in order to compete, their training program may already be compromised. It is unlikely that a pilot organization can be legally regulated into providing training for their competition. It is also unlikely that industry, i.e. foreign shipping companies, can be regulated into making their ships available for training to pilot associations that they do not hold contracts with.

There are many legal questions to be covered by this recommendation. Marine pilots carry \$250,000 liability insurance. Can the board, by regulation, compel training pilots from one pilot organization to be financially responsible for the actions of their competition's trainee?

Although recommendation number 2(A) suggests giving the Board of Marine Pilots specific statutory authority to revoke recognition of a pilot organization or impose sanctions on a pilot who fails to dispatch when available, it also suggests the use of binding arbitration to solve disputes between pilot organizations and industry. As illustrated by the pilotage dispute in the western region during the summer of 1993, a potential threat to the public safety by vessels moving without pilots aboard will not wait for the deliberative process of binding arbitration.

#### Recommendation 2 (B)

Allegations of pilot misconduct should be expeditiously handled by OL and the board. Sanctions levied should be equal to the infraction.

The department agrees with the recommendation but not the supporting text.

The auditors suggest that if competition were eliminated, the Board of Marine Pilots would have to become more proactive and would need to exercise its authority of suspending a pilot's license if he/she failed to report a marine incident. The department considers the suspension of a pilot's license because of a failure to report an accident to be an unrealistic penalty. This particular concern of the auditor is blown out of proportion inasmuch as now that there is a Marine Pilot Coordinator, the board is and has been proactive.

The auditors stated that the Division of Occupational Licensing has not been following up on investigative cases and closing them in a timely manner. The auditor cites two cases that were reviewed that had no action taken on them in seven months.

The auditors cite the vacancy of the Marine Pilot Coordinator position as one possible reason for this deficiency and also a lack of documented prioritization of cases.

The following is an excerpt of the Division of Occupational Licensing's reply to the Office of Management and Budget regarding prioritization of investigations:

"Within the Investigative Unit, priorities are established as to what cases should be investigated before others. All reports of noncompliance result in a case being opened provided the complaint is not frivolous and potential violation of the law exists.

The exception to this is either a noncooperative complainant or the lack of a competent witness. Anonymous reports will be investigated if the severity of the report dictates such action. Once a case is opened, the following priorities are established to determine where the scarce investigator time will be applied:

1. incidents which represent an immediate danger to the public health and safety. This includes incidents of a continuing nature;
2. incidents which by the severity of their nature dictate a high priority. This also may involve incidents of a continuing nature;
3. routine cases which may involve a one-time complaint;
4. incidents which require a proactive initiation or are the result of violently opposed schools of thought for professional treatment or a time versus expected results. These categories will most likely result in no priority assigned. Due to manpower limitations, the division can only respond to complaints and must allocate it's scarce investigative resources where we get the greatest results. This leaves many professions without adequate investigative services."

From 1989 to the present, the Division of Occupational Licensing has opened and investigated 96 cases involving state licensed pilots; 77 of those cases, or 80.2%, of the total have been closed.

In 1989, 17 cases were opened. All of these cases, or 100%, have been closed.

In 1990, 11 cases were opened. All of these cases, or 100%, have been closed.

In 1991, 17 cases were opened; 15 of these cases, or 88%, have been closed. The remaining two cases, or 12%, have been fully investigated, are in litigation, and cannot be closed until the litigation is completed.

In 1992, 25 cases were opened; 22 of these cases, or 88%, have been closed. Of the remaining three cases, or 12%, two are awaiting action by the United States Coast Guard before the state can proceed, and one case is pending an MOA or litigation if the MOA is not agreed to.

In 1993 (to date), 26 cases have been opened; 12 of these cases, or 44%, have been closed. The remaining 14 cases, or 56%, are in the process of being investigated, are in litigation, or are awaiting hearing officer review.

Of all 96 cases opened since 1989, 19 cases remain open; 14 cases, or 73.7%, of those cases remaining open, were opened in 1993. Some of the cases that remain open were initiated by the hearing officer and are not under the control of the Division of Occupational Licensing.

Recommendation No. 3

The Legislature should remove the responsibility of setting tariff from the Board of Marine Pilots

The department concurs with recommendation No. 3.

Recommendation No. 4

The examination process for marine pilots needs to be revised.

The department concurs with this recommendation.

Recommendation No. 4 (A)

The written examination should be more objective.

The department concurs with this recommendation.

Recommendation No. 4 (B)

The oral exam as it is currently structured should be eliminated.

Because of the conflict of interest issue, competition, and the past board practices, the department concurs with this recommendation. However, the board should still retain the right and duty to question an applicant as to his/her work experience, credentials, and application.

Recommendation 5

The statutory criteria for appointment and regional representation of members to the BMP should be refined and strictly adhered to by the Governor during the selection and appointment process.

The department has no objection to this recommendation but feels that the audit made only a cursory review of the problems concerning the composition of the board.

Recommendation No. 6

The Department of Commerce and Economic Development (DCED) should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licenses that are more reflective of the actual regulatory cost of the occupation.

As this recommendation is applied to the MPB, the department disagrees with this recommendation because it is nonreflective of the MPB fee setting practice. The auditor's comments are general in nature and apply to other occupations but not the MPB. The 1991 Marine Pilot Act authorizes a Marine Pilot Coordinator with the combined responsibility of board executive secretary and investigator. To pay for this new position, all licensed pilots were subject to a one-time additional \$805.00 for FY 92. The bi-annual license fees for pilots increased from \$180.00 to \$2,000.00. These fees were collected as of January 1, 1993, consequently the MPB was the first board to have its fees adjusted to reflect the actual cost. The department does agree that the accounting system is not perfect, but with additional staffing, more precise accounting can be achieved.

An OMB audit of the department fee setting practice was completed in early October. OMB's recommendations for defining direct costs, including the implementation of timekeeping records for licensing staff, investigators and hearing officers, has been implemented effective July 1, 1993 by the division for all occupations.

The OMB audit recommended a cap on incremental fee increases of no more than 10-25% per licensing period. This is problematic inasmuch as it places a limit on recovering the actual cost of licensing the profession. Unpredictable and unforeseen program expenses occur due to investigations, litigation, and legal challenges which are not controlled by the board or the division. Limiting expenditures in order to comply with these caps is anticipated to have serious effects on the division's abilities to comply with their statutory mandates. Under the present scheme, once a program has expended its "acceptable limit" for fee increase adjustments under the OMB recommendations and in accordance with AS 08.01.065, the board will effectively be shut down for the remainder of the fiscal year. The consequences have potential health and safety risks as well as potential economic hardships for licensees who wish to renew their licenses, sit for examinations, etc. The division will make requests

for additional spending allocation to the Legislative Budget and Audit Committee to alleviate these harsh consequences, but failing favorable consideration, the division must control its expenditures.

The division does not fully concur with the audit findings that errors were made in the calculation of a two-year average of expenditures used to determine the FY 93 license fees, and as a result, license fees did not truly reflect the cost of providing regulatory services to each occupation. Detailed expenditure information used in calculating a two-year average was based on information obtained from the state accounting system at the time the decision had to be made. The data generated from the state accounting system for the purposes of this audit has changed from data obtained by division staff when fee decisions were made.

In conclusion, the Department of Commerce and Economic Development has worked with the OMB auditor on a continuing basis regarding this issue.

#### Recommendation No. 7

OL should continue their efforts to adequately provide public notice of board meetings and application deadlines for examinations.

The division is continuing to insure that each board meeting and examination is properly public noticed. As indicated in the report, four of the six errors concerned teleconferences. The majority of these teleconferences involved a series of emergency meetings of the board concerning the possible cessation of pilotage in the Western Pilotage Region due to a dispute between pilotage associations. All interested parties associated with this situation were notified of the teleconference and participated in it. No complaints of not being notified have been received. Consequently the intent of the statute has been met but there exists no documentation in the records that proper notice was given through the normal process. The Board of Marine Pilots is operational in nature inasmuch as the board is responsible to insure safe pilotage throughout the state and must act accordingly.

#### Recommendation No. 8

OL should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and the production of an annual report.

A rewrite of AS 08.01 is available, and the division is seeking legislative support to introduce it. The rewrite makes numerous revisions including amendments to the statutes cited in this recommendation.

The rewrite included revisions which make drafting minutes a department responsibility. It also provides for an annual report deadline submission of August 1. The annual report deadline revision is necessary as many statistics

needed for the annual report are not available until June 30, thus making it impossible for the boards to meet the existing deadline of submission by June 30.

The division disagrees that the annual report authorship should be amended to make annual report submission a department responsibility. We recognize that division staff are instrumental in assisting boards when completing reports. Staff provide statistical and clerical assistance, however, this report must be reflective of the boards' position on various matters involving the profession regulated including legislative and regulatory needs, budget requests, and upcoming goals. These are areas which the board is solely responsible for developing.

Recommendation No. 9.

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (LAW).

The department agrees and will comply with this recommendation. A written procedure developed by staff will be limited to include directives for staff follow-up at each meeting with collection of ethic reports, as well as clarifying dates which quarterly reports must be compiled and forwarded to the Attorney General's Office. We concur that staff is responsible for the timely submission to the Department of Law. This is the limit of responsibility on behalf of the department.

All other policy, procedures, interpretations, and written directives for what must be reported, must come from the Department of Law. Guidance on when a member must report a conflict, what should be reported, confirmation of what constitutes a conflict, and who has authority to rule/overrule a decision made by a designated supervisor, are all matters which are beyond the scope of DCED staff expertise. Consequently, the department disagrees with this statement in the text of recommendation No. 9 which states "Functionally, OL staff advise the professional licensing boards associated with them as to the reporting necessary for compliance with the Ethics Act . . . ."

The department has asked for a written directive from the Department of Law, in layman's terms, which clarifies these matters. Any forthcoming directives from the Department of Law will be distributed to board members.

Recommendation No. 10

OL should in conjunction with the Equal Employment Opportunity Office (EEO), review the licensure application for each professional occupation to ensure that personal questions of a potential discriminatory nature are essential for prudent licensure.

The department disagrees with this recommendation.

We believe the procedures for denying an applicant and the practice of listing the specific reasons for denial in the notice to the applicant provide adequate protection for the board from being subject to discrimination complaints based on the height/weight questions.

Analysis of Public Need

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

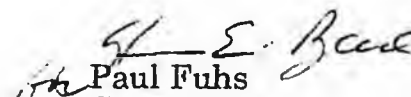
The department disagrees with this analysis.

The auditors claim that the Board of Marine Pilots' lack of effectiveness at approving licenses is evidenced by the number of times that a hearing officer has overturned the board's decision not to grant a license. This statement is based on poorly applied data. AS 08.62.040(a)(2) requires the board to license qualified persons as marine pilots. During the audit period (FY 92-FY 93), 104 persons applied for licensure of one kind or another; 84 of those persons were issued licenses or changes to their licenses. The board denied 20 licenses. Ten of those persons who were denied licenses appealed their cases to the hearing officer. Of those ten cases that were appealed, in only three cases did the hearing officer overturn the decision of the board; 3 decisions in 20 decisions is a 19% overturn rate (as calculated by the auditor). Three decisions in 104 decisions is a 2.9% overturn rate. The auditor's method of compiling this data is flawed. Using these same numbers properly, it is evidenced that the Board of Marine Pilots acted correctly in issuing licenses 97.1% of the time.

Although not a perfect record, the success rate of the Board of Marine Pilots in licensing qualified persons as required by statute is impressive.

Thank you for giving me the opportunity to comment on the findings of the Legislative Audit Committee's review of the Marine Pilot Board's activities.

Sincerely,

  
Paul Fuhs  
Commissioner

PF/DT/mme360.dt  
020394b

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WALTER J. HICKEL  
GOVERNOR



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 3, 1994

Mr. Randy S. Welker  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300



Dear Mr. Welker:

We are responding to your request for a written response to preliminary audit report 08-1415-94 Department of Commerce and Economic Development, Board of Marine Pilots, dated November 4, 1993.

We are pleased that Legislative Audit has concluded that appointments to the Board of Marine Pilots have been made in accordance with state statutes (Recommendation no. 5, page 24).

Regarding Recommendation No. 5, the following response is made:

The Governor's Office believes that the public member in question had no "direct financial interest in the occupation that the board regulates". This is in accordance with AS 08.01.025, relating to public members of occupational licensing boards. Legislative Audit concluded the same. We believe that the appointment of this public member was in accordance with statute. Legislative Audit reached the same conclusion.

However, Legislative Audit determined that the public member in question must have had an indirect conflict of interest since he resigned after a threat from the cruise ship industry. We believe that the fact that the cruise ship industry threatened this member and that this member chose to remove himself from this situation does not indicate that the public member had a conflict of interest. We believe this presumption of Legislative Audit to be in error and unsubstantiated.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Kristie Leaf".

Kristie D. Leaf  
Director, Boards and Commissions

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

February 4, 1994

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the Department of Commerce and Economic Development's and the Office of the Governor's responses to our audit report. However, nothing has been brought to our attention which would change our position to our recommendations. We have addressed only those recommendations in which the departments have taken exception to.

We agree marine pilotage is a very complex and controversial issue and the board oversees a highly contentious industry. During the course of our audit, we interviewed proponents of competition and monopoly. In order to obtain an unbiased understanding of this contentious and complex marine pilotage industry we contacted neutral professionals including the United States Coast Guard (USCG), the Federal Trade Commission (FTC), plus members and staff of the National Research Council Study.

### Recommendation No. 1

We are pleased to note that the board has, subsequent to our audit field work, stated their intentions of taking a neutral position on the passage of House Bill (HB) 237. That bill has been revised in committee to emphasize the need for an independent, impartial, and unbiased board with regards to examinations and the issuance and renewal of pilot licenses. We concur that an unbiased board is important and required for efficient and effective oversight of the present competitive marine pilotage structure in Alaska. However, the department continues to support the non-competitive provisions of HB 237 by claiming weaknesses in the present system pointed out by the auditor proves that competition is detrimental to protecting the interest of the State.

The legislation introducing competition to the marine pilotage profession in the State of Alaska was implemented as recently as 1991. We question whether the implementation of competition could be fully evaluated and an adverse conclusion drawn by the board in such a short period of time. As we state in Recommendation No. 1, we do not believe that the board has exerted sufficient effort to resolve these weaknesses. Instead, their efforts have

tended to advocate a monopolistic structure rather than a competitive one. The FTC has suggested addressing safety concerns directly through vigorous enforcement of safety regulations rather than indirectly through economic regulations.

In the department's response to our report, they raise concerns regarding recommendations to training, safety, and conflict of interest issues of the board. Our report does point out weaknesses in which problems presently exist in the State's competitive structure, yet recommendations to resolve those weaknesses within the competitive structure have also been suggested.

We have recommended that statutory changes be made to require a pilot to train any qualified candidate regardless of pilot association affiliation. However, as recently as January 1994, the board has introduced changes to their regulations in direct opposition to this recommendation. This change states that "*a training pilot may not be compelled to accept a trainee.*" In our comments to Recommendation No. 2 below, we will address this issue in more detail.

The department has stated in their response that by allowing pilots to enter into contractual agreements with shipping companies there is a potential to compromise safety. However, neither the department nor the board has demonstrated or furnished documentation or overwhelming evidence that a competitive system has compromised safety in Alaska or other jurisdictions. Attempts were made to gather information from the USCG and the Army Corp of Engineers to analyze shipping safety in Alaska, but sufficient data was not available to perform such a study.

The department acknowledges that the composition of the board creates conflict of interest issues. The department has concurred with Recommendation Nos. 3 and 4 regarding the tariff setting and examination processes. Implementation of these recommendations will eliminate most conflict of interest situations which arose within Alaska's competitive structure.

#### Recommendation No. 2

In developing this recommendation, we discussed the possibility of competing associations training all qualified trainees with an Assistant Attorney General. He stated that the suggested statute change would not be considered unconstitutional and would be defensible in court. He also added that a similar situation is already evidenced in case law of common carriers being required to haul freight for their competitors. Without such statutory requirement, pilot associations are not likely to train their competitors. The department's response acknowledges that the board has not thoroughly researched this issue.

A similar situation arose within the Alaska Marine Highway System (AMHS) ferry system where AMHS personnel affiliated with one association refused to train pilot trainees of their competitor. The AMHS port captain was able to resolve this issue by allowing trainees equal access to AMHS vessels irrespective of their sponsoring association. This issue was resolved with little, if any, board involvement. However, to ensure equal access to training on industry's vessels, the board will need to take the same active approach as the AMHS port captain. The authority for this action will be gained through the recommended statutory changes.

The department mentions a possible problem in the current training process is the lack of objectivity of the pilot docking evaluation reports. These forms are utilized to track the trainee's progress and evaluate their experience prior to licensure. The reliability of these forms has been questioned by the department, when the pilot associations are evaluating their sponsored candidate. An advantage of having competing pilot associations train qualified candidates is that the pilot docking evaluation reports, with oversight by the Marine Pilot Coordinator, would enhance the possibility of regaining their objectivity.

The department has stated that they believe it to be unlikely that foreign shipping vessels will make their ships available for training. We believe that industry is an advocate of competition; therefore, they would have an incentive to ensure that competition remains by cooperating in this training effort. In addition, the department's response acknowledges that the board has not researched this issue.

The department states that many legal liability questions arise out of requiring associations to train competing pilot trainees. These are very good questions that the board should be pursuing answers to rather than claiming the competitive structure will not work.

The Assistant Attorney General was also consulted regarding the dispatching issue. His response was that pilot associations could not be forced to accept a less lucrative job over another, but that they could be penalized for their failure to provide a pilot when one was available. This last issue was considered defensible in court.

In the response, the department stated that the suspension of a pilot's license, due to a failure to report an accident, is an unrealistic penalty. However, this sanction is clearly outlined in 12 AAC 56.960 (e) which is a regulation developed by the board. It is important to have in place appropriate enforcement sanctions, in a competitive structure, in order to regulate the profession.

The department noted that policies to prioritize cases for investigative purposes do exist. However, during our review of the investigative files, there was **no physical documentation** which defined the priority of a particular case. Our recommendation is that the **documentation** of those procedures to prioritize be maintained within each case file and cases should be tracked on a continuous basis.

In order to resolve the questions raised by the department in their response to this recommendation, we believe it is the board's responsibility to investigate these options rather than respond that our recommendations are unrealistic. To our knowledge, the board has not attempted to review these possibilities.

Recommendation No. 5

We have read the response from the Office of the Governor regarding appointments to the Board of Marine Pilots. Although the governor's office states that the public member in question did not have a direct nor an indirect financial interest, we disagree. The purpose of having public members on boards is to provide an unbiased viewpoint. If those public members are not free from any interests which may influence their opinion, their objectivity could be compromised. We are not suggesting that the public member in question compromised himself, and in fact feel that his immediate resignation was appropriate under the circumstances. Since this public member withdrew his seat due to a threat which would impact his financial well being, this clearly demonstrates an indirect financial interest to industry.

Recommendation No. 6

We have reviewed the agency's response to Recommendation No. 6 and provide the following clarification. We agree that the recommendation is general in nature and addresses the division's fee-setting policy as a whole. Of the \$125,000 average expenditures allocated by the division to the Board of Marine Pilots, almost 80% (approximately \$97,000) is associated with the Marine Pilot Coordinator position which is directly funded by marine pilot fees. However, a portion of costs associated with the division's investigative unit and hearing officers', whom address marine pilot issues, have been allocated to the board in the method described in the recommendation.

Recommendation No. 10

All state documents and forms utilized by this board should be free from potentially discriminatory information. We suggest that the board work with the Equal Employment Opportunity Office to ensure that forms are free of this information. As a result, the protection of the board against discrimination claims would be enhanced.


Analysis of Public Need

We understand that a difference in opinion exists for calculating the effectiveness of the board in approving licenses. However, we do not believe the board can state that it was

February 4, 1994

correct in issuing licenses 97.1% of the time. There is no third party review of all 104 licenses granted or denied. This review would be necessary in order to sustain the 97.1% effectiveness claimed by the department. Therefore, the methodology we use to evaluate the effectiveness of the board's license decisions is solely based upon those cases which were appealed.

Sincerely,



Randy S. Welker, CPA  
Legislative Auditor

HB

2411

*As. copy  
for members  
+ return. Thanks.  
L.*

April 8, 1994

Rep. Bill Hudson  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182  
FAX 465-6790

Dear Rep. Hudson:

I am writing to express my strongest opposition to HB 241 "Workers' Compensation requiring benefits for health insurance and inspections."

I am a member of the Workers' Compensation Committee of Alaska (WCCA), which, as you know, is a volunteer, non-profit organization of Alaska employers dedicated to helping hold down the cost of workers' compensation insurance. In 1988 WCCA was instrumental in achieving a comprehensive rewrite of Alaska's work comp laws at a time when insurance premiums were threatening to shut down a number of businesses. Since that time WCCA has monitored work comp issues on behalf of its members and also provided informational and educational services through its seminars and its monthly newsletter.

The issue of civil liability for worksite safety inspections has long been a WCCA priority. The so-called "Van Biene" issue (named after a court case) would provide relief from liability for safety inspectors except in the case of intentional misconduct.

Important as the Van Biene issue is to our members, however, none of us consider it is worth the huge expense of providing additional health benefits through the work comp system. These benefits would cause tremendous hardship to Alaska's businesses, large and small. In addition, we question the wisdom of tacking these benefits onto our already beleaguered work comp system--just months before there looks to be comprehensive health care reform on the national level.

We will welcome the opportunity to discuss these issues with you in greater depth. Meanwhile, please register my opposition to HB 241.

Thank you.

*David D. Adams, 4/9/94* **FAXED**

DAVID D. ADAMS, P.E.  
PRINCIPAL

**Adams, Morgenthaler and Company**

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TOTAL P.02

P.02

TOTAL P.01

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 241

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

Department Affected: Administration

Title: 'An Act relating to workers' compensation.'

BRU: Risk Management

Component: Risk Management

Sponsor: Mulder

Requestor: (H) L & C

COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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	55.0	56.0	57.0	58.0	59.0	60.0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>55.0</b>	<b>56.0</b>	<b>57.0</b>	<b>58.0</b>	<b>59.0</b>	<b>60.0</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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FUNDING SOURCE:

(Thousands of Dollars)

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 1007	55.0	56.0	57.0	58.0	59.0	60.0
<b>TOTAL</b>	<b>55.0</b>	<b>56.0</b>	<b>57.0</b>	<b>58.0</b>	<b>59.0</b>	<b>60.0</b>

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)  
See Attached.

Prepared by: Brad Thompson, Director  
Division: Risk Management

Phone: 465-2180  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura  
Agency: Department of Administration

Date: 4/1/94

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## FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 241

### ANALYSIS: (continued)

HB 241 requires the State to pay an additional benefit of the amount equivalent to the health insurance premium to any employee or dependent receiving compensation or death benefits for up to 12 months beyond the termination of health coverage provided by the employer.

Currently the State extends health coverage to any employee in active leave status the first work day of the month, with coverage terminating the end of the month of last active leave status. Employees are currently allowed to draw from leave accounts to maintain active status in an amount equivalent to monthly salary less the actual workers' compensation benefit received. As a result, very few employees totally exhaust leave status to face self-payment of medical insurance premiums.

State health benefit premiums for FY 94 are anticipated to average \$423.50 per employee per month. The maximum increased cost per claimant applying the 12-month limit would be \$5,082. However, most injuries do not extend for lengthy time loss periods.

It is reported that an independent actuarial study performed for the Division of Insurance on previously proposed legislation with similar language estimated an increase of approximately .8 percent to 1 percent to extend this additional benefit. State of Alaska workers' compensation claim payments paid through Risk Management in FY 92 totalled \$6,863.0. Applying the actuarial projection of .8 percent, we estimate an increase of approximately 55.0 beginning in FY 95 with modest projected growth in future fiscal years.

Since the Division of Risk Management funds are collected entirely through interagency receipts, if this bill is enacted, premium allocations in the employing agencies would be increased to meet this additional exposure. Workers' Compensation benefits for State employees are entirely self-insured.

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

P.O. BOX 110805  
JUNEAU, ALASKA 99811-0805  
PHONE (907) 465-2515

March 31, 1994

The Honorable Tim Kelly  
Alaska State Senate  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Kelly:

Thank you for your letter of March 29, 1994. The two question areas posed deal with proposed sections of AS 23.30.036 and AS 23.30.091.

The Division of Insurance feels that AS 23.30.036 may create more difficulties than it resolves but is not opposed to the proposal. The classification system used by insurers to rate workers compensation insurance is subject to filing and prior approval in the insurance code, specifically AS 21.39. Any filing modification, prohibition, or requirement that impacts the classification system or the rates used in that system should be detailed in AS 21.39 not in AS 23.30. Each of the provisions of the proposed AS 23.30.036 should be moved to AS 21.39 to avoid any potential conflict with the requirements of .030 which provides that rates shall not be inadequate, excessive, or unfairly discriminatory.

The ramifications of such a change are that it will substantially complicate the ratemaking process, particularly the experience modification structure. The provision assumes that the rate of wages are at the average weekly wage which may not be true since there is a large block of information missing from the data used in ratemaking. Self-insurers and noninsured employers do not report data to the ratemaking entity. The more complicated the structure, the more difficult it is to efficiently administer. We have not approached the rating organization to see what will be involved in revising the current structure to accomplish this proposal.

Concerning AS 23.30.091, the Division of Insurance is opposed to the proposed change. The Division of Insurance does not regulate self-insurance since technically and by definition, self-insurance is not insurance. The definition of insurance found in AS 21.90.900(22) states: "'insurance' means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies." A workers' compensation self-insured is not indemnifying another. It is providing payment for its own liabilities. As noted, self-insurance is really a misnomer.

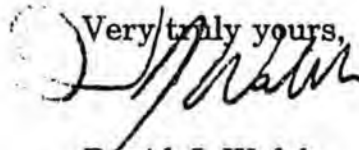
A group self-insurer is not a self-insured at all. Under the definition of insurance, it is an insurer. Its structure is nearly identical to a kind of insurer called a reciprocal exchange or a mutual. In both of these cases, the

members of the insurer are the owners. We are opposed to the creation of a group self-insure mechanism because it conflicts with the insurance code which already provides for a structure for a nearly identical entity to form. A reciprocal exchange can form under AS 21.75. Its capital and surplus requirements are less than those for a mutual or stock company. We have had some experience with this mechanism and now have two formed in Alaska. These are the Alaska Timber Insurance Exchange and Alaska Rural Electrification Cooperative Association insurance exchanges. We currently do not have any domestic mutuals formed. We do have several stock companies but this is not generally the structure suggested as a response to group self-insurance.

Generally, group self-insurance mechanisms are proposed because employers wish to avoid regulation by the insurance regulator. However, the provision of workers' compensation insurance is a volatile business that requires the kind of financial and market oversight that is somewhat alien to workers' compensation boards. The oversights in place for insurance regulation are dynamic and provide public protection. It has rate regulation, financial regulation, and provide a guaranty fund mechanism to protect injured employees. The goals of this proposed section are currently met under AS 21, albeit with more structure that the proponents of the section would like.

If you would like more on this issue, please feel free to contact me, Don Koch, or Ken Sykes, and we will do what we can to help.

Very truly yours,



David J. Walsh  
Director

DJW/KS/mme333.ks  
03194a

**FISCAL NOTE**

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. HB 241**

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

Department Affected: Commerce and Economic Development

Title: Workers Comp:Reqd Health Ben; Inspections

BRU: Insurance

Component: Operations

Sponsor: Rep. Mulder

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 354

**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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE FUND SOURCE:</b>	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 GFMHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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 (FY 93) Impact: 0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer  
 Division: Insurance

Phone: 465-2597  
 Date: March 26, 1993

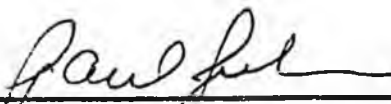
Approved by Commissioner: Paul Funs  
 Agency: Commerce and Economic Development

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

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**HB 241 "An Act relating to workers compensation and providing for an effective date."**

The Division of Insurance is neutral with respect to this bill. The bill attempts to extend health benefits to persons receiving benefits under workers compensation for a period of 12 months or when benefits, under workers compensation cease whichever period is shorter. There will be a cost associated with extending health benefits to the claimant for the insurer. The second section of this bill provided immunity from liability for workplace safety programs and inspectors unless a case of intentional misconduct occurs. This is a good public policy and may have a minute impact on rates for worker compensation coverage in the state.

  
\_\_\_\_\_  
Paul Fuhs, Commissioner

Date: 3-29-93

KS/dgl178pp.ins  
032693a

Bill Analysis - House Bill 241

"An Act relating to workers compensation and providing for an effective date."

Section 1

AS 23.30.047. BENEFITS FOR HEALTH INSURANCE.

(a) An employer who pays compensation under AS 23.30.041(d), 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, and who provided health insurance to the employee at the date of injury, shall also reimburse the employee for health insurance coverage for the employee and covered dependents, and also for surviving spouse and dependent child paid under AS 23.30.215.

Payment required under this section is equal to the employer's current contribution for health insurance or the amount paid by the employee, surviving spouse, or dependent child for replacement coverage whichever amount is less. Payment commences when the employee's health insurance provided by the employer's contribution ceases and shall continue until the employee, surviving spouse, or dependent child is no longer receiving compensation described in (a) of this section, or for 12 months, whichever period is shorter.

(b) Payment is not required under this Section until the employee, surviving spouse, or dependent child provides proof of health insurance coverage.

AS 23.30.263. IMMUNITY FROM CIVIL LIABILITY FOR  
WORKPLACE SAFETY INSPECTIONS.

An employer's safety inspector is not liable for civil damages for an injury to an employee of that employer resulting from an act or omission in performing or failing to perform a loss control service, a workplace safety inspection for workers' compensation insurance coverage.

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 241

Revision Date: \_\_\_\_\_  
Title: An Act relating to workers' compensation.  
Sponsor: Mulder  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Risk Management  
Component: Risk Management  
COMPONENT SERIAL NO. 71

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	55.0	56.0	57.0	58.0	59.0	60.0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	55.0	56.0	57.0	58.0	59.0	60.0

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 1007	55.0	56.0	57.0	58.0	59.0	60.0
TOTAL	55.0	56.0	57.0	58.0	59.0	60.0

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: 0

ANALYSIS: (Attach a separate page if necessary.)  
See Attached.

Prepared by: Brad Thompson, Deputy Director  
Division: Risk Management

Phone: 465-2180  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usery  
Agency: Administration

Date: 3/27/93

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 241

ANALYSIS: (continued)

HB 241 requires the State to pay an additional benefit of the amount equivalent to the health insurance premium to any employee or dependent receiving compensation or death benefits for up to 12 months beyond the termination of health coverage provided by the employer.

Currently the State extends health coverage to any employee in active leave status the first work day of the month, with coverage terminating the end of the month of last active leave status. Employees are currently allowed to draw from leave accounts to maintain active status in an amount equivalent to monthly salary less the actual workers' compensation benefit received. As a result, very few employees totally exhaust leave status to face self-payment of medical insurance premiums.

State health benefit premiums for FY 94 are anticipated to average \$423.50 per employee per month. The maximum increased cost per claimant applying the 12-month limit would be \$5,082. However, most injuries do not extend for lengthy time loss periods.

It is reported that an independent actuarial study performed for the Division of Insurance on previously proposed legislation with similar language estimated an increase of approximately .8 percent to 1 percent to extend this additional benefit. State of Alaska workers' compensation claim payments paid through Risk Management in FY 92 totalled \$6,863.0. Applying the actuarial projection of .8 percent, we estimate an increase of approximately 55.0 beginning in FY 94 with modest projected growth in future fiscal years.

Since the Division of Risk Management funds are collected entirely through interagency receipts, if this bill is enacted, premium allocations to the employing agencies would be increased to meet this additional exposure. Workers' Compensation benefits for State employees are entirely self-insured.

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 241

Revision Date: \_\_\_\_\_  
Title: An Act relating to workers' compensation.  
Sponsor: Mulder  
Requestor: \_\_\_\_\_

Department Affected: All State Agencies  
BRU: All State Agencies  
Component: All State Agencies  
COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	55.0	56.0	57.0	58.0	59.0	60.0
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	55.0	56.0	57.0	58.0	59.0	60.0

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	55.0	56.0	57.0	58.0	59.0	60.0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER 1007	0	0	0	0	0	0
TOTAL	55.0	56.0	57.0	58.0	59.0	60.0

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: 0

ANALYSIS: (Attach a separate page if necessary.)  
See Attached.

Prepared by: Sharon Barton, Director  
Division: Administrative Services

Phone: 465-2277  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura  
Agency: Administration

Date: 3/27/93

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. HB 241**

Revision Date: \_\_\_\_\_  
 Title: Workers' Compensation: Required Health Benefits; Inspections  
 Sponsor: Rep. Mulder  
 Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
 BRU: Insurance  
 Component: Operations  
**COMPONENT SERIAL NO. 354**

**Expenditures/Revenues:**

<b>OPERATING EXPENDITURES</b>	<b>FY 95</b>	<b>FY 96</b>	<b>FY 97</b>	<b>FY 98</b>	<b>FY 99</b>	<b>FY 00</b>
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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
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**FUND SOURCE**

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
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 94) cost: \$ 0

**POSITIONS**

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer  
 Division: Insurance

Phone: 465-2597  
 Date: 12-9-93

Approved by Commissioner: Paul Fuhs  
 Agency: Commerce and Economic Development

Date: 2/13/93

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO : HB 241

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

Department Affected: Labor

Title: Workers' Compensation: Required  
Health Benefits; Inspections

BRU: Workers' Compensation

Component: Workers' Compensation

Sponsor: Representative Mulder

Requestor: Representative Mulder

COMPONENT SERIAL NO. 344

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Paul B. Arnoldt, Director *Paul B. Arnoldt* Phone: 465-2790  
Division: Workers' Compensation Date: 3/19/93

Approved by Commissioner: Charles W. Mahler *Charles W. Mahler*  
Agency: Department of Labor Date: 3/19/93

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**HB 241  
SPONSOR STATEMENT**

House Bill 241, an Act relating to workers' compensation; and providing for an effective date, attempts to provide balanced changes to Alaska's workers' compensation law. HB 241 does two things: (1) grants immunity from civil liability to an employer's safety inspector for damages for an injury to an employee resulting from an act or omission in performing or failing to perform a workplace safety inspection; and (2) grants injured workers and their covered dependents reimbursement for health insurance coverage for up to 12 months after the health insurance provided by the employer ceases.

Since the inception of the Alaska Workers' Compensation Act in the early 1900's, our law, like others across the nation, has honored the founding principles of workers' compensation: workers' compensation must respect the interests of the injured worker and the Alaska employer in equal balance. These principles have continued throughout the years through a genuine effort by labor and management to work cooperatively. Evidence of this cooperation is demonstrated by the fact that in every past major revision to workers' compensation, Alaska has included input and balance by groups representing both workers and employers.

HB 241 is an effort to address concerns raised by both employees and workers regarding two important issues. It should also be noted that similar legislation [HCSSB 219 (JUD)] passed the Legislature in 1991, but was vetoed by the Governor due to technical problems. I believe that HB 241 corrects those problems and ask your support.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO : HB 241

Revision Date: \_\_\_\_\_  
 Title: Workers' Compensation: Required  
Health Benefits; Inspections  
 Sponsor: Representative Mulder  
 Requestor: Representative Mulder

Department Affected: Labor  
 BRU: Workers' Compensation  
 Component: Workers' Compensation

COMPONENT SERIAL NO. 344

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE:</b>						
-----------------------------	--	--	--	--	--	--

**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

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

Prepared by: Paul B. Arnoldt, Director *Paul B. Arnoldt* Phone: 465-2790  
 Division: Workers' Compensation Date: 3/19/93

Approved by Commissioner: Charles W. Mahler *Charles W. Mahler* Date: 3/19/93  
 Agency: Department of Labor

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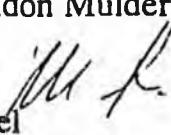
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

March 29, 1993

**SUBJECT:** Sectional Summary of HB 241

**TO:** Representative Eldon Mulder,

**FROM:** Michael F. Ford   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Requires an employer who pays certain workers' compensation benefits to reimburse an injured employee for the cost of health insurance coverage for up to 12 months or until compensation ends, whichever period is shorter.

**Section 2.** Provides that a safety inspector is not liable for civil damages resulting from an act or omission in performing or failing to perform a loss control service, workplace safety inspection or safety advisory service provided in connection with workers' compensation insurance coverage.

**Section 3.** Effective date.

MFF:gc  
93-284.glc



\* HONORING \*  
 \* THE LABOR/MANAGEMENT TASK FORCE \*  
 \* ON \*  
 \* WORKERS' COMPENSATION REFORM \*

The members of the Fifteenth Alaska Legislature are pleased to recognize and honor the significant contributions made toward workers' compensation reform legislation by the members of the joint labor/management task force.

In October of 1986, ten individuals, five representing organized labor organizations and five representing business interests within Alaska, gathered to begin discussion of workers' compensation reform. They organized because spiralling worker compensation rates threatened to close many Alaskan companies, causing greater distress to Alaska's already troubled economy and displacing even more workers.

Eighteen months and countless hours of work sessions, hearings and testimony have produced reform legislation which will afford significant savings to Alaska businesses, while providing excellent protection and coverage for Alaska's workers.

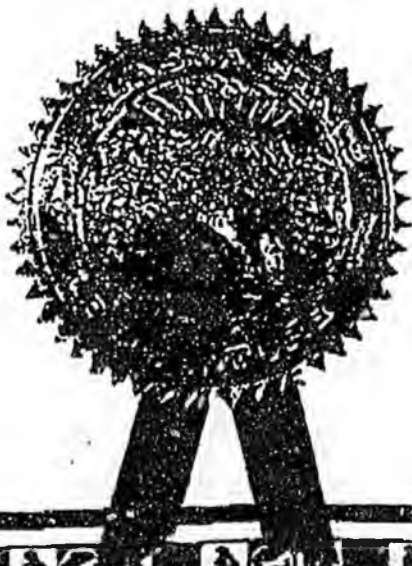
Their tireless efforts embody the strength of our democratic system, citizen participation. Two groups of nonelected individuals working together to forge a compromise benefiting both parties and advancing that solution through the political process.

The members of the task force include:

Mary Pierce	Robert Anders
Richard Cattanach	Kevin Dougherty
David Gottstein	Ralph Mingo
Ralph Lewis	Joseph Thomas
Stephan Rehnberg	Kenneth Weist

At considerable expense to themselves and their companies and organizations and no cost to the state, these members made themselves available for testimony and guidance at literally all hours and served as the backbone of the reform effort.

We, the members of the Fifteenth Alaska Legislature, commend the members of the labor/management task force for their outstanding contributions benefiting the state of Alaska, its businesses and workers.



*James W. ...*  
 SPEAKER OF THE HOUSE      *James ...*  
 PRESIDENT OF THE SENATE

Date: May 6, 1988

Requested by: Senators Kelly, Rodey, Sturgulewski,  
 Szymanski, Kerttula, Fahrenkamp, Binkley  
 and Uehling



## ASSOCIATED GENERAL CONTRACTORS of ALASKA

6011 B STREET • ANCHORAGE, ALASKA 99503  
PO. BOX 24609 • ANCHORAGE, ALASKA 99521-0609  
TELEPHONE (907) 546-3334 • FAX (907) 543-6118

March 3, 1993

Alaska State Senators  
Alaska Legislators  
Pouch V  
Juneau, AK 99811

Re: SB64

Dear Senators:

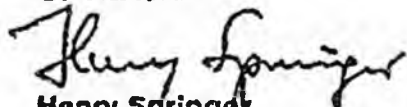
The AGC has been pleased to accomplish real improvements in the Alaska Workers Compensation Act through our mutual respect and efforts with Alaska labor. Most notable is the actual decrease in Worker Compensation Premiums of 19.2% overall for Alaska employers. (A decrease of over \$20 million statewide, while the lower 48 is plagued by 30-50% increases!) This was done through efficiencies in the system which respected Alaska labor's concerns for fairness. Such labor-management cooperation was of benefit to all.

SB64 is not a product of labor-management cooperation, and therefore we do not support it. The current SB64 draft is wholly unbalanced, since it solely covers the insurance industry Van Buren issue without covering the health care compensation. The health care benefits have long been part of the Alaska labor-management compact, and we honor that commitment. We cannot support SB64 in its unbalanced form.

Thank you for your efforts.

Sincerely,

ASSOCIATED GENERAL CONTRACTORS  
OF ALASKA

  
Henry Springer  
Executive Director

SIKEMAKS  
PO. BOX 4445 • SIKEMAKS, AK 99578  
(907) 472-1807

BARANI  
131 N. FRANKLIN, SUITE A • JUNEAU, AK 99801  
(907) 586-1788

SOLENTINA  
PO. BOX 358 • SOLENTINA, AK 99648  
(907) 543-2485

**WCCA** WORKERS' COMPENSATION COMMITTEE OF ALASKA  
P.O. Box 200631 • Anchorage, Alaska • 99520

March 26, 1993

Mr. Kevin Dougherty  
Attorney at Law  
2501 Commercial Drive, Suite 140  
Anchorage, Alaska 99501

Re: Ad-Hoc Committee

Dear Mr. Dougherty:

We have been asked to formulate a management team to work with labor in the ad-hoc committee format. WCCA is anxious to discuss common issues between our groups in the hopes of developing a comprehensive legislative package for the 1994 session.

It would be our intention to start anew with both sides presenting issues and changes they would like to address. Once the issues have been put on the table, we would like to have an open forum to resolve differences in order that consensus can be reached on a legislative package to be introduced in January of 1994.

The management members to the ad-hoc committee selected by WCCA are as follows:

Eric Tollefsen  
Director of Human Resources  
Carrs Quality Centers  
6411 A Street  
Anchorage, AK 99518  
Telephone: 564-2110  
Fax: 564-2309

Elaine Taylor, President  
Taylored Construction Services, Inc.  
2028 Otter Street  
Anchorage, AK 99504  
Telephone: 344-1239  
Fax: 344-8454

Warren L. Dvorak, Benefits Manager  
Anchorage School District  
4600 DeBarr Road, P.O. Box 196614  
Anchorage, AK 99519-6614  
Telephone: 269-2428  
Fax: 269-2296

Mary Shields, General Manager  
Northwest Technical Services  
4041 B Street, P.O. Box 241921  
Anchorage, AK 99524  
Telephone: 562-1633  
Fax: 562-6875

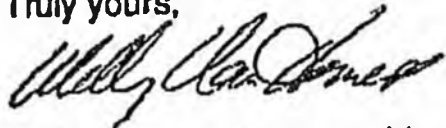
Don Koenigs, General Contractor  
P.O. Box 674  
Petersburg, AK 99833  
Telephone: 772-4204  
Fax: 772-3631

Eric Tollefsen will serve as the contact person.

Mr. Kevin Dougherty  
March 26, 1993  
Page 2

We look forward to again working with labor in a cooperative effort in the area of worker's compensation. Should you have any questions, please feel free to contact Eric or myself at 562-3252.

Truly yours,



Willem Van Hemert, President

cc: Ad-Hoc Committee Members.

HB

247

Date Referred: March 22, 1993

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/30/93

The LABOR AND COMMERCE Committee considered:

HB 247

HOUSE BILL NO. 247

WEIGHTS & MEASURES: INSPECTIONS/CITATIONS

"An Act changing the frequency of certain state inspections of weights and measures and relating to the issuance of citations for weights and measures violations."

RECOMMENDATIONS:  the same title  
be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

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

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

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

zero fiscal note Commerce

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

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓	<i>W.R. Williams</i>		✓	
<i>[Signature]</i>	✓	<i>Brian S. Porter</i>		✓	
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

*[Signature]*  
CHAIRMAN'S SIGNATURE

**FISCAL NOTE**

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. HB 247**

Revision Date: \_\_\_\_\_  
 Title: Weights and Measures Test/Violations  
 \_\_\_\_\_  
 Sponsor: House Labor & Commerce  
 Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
 BRU: Measurement Standards  
 Component: Measurement Standards  
 \_\_\_\_\_  
 COMPONENT SERIAL NO. 349

**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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE FUND SOURCE:</b>	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 GFMHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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 (FY 93) impact: None

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

In 1986, certain modifications were made to AS 45.75 to provide the authority for Weigh Station Operators to issue citations for truck size and permit violations. The then present authority for Weights and Measures Inspectors to issue citations was inadvertently deleted.

Prepared by: Jennifer Breslin  
 Division: Measurement Standards

Phone: 345-7750  
 Date: 3/22/93

Approved by Commissioner: Paul Fuhs  
 Agency: Commerce and Economic Development

Date: 3/22/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

**HB 247: "An Act changing the frequency of certain state inspections of weights and measures and relating to the issuance of citations for weights and measures violations."**

Prior to 1986, weights and measures inspectors had the authority to issue citations for weights and measures violations. Changes were made to AS 45.75 in 1986 to authorize weigh station operators to issue citations for truck size and permit violations. When these changes were made, the weights and measures inspectors were inadvertently stripped of their authority to issue citations. During the last year, the Division of Measurement Standards promulgated regulations that provide for the registration of all weighing and measuring devices with the division and the payment of an annual fee. To allow the division to adequately enforce AS 45.75, it is necessary for the weights and measures inspectors to have the authority to issue citations for those persons who choose to violate the law. Most, if not all, weights and measures jurisdictions in the United States and Canada possess this authority. This does not mean that a rash of new citations will be issued, but it does give the weights and measures official an effective enforcement tool.

Within current budget constraints, the division is unable to maintain semiannual inspections in all locations in Alaska. Amending AS 45.75.080 will allow the Director to establish inspection priorities based on inspection history of various device types, inspecting most devices at least annually, and others more often if necessary.

  
\_\_\_\_\_  
Paul Fuhs, Commissioner  
  
Date 3/22/93

## OVERVIEW - HB 247

The Division of Weights and Measures, Department of Territorial Police, enforced territorial weights and measures laws adopted in 1939. Devices found incorrect were marked "condemned for repairs" and had 90 days for repairs. The fine for penalty was \$500 or one year in jail.

The "Weights and Measures Act," Alaska Statute Title 45, Chapter 75, was enacted in 1961. Implementing regulation, Alaska Administrative Code, Title 3, Chapters 33 and 34, were adopted in 1964, establishing the Weights and Measures Program, requiring the testing and certification of accuracy of weighing and measuring devices used in commerce in Alaska.

The Division of Measurement Standards is charged with the responsibility of assuring that all weights and measures in commercial service within the state are suitable for their intended use and accurate to determine prices by weight, measure, or account and to test prepackaged commodities to ensure that the appropriate net weight, unit price, total price, and product identification are stated on the label.

Currently, the Weights and Measures Act requires the twice-annual device and package testing of over 20,000 devices in 300 locations across the state. However, in view of declining financial resources, the division is in the process of rearranging its method of legislative requirements in the area of enforcement cycles, generating funds through "program receipts" and restructuring administrative practices in an effort to maximize existing resources and maintain a credible weights and measures program in the fast pace of technological advancements in the industry.

Weights and Measures officials currently have no enforcement mechanism requiring device owners and managers to comply with weights and measures regulations pertaining to the following but not limited to: Stop-use orders, removal of a state seal, misleading packaged commodities, removing a rejected tag, hindering or obstructing an inspector in the performance of official duties under this chapter, failing to register devices with the director, failure to pay registration fees and failure to keep accurate records of devices.

Prior to 1986, Weights and Measures Officials were authorized to issue citations for violations of the Weights and Measures Act. In 1986, changes were made to the Weights and Measures Act to authorize Weigh Station Operators to issue citations for violations of the truck size and permitting laws. In this process, the Weights and Measures Officials' authority inadvertently disappeared.

This proposed legislation will provide:

- o The reestablishment of the Weights and Measures officials' authority allowing for effective administration and enforcement of the weights and measures regulations and specifically provide the authority to effectively enforce the registration fee requirements of the regulations.
- o The ability to increase program receipts by ensuring that all who are obliged to register weighing and measuring devices will register and pay the fee.

- o The director with the ability to better utilize available resources and improve the level of coverage of the state with an increase in the number of devices inspected and registered. The present law requires twice-annual inspection for all weighing and measuring devices in the state. Since the enactment of the law in 1964, it has not been possible to meet the twice-annual requirement. This change will allow the director to reduce the frequency of testing of certain types of devices that, through experience, do not require such frequent testing. This change will allow the division to redirect its efforts into areas that have not received as much attention because of the twice-annual testing for all other devices.
- o The ability to search our new devices used in commerce for testing and registration purposes.

The fiscal impact related to additional financial allocations is based on estimated devices in service across the state; funding generated through the "device registration" program receipts could optimistically total \$100.0 annually. Therefore, it is division management's position that the proposed changes in AS 45.75 would expedite weights and measures regulatory process. Reducing the twice-annual field device inspections would put the state and the division closer to a legal operation, also allowing the director flexibility to efficiently administer the Weights and Measures program.

HB

249





# Alaska State Legislature

Attn: Rep. Hudson & Rep. Green

Please enter into the record my testimony to the Labor & Commerce  
committee name

committee on House Bill 249, dated 3/30/93  
bill/subject

On Sec. 18.62.150 Page 10 & Line 30. Should read during installation. Reason being the people with administration would be at the job and not sitting out of state. Also persons that retire and keep their license would not be able to let General Contractors use their license with out them being physically on the job.

I do believe this will better policed under Dept. of Labor do to their inspectors in the field.

Under Commerce the were giving every one a license under grand Father clause with out taking time to check if they qualified. And other that qualified were unable to get them. I don't know or why some did not. I know two that I personal made a trip to Juneau with the certification and they were unable to put in the file as it was locked and they didn't have the key. I don't where they put the papers. All I know for sure they still do not have their licenses.

I did travel twice at my expense to write the orginal Bill.

Signed: \_\_\_\_\_

*Mary Lou Delandse*  
Testifier

\_\_\_\_\_  
Representing (Optional)

\_\_\_\_\_  
Address

803 Halibut Point Road Sitka, Alaska 99835

\_\_\_\_\_  
Phone No. 907-747-8086

# Alaska State Legislature

Interim:  
P.O. Box 2187  
Soldotna, AK 99669



Session:  
State Capitol  
Juneau, AK 99801  
(907) 465-2693

**Representative Gary L. Davis**

## SPONSOR STATEMENT

### SS HOUSE BILL 249

**"An Act relating to persons whose occupations involve electrical or mechanical equipment and systems: and providing for an effective date."**

The purpose of House Bill 249 is to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment and improperly installed or retrofitted mechanical systems. This will be accomplished by assuring the public that persons responsible for making electrical and mechanical installations in this state are qualified and that a sufficient number of persons are so qualified.

Since the Electrical Examiners Board sunsetted on June 30, 1992, it has not been possible to issue or renew electrical administrator licenses. The Mechanical Examiners Board will experience the same fate on June 30 of next year. Currently, there are approximately 600 electrical and 600 mechanical administrators who are, by statute, responsible for inspecting the installation of electrical and mechanical systems. All the current electrical administrator licenses expire on August 31, 1993. As a result, the state will face an increased and unnecessary risk of improperly installed electrical wiring and equipment.

The state cannot afford to assume the responsibility for inspecting new construction. There are four state electrical inspectors and two state mechanical inspectors. The state inspectors are merely able to respond to specific complaints made of unsafe installations. They provide some assurance that the contractors and employees are qualified to do the work, can check to see that they are properly licensed and are doing the job they are licensed to do.

Instead of re-establishing the Electrical Examiners Board, this legislation will transfer the duties of the board to the Department of Labor. For greater efficiency and effectiveness, the bill proposes to consolidate the licensing and

enforcement functions of the administrators program under the Department of Labor's Certificates of Fitness program for electricians and plumbers. This transfer of authority will help remedy the perception that, with the board, the ability of the public to obtain a license was unduly limited and that there was no enforcement to ensure that the administrators operate responsibly.

This bill proposes to streamline enforcement of certification requirements and to implement the law, that has been on the books since 1977, requiring personal supervision by the administrators. This personal supervision provision is not new. AS 08.40.195 refers to the inspection requirement for the electrical administrator and AS 08.40.400 refers to the inspection requirement for the mechanical administrator. If there is no requirement that a licensee perform, then the license requirement becomes a hindrance to business and the danger to the public of unsafe installations remains.

In addition, the Department of Labor will offer improved service to applicants by testing statewide at all job service centers. Testing will be available weekly.

Requiring administrators to inspect the electrical or mechanical installation serves to protect the project owner who otherwise has to pay for correcting the work when it is discovered at a later date. In reality, the enforcement of this provision also provides the opportunity for small, local contractors to compete. Typically, the small contractors also qualify as administrators and are on the job daily. They support enforcing the requirement to inspect the jobs.

There have been some questions raised relating to the effectiveness of the process as administered by the Board. Locating the administrators program within the Department of Labor will provide a truly objective, neutral and fair approach to licensing and enforcement.

The loss of the requirement for a contractor to be or have an electrical or mechanical administrator assigned, in addition to affecting the public's safety, will result in a loss of jobs for local contractors. Resident contractors have invested time and money in developing their skills and ability to do the work. The requirement for an administrator's license recognizes the value of that investment. Both large and small electrical and mechanical contractors would find themselves bidding against incompetent contractors, and losing to the low bidder who does not have an investment in competency.

In summary, House Bill 249 will ensure that administrators know what they are doing, by keeping up with current codes, safety standards and new technology in order to see that the job is done right.

# DEPARTMENT OF LABOR

## SECTIONAL ANALYSIS

### HOUSE BILL NO. 249

"An Act relating to persons whose occupations involve electrical or mechanical equipment and systems; and providing for an effective date."

#### Section 1.

Restates the purpose of AS 08.40 ELECTRICAL AND MECHANICAL ADMINISTRATORS "to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment and improperly installed or retrofitted mechanical systems..." for the Certificates of Fitness program. See AS 08.40.005 & 08.40.210.

#### Section 2.

Changes the references in AS 08.18.026 from a license by the Electrical Examiners Board to a certification under this chapter.

#### Section 3.

Changes the references in AS 08.18.028 from a license by the Mechanical Examiners Board to a certification under this chapter.

#### Section 4.

Amends AS 18.62.010 CERTIFICATES OF FITNESS REQUIRED to include AS 08.40.090 and 08.40.260 LICENSE REQUIRED and AS 08.40.130 and 08.40.280 ADMINISTRATOR LIMITED TO ONE LICENSED CONTRACTOR. The provisions of the Electrical Administrator license were amended to treat a corporation, joint venture or other business entity the same as a registered contractor when assigning a license. The present requirements of the Mechanical Administrator license were not amended.

#### Section 5.

Incorporates AS 08.40.045 and 08.40.230 CATEGORIES OF LICENSES. No changes were made to the previous requirements of the Electrical Administrator license or to the present requirements of the Mechanical Administrator license as administered by the boards.

**Section 6.**

Amends AS 18.62.020 to provide the department the authority to set time periods for certificates of fitness. This would allow the shift from one or three year certificates to two year certificates over a three year period in order to stabilize revenues to the department.

**Section 7.**

Incorporates AS 08.40.060 and 08.40.250 EXAMINATIONS; and 08.40.120 and 08.40.270 EXAMINATION OF APPLICANT. The provisions to require familiarity with installation problems and the usages of the trade peculiar to this state were deleted; the provisions providing for a waiver of the examination requirements were amended so that a person who is certified as an administrator or the equivalent by another state or has passed an equivalent examination may be certified in Alaska. Current law requires that an applicant meet both provisions. No other changes were made to the previous requirements of the Electrical Administrator license or to the present requirements of the Mechanical Administrator license as administered by the boards.

**Section 8.**

Removes fees established by statute for a one and three year certificate of fitness and enables the department to establish by regulation fees for an application/examination, for certificates and renewal certificates of fitness and for duplicate certificates of fitness.

**Section 9.**

Incorporates AS 08.40.135 and 08.40.290 RENEWAL AND REINSTATEMENT into Sec. 18.62.090. Deletes the general statement that the renewal and reinstatement of a certificate require proof of meeting the department's continuing education requirements and adds two sections which describe the specific education required.

Incorporates AS 08.40.070 INSPECTION OR INVESTIGATION BY THE BOARD and 08.40.330 INVESTIGATIONS into Sec. 18.62.100(a) and (b) and transfers responsibility for enforcement from the board or a joint effort between the Departments of Commerce and Economic Development and Labor to the Department of Labor.

Incorporates AS 08.40.170 and 08.40.320 DENIAL, SUSPENSION, AND REVOCATION OF LICENSE into Sec. 18.62.110 and transfers responsibility for enforcement from the boards to the Department of Labor.

Incorporates AS 08.40.175 and 08.40.360 CEASE AND DESIST ORDER into Sec. 18.62.120(a) and (b). No changes were made to the previous requirements of the Electrical Administrator license or to the present requirements of the Mechanical Administrator license as administered by the boards.

Incorporates AS 08.40.178 and 08.40.370 INJUNCTIVE RELIEF into Sec. 18.62.120(c). The Commissioner of the Department of Labor is provided with the authority to seek an injunction in superior court to enjoin a person from violating this chapter. This authority was provided in AS 08.40.178; AS 08.40.370 authorized the Commissioner of Commerce and Economic Development to seek an injunction.

Incorporates AS 08.40.180 VIOLATION OF AS 08.40.010 -- AS 08.40.200, AS 08.40.340 ISSUANCE OF CITATIONS, AS 08.40.350 PROCEDURE AND FORM OF CITATION and AS 08.40.380 PENALTIES into Sec. 18.62.130, transferring responsibility for enforcement from either the Department of Commerce and Economic Development or the Department of Labor to the Department of Labor; and providing for consistent enforcement of both the electrical administrator and mechanical administrator certificate.

Incorporates AS 08.40.190 and 08.40.390 EXCLUSIONS into Sec. 18.62.140. Other than clarifying that the installation, maintenance, and repair of computer or community antenna television systems are excluded from the provisions of this chapter (see AS 18.62.140(b)(7)), no other changes were made to the previous requirements of the Electrical Administrator license or to the present requirements of the Mechanical Administrator license as administered by the boards.

Incorporates AS 08.40.195 and 08.40.400 PERSONAL SUPERVISION into Sec. 18.62.150. No changes were made to the previous requirements of the Electrical Administrator license or to the present requirements of the Mechanical Administrator license as administered by the boards.

Incorporates AS 08.40.200 and 08.40.490 DEFINITIONS into Sec. 18.62.160. The definition of "board" was deleted; "department" was defined as the Department of Labor; definitions of "device", "electrical repair", "maintenance", "personally inspect", "retrofit" and "small commercial establishment" were added.

#### **Section 11.**

Repeals references to the Board of Electrical Examiners and the Board of Mechanical Examiners; repeals the electrical and mechanical administrator statutes; repeals sections in the Certificates of Fitness statutes that were written in this chapter.

**Section 12.**

Provides that a person who holds an electrical administrator license or whose license is expired for less than three years and who applies by August 31 of 1994 shall be issued a certificate of fitness without examination.

Provides that a person who holds a mechanical administrator license or whose license has not been expired for more than two years and who applies by August 31 of 1994 shall be issued a certificate of fitness without examination.

**Section 14.**

Provides for an effective date of July 1, 1993.



# Alaska State Legislature

Please enter into the record my testimony to the House  
LABOR & COMMERCE  
 committee name  
 committee on HB 249 , dated 3/30/93  
 bill/subject

SEE ATTACHED

Signed: G. KENNETH HELEN  
 Testifier  
SITKA ELECTRIC Co.  
 Representing (Optional)  
1312 B S.M.C. SITKA AK  
 Address  
747-9887 FAX 747-8875  
 Phone No.

S I T K A E L E C T R I C C O .

1312A SAWMILL CREEK ROAD  
SITKA, ALASKA 99835  
PHONE: 907-747-8887  
FAX: 907-747-8875

March 30, 1993

Representative Bill Hudson  
Chairman, House Labor & Commerce Committee

Dear Representative Hudson:

I am writing in support of House Bill 249. At present there is no mechanism for licensing electrical administrators and I believe that this could be detrimental to the quality and safety of electrical installations done in the State of Alaska. Although I do not agree with all aspects of the bill, I feel that the changes I would want to see could be made through regulation.

Sincerely,



G. Kenneth Helem  
Owner

c: Senator Robin Taylor  
Representative Ben Grussendorf

# DEPARTMENT OF LABOR

## SECTIONAL ANALYSIS

### HOUSE BILL NO. 249

"An Act relating to persons whose occupations involve electrical or mechanical equipment and systems; and providing for an effective date."

#### Section 1.

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Incorporates AS 08.40.200 and 08.40.490 DEFINITIONS into Sec. 18.62.160. The definition of "board" was deleted; "department" was defined as the Department of Labor; definitions of "device", "electrical repair", "maintenance", "personally inspect", "retrofit" and "small commercial establishment" were added.

#### **Section 11.**

Repeals references to the Board of Electrical Examiners and the Board of Mechanical Examiners; repeals the electrical and mechanical administrator statutes; repeals sections in the Certificates of Fitness statutes that were written in this chapter.

**Section 12.**

Provides that a person who holds an electrical administrator license or whose license is expired for less than three years and who applies by August 31 of 1994 shall be issued a certificate of fitness without examination.

Provides that a person who holds a mechanical administrator license or whose license has not been expired for more than two years and who applies by August 31 of 1994 shall be issued a certificate of fitness without examination.

**Section 14.**

Provides for an effective date of July 1, 1993.

MAR 30 '93 17:40 LEG. AFFAIRS - SOLDOTNA  
 Post-it® brand fax transmittal memo 7871 # of pages 2

To	PLEASE DELIVER	From	House 1 & C
Col	to accompany	Co.	HB 249
Dept.	Thank J.	Phone #	
Fax #		Fax #	



Next CUTE  
**cook inlet  
 processing**

30 March, 1993

Legislative Affairs Committee

re: HB249

Having read HB249 I would like to express an interest in it being passed. IF it is not adopted in some form we are looking at the prospect of having unqualified people IN CHARGE OF electrical construction. In addition, this bill would give some continuity to our recently enacted Mechanical Administrators Laws, by preventing this board from being sunsetted..

- Problem areas with the existing system in my opinion are as follows:
- Administrators not inspecting their work.
- Provision for but not enforced under the existing system.
- Lack of enforcement on problem administrators.
- Provision for but politically enforced (NONE).

Other states have written into their codes the Administrator or Master must be on the firms payroll with a salary commensurate with the position and responsibility. This ensures the person is available to perform their job.

I would like the State of Alaska to pursue the possibility of reciprocal licensing with the State of Washington on both Electrical and Mechanical construction projects. Whether this be with an Administrators License or a Master in the respective trades I feel this would be worth looking into. Washington has reciprocal agreements with Idaho and Montana at the present time, leading me to believe this can be done.

Sincerely

Mark A. Johnson  
 Electrical Administrator AA953, Inside wiring  
 Mechanical Administrator AA266, Refrigeration



*Electric, Inc.* P.O. Box 373 • Kenai, AK 99611 • 283-3360 • FAX 283-5472

March 30, 1993

Legislative Affairs Committee

re: HB249

Having read HB249 I would like to express an interest in that this bill must be passed. If it is not adopted in some form we are looking at the prospect of having unqualified people in charge of electrical construction.

Areas in which there are questions

1. Administrators not inspecting their work  
Provision for but not enforced under the existing system.
2. Lack of enforcement on problem administrators  
Provision for but politically enforced (NONE)
3. Other states have written their codes the Administrator or Master must be on the firms payroll with a salary commensurate with the position and responsibility. This ensures the person is available to perform their job.
4. Exempting CATV & communications - if you are going to exempt one, both should be exempt or left in. I would prefer to leave them in.

I would like the State of Alaska to pursue the possibility of reciprocal licensing with the State of Washington on both Electrical and Mechanical construction projects. Whether this be with an Administrators License or a Master in the respective trades I feel this would be worth looking into. Washington has reciprocal agreements with Idaho and Montana at the present time, leading me to believe this can be done.

Sincerely,

Mark Cialek

Electrical Administrator	AA832
Electrical Contractor	AA10299
Mechanical Administrator	AA450, Control

MAR 31 '93 17:24 LEG. AFFAIRS - KETCHIKAN



TELECOPY COVER SHEET  
Ketchikan Legislative Information Office  
Office - (907) 225-9675 Fax - (907) 225-8546

TO: House Labor & Commercial Committee

ATTN: \_\_\_\_\_ FAX: 465-2864 PHONE: \_\_\_\_\_

FROM: Bill Gaddale PHONE: \_\_\_\_\_

INSTRUCTIONS: Testimony on HB 249

SENT: Date 3/31/93 Time 4:25 pm

DISPOSAL OF ORIGINAL: Discard \_\_\_\_\_ Hold for Pickup \_\_\_\_\_

NUMBER OF PAGES: 1 (NOT counting cover sheet)

TRANSMITTED BY: Jmc



# Alaska State Legislature

Please enter into the record my testimony to the LABOR & COMMERCE  
committee name  
 committee on HOUSE BILL 249, dated 3/30/93  
bill/subject

I SUPPORT HB 249. I FEEL THIS BILL IS IN KEEPING WITH THE GOALS SET WHEN THE LICENSING LAWS AND MECHANICAL ADMINISTRATORS LAWS WERE FIRST ENACTED. THIS TAKES IT ONE STEP FURTHER FOR THE GOOD OF THE PUBLIC. I AM A LICENSED PLUMBER AND HAVE MY MECHANICAL ADMINISTRATORS LICENSE # AA 180

Signed: William C. Roodale  
Testifier

SCHMOLCK MECHANICAL CONTRACTORS, INC  
Representing (Optional)

949 STEEDMAN ST. P.O. BOX 8756 KETCHIKAN  
Address 99901

1-907-225-6648  
Phone No.

HB

252

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 24, 1993

FURTHER REFERRALS:

Resources  
Finance

Date of Committee Action: 4/08/93

The LABOR AND COMMERCE Committee considered:

HB 252

HOUSE BILL NO. 252

REFINANCING COMMERCIAL FISHING LOANS

"An Act amending the Commercial Fishing Loan Act to authorize refinancing of existing loans made under that Act."

- RECOMMENDATIONS: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] a new title
- [ ] have attached amendments(s)
- do pass
- [ ] do not pass
- [ ] no recommendations
- [ ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact DCED

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

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

*Bill Hudson*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

# Alaska State Legislature

Representative Carl E. Moses



CHAIRMAN  
HOUSE RULES COMMITTEE

CHAIRMAN  
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER  
FINANCE SUBCOMMITTEES  
FISH AND GAME  
PUBLIC SAFETY

SESSION:  
CAPITO: BUILDING, ROOM 204  
JUNEAU, ALASKA 99801-1182  
PHONE: (907) 465-4451  
FAX: (907) 465-3445

INTERIM:  
P.O. BOX 109  
UNALASKA, ALASKA 99685  
PHONE: (907) 581-1234  
FAX: (907) 581-2875

## SPONSOR STATEMENT FOR

HB 252

## REFINANCING OF COMMERCIAL FISHING LOANS

I have introduced House Bill 252 to give the Department of Commerce the authority to refinance existing commercial fishing loans. Most of the 1,200 commercial fishermen who now have state loans are paying 10.5% in interest rates. Regulations provide for new fixed rate loans at 2% above the bank prime rate. Since the current bank prime rate is 6%, current commercial fishing loans are now at 8% rates. However, the Department of Commerce has no mechanism to allow for current loans to be refinanced to take advantage of the lower interest rates that are currently available.

Commercial fishermen have been faced these past few years with low prices and unpredictable fish returns. Following the disastrous 1991 salmon season, the Department of Commerce approved loan extensions for nearly half of the existing loans. More than 3000 fishermen are reportedly in arrears this year to the Internal Revenue Service for back taxes. The commercial fishing industry is obviously in bad shape. Allowing fishermen to refinance their loans and reduce their monthly payments is one obvious way the legislature can help the industry out. Although there is a cost for such a refinancing program, there is sufficient cash flow in the revolving loan fund to accommodate it. Additionally, fishermen would have an easier time making their payments if their loans were at lower interest rates.

**Area K Seiners Association**  
P.O. Box 2399 Kodiak, Alaska 99615  
Phone 907/486-4686 FAX 907/486-7655



April 5, 1993

Representative Carl Moses  
Capitol  
Juneau, AK 99801-1182

Dear Representative Moses:

I write to you representing the 100 members of the Area K Seiners Association and would like to thank you for introducing HB 252.

In January and February, I contacted the Commissioner's office requesting their support in this matter and brought it to the United Fishermen of Alaska table. I wasn't terribly pleased with the response I received from Martin Richard of DCED, but support from the fishing community has been unanimous!

The fishermen of Alaska involved with the Commercial Fishing Loan program need this bill badly. Many of us borrowed money based on the steady markets of the 80's. So much has changed that access to lower interest rates is paramount to our economic survival!

Mr. Richard of DCED says it will reduce the amount of money available to the loan fund and that the cost to the state of refinancing these loans will be high - \$1.6 million. This may be true, but without the ability to refinance, what will be the cost to the state of the many defaults on these loans?

The ability to refinance will also be consistent with the state policy concerning home loans. In fact, the refinancing program with AHFC is a speed form with no new paperwork required.

We fully support HB 252 and again, we thank you for your support in a time of great difficulty for many of the state's commercial fishermen.

Sincerely,

Bruce Schactler,  
Board Member



MAR 29 1993

# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112  
Juneau, Alaska 99801  
907/586-2820  
Fax: 907/463-2545

March 25, 1993

The Honorable Carl Moses  
House of Representatives  
The Capitol Building, Room 204  
Juneau, Alaska 99801-1182

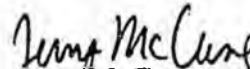
Dear Representative Moses:

United Fishermen of Alaska sincerely appreciates your introducing HB 252 "An Act amending the Commercial Fishing Loan Act to authorize refinancing of existing loans made under that Act." This bill would exempt a great many fishermen.

As you know, there are some fisheries and fishermen who are currently having a real rough time financially. This bill would benefit many families in the state of Alaska who are struggling for existence right now.

Once again, thank you. If UFA can be of any assistance to you, please do not hesitate to call.

Sincerely,

  
Jerry McCune  
President

#### MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fisherman's Association • Alaska Trollers Association • Area K Seiners Association  
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen  
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association  
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Seafood Producers Cooperative  
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

### DIVISION OF INVESTMENTS

WALTER J. HICKEL, GOVERNOR

MAR 22 1993

P.O. BOX 34159  
3032 VINTAGE BLVD.  
JUNEAU, ALASKA 99803-4159  
PHONE: (907) 790-2693  
FAX: (907) 790-2781

March 18, 1993

The Honorable Carl Moses  
Alaska House of Representatives  
State Capital, Room 204  
Juneau, AK 99801-1182


Dear Representative Moses:

As requested by Molly McCammon from your staff, we have done some analysis of the costs involved in amending the Commercial Fishing loan program to include refinancing of existing loans. The majority of loans in our portfolio were made at 10.5%, resulting in an annual return of interest to the fund of approximately \$6,879,000. If refinancing were allowed, the interest rate on these loans would be reduced to 8% resulting in a reduction of \$1,638,000 in interest payments to the fund each year. In addition, there would be an administrative cost involved in refinancing approximately 1,200 loans. Even with a streamlined program, there would be a cost of, at least, \$210,000 in the first year. It should be noted that under current regulations a commitment fee paid by the borrower at closing would offset this expense by providing approximately \$328,000 to the loan fund.

Refinancing existing loans, if allowed, would reduce the interest paid by the borrowers. It would also, however, substantially reduce the cash flow into the loan fund, potentially jeopardizing the "revolving" nature of the fund, which has not had an infusion of General Fund dollars since 1985. Reduced payments into the fund may lessen our ability to meet the needs of those fishers who need loans to finance permit and vessel purchases.

Please contact me at 465-2510 if you have any further questions.

Cordially,



Martin J. Richard  
Director

cc: Paul Fuhs, Commissioner  
Department of Commerce and Economic Development

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 252

Revision Date: March 25, 1993  
Title: Refinancing Commercial Fishing Loans  
Sponsor: Representative Moses  
Requestor: House Labor and Commerce

Department Affected: Commerce and Economic Development  
BRU: Investments  
Component: \_\_\_\_\_  
COMPONENT SERIAL NO. 0384

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	166.5	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	4.0	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	170.5	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE C/F LOAN FUND SOURCE: <u>1035</u>	328.0	[1,638.0]	[1,638.0]	[1,638.0]	[1,638.0]	[1,638.0]
--	-------	-----------	-----------	-----------	-----------	-----------

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 C/F LOAN <u>1035</u>	170.5	0	0	0	0	0
TOTAL	170.5	0	0	0	0	0

POSITIONS:

FULL-TIME	4	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Martin J. Richard  
Division: Investments

Phone: 465-2510  
Date: \_\_\_\_\_

Approved by Commissioner: Paul Fuhs  
Agency: Commerce and Economic Development

Date: 3 25 93

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 252

ANALYSIS: (continued)

This fiscal note assumes that this legislation will be effective in FY94. It will impact approximately 1,200 existing loans in the Commercial Fishing Loan Program. The refinance of an existing loan is accomplished by originating a new loan and paying off the existing debt.

Personal Services

Loan Examiner II - This position will coordinate the refinance program and be responsible for reviewing financial data and approving the origination of the new loan.

Loan Closer I - These two positions will process the requisite loan documentation for the loan and the collateral securing the loan.

Accounting Tech. I - This position will prepare the necessary accounting documentation to pay off the existing loan to be refinanced.

Supplies

This cost is for general office supplies needed by the above noted staff.

Revenue Fund Source

In FY94 \$328.0 will be earned through loan origination fees of 1/2% of the loan amount. The impact to the Commercial Fishing Revolving Loan Fund of this reduction from 10.5% loans to the currently available 8% loans is approximately \$1,638.0 per year. This is a reduction in cashflow to the Fund as a result of less interest being paid in each subsequent year.

Position Title Accounting Technician I		No. of Positions 1	Range / Step 12A	Barg. Unit GGU
Time Status Full-Time	Staff Months 12 months	Location Juneau		Election District
TYPE OF EXPENDITURE		AMOUNT		Justification This position is needed to process the requisite loan documents to complete the refinance of an existing loan.
Salary		27.9		
Benefits		12.2		
Premium Pay				
Other				
Total Personal Services		40.1		
Travel				
Contractual				
Commodities		1.0		
Equipment				
Other				
Total Cost		41.1		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other	Loan 1036	41.1		

# Request For New Position

AGENCY Commerce and Economic Development  
 BRU Investments  
 COMPONENT \_\_\_\_\_

FY 94

Page 1 of 1  
 Revised Date: March 25, 1993

Position Title Loan Closer I		No. of Positions 2	Range / Step 10A	Barg. Unit GGU
Time Status Full-Time	Staff Months 12 months	Location Juneau		Election District
TYPE OF EXPENDITURE		AMOUNT		
Salary	24.8	49.6		
Benefits	11.3	22.6		
Premium Pay				
Other				
<b>Total Personal Services</b>	<b>36.1</b>	<b>72.2</b>		
Travel				
Contractual				
Commodities		20		
Equipment				
Other				
<b>Total Cost</b>		<b>74.2</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other C/F Loan	1036	74.2		
Justification These positions are needed to process the requisite loan documents to complete the refinance of an existing loan.				

## Request For New Position

AGENCY Commerce and Economic Development  
 BRU Investments  
 COMPONENT \_\_\_\_\_

FY 94

Page 1 of 1  
 Revised Date: March 25, 1993

Position Title Loan Examiner II		No. of Positions 1	Range / Step 17A	Barg. Unit GGU
Time Status Full-Time	Staff Months 12 months	Location Bureau		Election District
TYPE OF EXPENDITURE		AMOUNT		
Salary		39.0		
Benefits		15.2		
Premium Pay				
Other				
Total Personal Services		54.2		
Travel				
Contractual				
Commodities		1.0		
Equipment				
Other				
Total Cost		55.2		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007				
CIP Receipts 1061				
Other C/F Loan 1036		55.2		
Justification This position is needed to process the requisite loan documents to complete the refinance of an existing loan.				

# Request For New Position

AGENCY Commerce and Economic Development  
 BRU Investments  
 COMPONENT \_\_\_\_\_

FY 94

Page 1 of 1  
 Revised Date: March 25, 1993

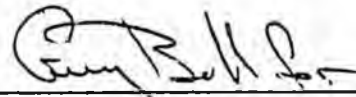
HB 252: "An act amending the Commercial Fishing Loan Act to authorize refinancing of existing loans made under that Act."

This legislation would allow the Department to refinance existing loans in the Commercial Fishing Revolving Loan Fund to take advantage of lower interest rates currently available. Almost all loans, more than 1,200, currently on the books were made at 10.5%. 3 AAC 80.055(k) provides for new fixed rate loans at 2% above the bank prime rate. The current bank prime rate is 6%, making the commercial fishing loan rate 8%.

A loan refinance is accomplished by originating a new loan under currently available terms and paying off the existing loan debt. Fees generated will be in excess of the administrative costs estimated for the program.

The reduction of 2.5% in interest on the existing loans will result in more than a million and a half dollars of reduced cash flow into the Commercial Fishing Revolving Loan Fund. This may limit the ability to meet loan demand in future years.

The Department is neutral on this legislation. This will result in a general benefit to all fishers with existing loans in the program, but may result in funds not being available in the future to those for which the program was designed to assist.



Paul Fuhs, Commissioner

Date: 3-25-93