

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8244 SENATE COMMUNITY & REGIONAL AFFAIRS

HB

89

SENATE COMMITTEE REPORT

DATE: 4/15/93

FURTHER: _____

DATE TURNED INTO OFFICE: _____

CRA Committee considered HOUSE BILL NO. 89

"An Act revising the law on borough assembly apportionment as recommended by the revisor of statutes; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (_____)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Dept of Law	2/10/93	0	

Appropriation No Fiscal Note

DO PASS:

Ul Sedar

John A. Lerman

OTHER RECOMMENDATIONS:

Frank J. Zeff No Rec

Roll E. King Do Pass

Chair: Signature and Recommendation

FISCAL NOTE

Bill Version: HB 89
 (H) Publish Date: 3/3/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: February 26, 1993
 Title: "...revising the law on borough assembly apportionment..."
 Sponsor: House Rules Committee
 Requestor: House C&RA Committee

Department Affected: Law
 BRU: Legal Services
 Component: Operations
 COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

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

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

REVENUE FUND SOURCE:						
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FUNDING:

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

POSITIONS:

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: February 26, 1993
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 26, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 89
No. 1

ANALYSIS: (continued)

This is a legislative revisor's bill that updates, for clarity purposes, the rules governing the apportionment of borough assemblies, found in AS 29.20. The Department of Law has previously advised that there are no substantive differences between this bill and the state's existing law. Consequently, there should not be a fiscal impact.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

April 16, 1993

SUBJECT: House Bill 89 - General Law Borough Reapportionment

TO: Senator Randy Phillips, Chair
Senate Community & Regional Affairs Committee

FROM: David R. Dierdorff *DRD*
Revisor of Statutes

The referenced bill, HB 89, has been referred to your committee for consideration. It passed the House unanimously after receiving unanimous "do pass" recommendations from the House C&RA and Judiciary committees.

This bill is a technical rewrite of the laws providing for apportionment and reapportionment of the borough assembly in general law boroughs. It applies only to general law boroughs that have chosen to have all or some seats on the assembly represent districts within the borough. It does not affect at large seats or the ability of a borough to chose to have all seats be at large. Primarily, it clarifies the appeal and review process.

I have enclosed a sectional analysis that was prepared for Legislative Council, together with a letter from the Department of Law reflecting their favorable review of the bill.

I would be happy to answer any questions that you or your committee may have regarding the bill. Thank you in advance for your prompt consideration of this house-keeping measure.

DRD:mi:gc
93-072.mai

Enclosures

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



(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

January 21, 1993

SUBJECT: Special Revisor's Bill (Work Order No. 8-LS0381E)

TO: Representative Eldon Mulder
Chair, Legislative Council

FROM: David R. Dierdorff
Revisor of Statutes

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

* * * shall prepare for submission to the legislature legislation * * * to otherwise improve the form or substance of * * * the statute law of this state.

The work draft proposes a rewriting of the laws governing apportionment of borough assemblies.

BACKGROUND. Last year, during routine editorial work on AS 29 (municipal government), our office and the editors of the Michie Company discovered a manifest error in an internal reference in AS 29.20.110, which was corrected under AS 01.05.-031. However, when researching that error, it became apparent that AS 29.20.070 - 29.20.110 contained other references that seemed either incorrect or incomplete. Furthermore, it was difficult to make any sense of the provisions. Consequently, I asked Tam Cook to prepare a draft revision of the law that would retain the substantive scheme set out in existing law, but would be reorganized and readable. That draft provided a starting point for the enclosed work draft. A review of our microfilm records of ch. 128, SLA 1980, which enacted the laws that became AS 29.20.060 - 29.20.110, confirmed that several references had been inadvertently omitted, and also provided insight into the legislative intent in enacting the provisions.

EXISTING LAW. The existing law on borough assembly composition and apportionment (AS 29.20.060 - 29.20.120) is set out in an appendix so that it can be easily compared with the draft. The relevant provisions are:

AS 29.20.060 (Assembly composition and apportionment) - Subsection (a) requires that composition and apportionment meet federal equal representation standards. Subsection (b) provides for composition and apportionment of the assembly of a new borough (as set out in the voter approved incorporation petition or as prescribed by a preexisting ordinance or charter). This section is not amended in the draft, but is set out here because it is referenced in several other provisions. This section applies to all boroughs.

AS 29.20.070 (Assembly composition and form of representation) - Applicable by the terms of subsection (e) only to general law boroughs and to home rule boroughs that do not have charter provisions on the same subject, this section requires a vote on the form of representation and assembly composition after each federal census. A vote on apportionment must also be taken at that time if relevant to the form of representation chosen, which must be one of three types set out in subsection (b).

AS 29.20.080 (Assembly recomposition and reapportionment) - Subsection (a) requires that the assembly determine, within two months after each federal census, whether the existing apportionment meets the legal standards. It further requires submitting to the voters a plan of apportionment, which may include a plan that merely readopts an existing plan (if it is found to comply with the law). Subsection (b) grants the assembly the power to change the apportionment by ordinance whenever it determines that it needs changing to comply with the law, and also authorizes a change in "composition" (which we believe means "form of representation" in this context) at the same time. Subsection (c) allows 50 voters to petition the assembly to request a review of an existing apportionment. Subsection (d) requires that ordinances adopted under (b) or (c) be submitted to the voters for approval. Subsection (e) places a six month deadline on the assembly to adopt a reapportionment ordinance after a determination under (b) or (c) that the existing plan does not comply. Failure to take action triggers the authority of the commissioner of community and regional affairs to issue an order of reapportionment.

AS 29.20.090 (Apportionment appeals) - Provides for an administrative appeal to the commissioner of a reapportionment ordinance approved by the voters or of a decision by the assembly that an existing plan complies with the law. The appeal is undertaken by the petition of 50 voters. If the commissioner determines that a reapportionment ordinance is defective or that a new plan is needed, the assembly must adopt a plan and submit it to the voters. If the assembly fails to act, the commissioner may issue an order of reapportionment.

AS 29.20.100 (Judicial review and relief) - Subsection (a) gives the commissioner authority to request the courts to enforce a reapportionment order. In

1980, when the free conference committee bill that became ch. 128, SLA 1980 was drafted, the statutory reference to the commissioner's orders was inadvertently incomplete. That error was repeated in subsection (b), which sets out the actions that may be appealed (presumably by anyone with standing) to the superior court.

AS 29.20.110 (Effective date of apportionment) - This section, which provides for the effective date of apportionment ordinances or orders that are the product of the various preceding provisions, contains one error dating back to 1980, and another that was created when the AS 29 revision (enacted in 1985) was prepared. The first is the omission of a statutory reference and the second was the substitution of irrelevant language for an important provision in (b)(2) of the section. There was a third error (an erroneous statutory reference) that was corrected editorially in 1992.

AS 29.20.120 (Applicability) - Provides that AS 29.20.080 - 29.20.110 do not apply to unified municipalities or to home rule boroughs if the home rule charter provides for reapportionment of the assembly.

SECTIONAL ANALYSIS.

As a preliminary matter, note that a sectional analysis or 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.** This section moves a portion of current AS 29.20.080(a) into AS 29.20.070(c) for organizational clarity.

* **Sec. 2.** AS 29.20.080 is rewritten for clarity. It contains all of the substantive provisions of the existing law, with the exception of material transferred to AS 29.20.070(c). In subsection (c), the existing provision of AS 29.20.080(b) relating to changes in "composition" of the assembly is carried forward as an authorization to change the "form of representation". If the legislature meant to equate "composition" with "size" rather than "form," this proposal can be easily modified. Subsection (d) is new, and simply restates a provision now found in AS 29.20.070(c) to ensure that in any vote relating to assembly apportionment, the plan will be explained to the voters.

* **Sec. 3.** AS 29.20.090 is rewritten for clarity. There are no substantive changes.

* **Sec. 4.** AS 29.20.100 is amended to update statutory references to reflect the rewriting of AS 29.20.070 - 29.20.090.

Representative Eldon Mulder
January 21, 1993
Page 4

* Sec. 5. AS 29.20.110 is amended to update references and to correct, in subsection (b), what we believe was an error in the preparation of the AS 29 revision. Before ch. 74, SLA 1985 was enacted, the predecessor to AS 29.20.110(b)(2) (AS 29.23.031(b)(2)) read:

(2) receipt by the borough assembly of a statement of nonobjection from the Attorney General of the United States to the proposed change in the composition or apportionment of the assembly; or

For some reason, in ch. 74, which simply reenacted the prior law, the same paragraph read:

(2) the delivery to the mayor of a reapportionment order of the commissioner under AS 29.20.090(e); or

That provision makes no sense in the context. In bill sec. 5, existing (b)(2) is deleted and the substance of the prior law is incorporated in the amendment to (b)(1).

* Sec. 6. Provides an immediate effective date.

If you or your staff have any questions, or if I can be of further assistance, please feel free to contact me.

DRD:gc
93-051.glc

CC: Deborah Behr
Department of Law

Enclosure

APPENDIX - TEXT OF AS 29.20.060 - 29.20.120

Sec. 29.20.060. Assembly composition and apportionment. (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting.

(d) A member of the assembly may not be elected or appointed by and from the council of a city in the borough.

(e) This section applies to home rule and general law municipalities.

Sec. 29.20.070. Assembly composition and form of representation. (a) The assembly shall provide for its composition and for the form of its representation.

(b) Not later than the first regular election that occurs after the report of a federal decennial census, the assembly shall propose and submit to the voters of the borough, at that regular election or at a special election called for the purpose, one or more forms of assembly representation. The forms of representation that the assembly may submit to the voters are:

(1) election of members of the assembly at large by the voters throughout the borough;

(2) election of members of the assembly by district, including

(A) election at large by the voters throughout the borough, but with a requirement that a candidate live in an election district established by the borough for election of assembly members; or

(B) election from election districts established by the borough for the election of assembly members by the voters of a district;

(3) election of members of the assembly both at large and by district.

(c) A form of assembly representation that includes election of assembly members under (b)(2) or (b)(3) of this section shall be submitted to the voters of the borough with a plan of apportionment as required by AS 29.20.080.

(d) The assembly shall, within 30 days after certification of the results of the election held under this section, adopt an ordinance providing for

(1) composition of the assembly;

(2) the form of assembly representation that received the most votes;

and

(3) if applicable, the apportionment of assembly seats in accordance with the form of representation that received the most votes.

(e) This section applies to home rule and general law municipalities, except it does not apply to a

- (1) unified municipality;
- (2) home rule borough if the home rule charter contains procedures for changing assembly composition and form of representation.

Sec. 29.20.080. Assembly recomposition and reapportionment. (a) Not later than two months after the official report of a federal decennial census, the assembly shall determine and declare by resolution whether the existing apportionment of the assembly meets the standards of AS 29.20.060. If the assembly submits to the voters a form of representation that includes election of assembly members under AS 29.20.070(b)(2) or (b)(3) the assembly shall submit with the proposition a proposed plan of apportionment that corresponds to the form of representation proposed. The assembly shall describe the plan of apportionment in the ballot proposition, and may present the plan in any manner that it believes accurately describes the apportionment that is proposed under the form of representation. If the assembly determines that its existing apportionment meets the standards of AS 29.20.060, the assembly may include the existing apportionment as a proposed plan of apportionment of assembly seats that corresponds to a form of representation that is proposed.

(b) The assembly shall provide, by ordinance, for a change in an existing apportionment of the assembly whenever it determines that the apportionment does not meet the standards of AS 29.20.060. At the same time, the assembly may, by ordinance, change the composition of the assembly.

(c) If a petition signed by not less than 50 voters requests the assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.20.060, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly may make the determination requested. The assembly shall make a determination required by this subsection within two months of receipt of a petition that meets the requirements of this subsection.

(d) An ordinance adopted by the assembly under (b) or (c) of this section shall be submitted to the voters for approval. In order for the ordinance to be approved it must receive the approval of a majority of the votes cast.

(e) Within six months after a determination by the assembly under (b) or (c) of this section that the current apportionment does not meet the standards of AS 29.20.060 the assembly shall adopt an ordinance providing for reapportionment and submit the ordinance to the voters. If, at the end of the six-month time period, an ordinance providing for reapportionment has not been approved by the voters, the commissioner shall provide for the reapportionment in accordance with the standards of AS 29.20.060 by preparing an order of reapportionment and delivering the order to the borough mayor.

Sec. 29.20.090. Apportionment appeals. (a) A reapportionment ordinance approved by the voters, or a decision of the assembly that the standards of AS 29.20.060 do not require a change in apportionment, may be appealed to the commissioner. Fifty voters may submit a petition to the commissioner requesting the

commissioner to determine whether the proposed reapportionment ordinance approved by the voters meets the standards of AS 29.20.060 or whether a decision of the assembly that the standards of AS 29.20.060 do not require a change of apportionment is correct. If the petition asks the commissioner to review an ordinance approved by the voters under AS 29.20.080(e), the petition shall be delivered to the commissioner not later than 20 days after certification of the election. If the petition asks the commissioner to review a decision of the assembly under AS 29.20.080(c), the petition shall be delivered to the commissioner within 20 days of the decision of the assembly.

(b) The commissioner shall review the petition and may make the determination requested. The commissioner shall provide copies of the determination to the persons petitioning for appeal and to borough officials not later than 60 days after the commissioner receives the petition.

(c) If the commissioner determines that the proposed reapportionment ordinance approved by the voters does not meet the standards of AS 29.20.060, or if the commissioner determines that the decision of the assembly that the standards of AS 29.20.060 do not require a change of apportionment is not correct, the commissioner shall, by order, direct the assembly to prepare a reapportionment ordinance that meets the standards of AS 29.20.060 and submit the ordinance to the voters.

(d) When the assembly has been directed by the commissioner to prepare a reapportionment ordinance under (c) of this section, the assembly shall, within two months after its receipt of the commissioner's order, adopt an ordinance providing for reapportionment. The assembly shall submit an ordinance adopted under this subsection to the voters at an election held within 60 days after the date of adoption of the reapportionment ordinance.

(e) If at the end of the time period provided under (d) of this section an ordinance providing for reapportionment has not been approved by the voters, the commissioner shall provide for the reapportionment of the assembly in accordance with the standards of AS 29.20.060 by preparing an order of reapportionment and delivering the order to the borough mayor.

Sec. 29.20.100. Judicial review and relief. (a) The commissioner may request the superior court to enforce a reapportionment order issued under AS 29.20.090(e).

(b) Each of the following is subject to judicial review:

(1) a plan of reapportionment approved by the voters under AS 29.20.080(a);

(2) a determination by the assembly under AS 29.20.080 that the standards of AS 29.20.060 do not require a change in apportionment;

(3) a reapportionment ordinance approved by the voters under AS 29.20.080(d);

(4) a reapportionment order of the commissioner made under AS 29.20.090(c);

(5) a reapportionment ordinance approved by the voters under AS

29.20.090(d); and

(6) a reapportionment order of the commissioner made under AS 29.20.090(e).

Sec. 29.20.110. Effective date of apportionment. (a) A change in assembly apportionment or composition under AS 29.20.080 or 29.20.090 is effective beginning with the first regular election for members of the assembly that is held more than 60 days after the later of

(1) approval of a reapportionment ordinance by the voters under AS 29.20.080(a), 29.20.080(e), or 29.20.090(d); or

(2) the delivery to the mayor of a reapportionment order of the commissioner under AS 29.20.090(e).

(b) The provisions of (a) of this section do not apply to a borough in which a change in assembly composition or apportionment is subject to review and approval or determination of nonobjection by the Attorney General of the United States under 42 U.S.C. 1971-1974 (Voting Rights Act of 1965), as amended. A change in assembly composition or apportionment subject to review under 42 U.S.C. 1971-1974, as amended, is effective beginning with the first regular election for members of the assembly that is held more than 60 days after

(1) receipt by the assembly of approval by the Attorney General of the United States of the proposed change in the composition or apportionment of the assembly;

(2) the delivery to the mayor of a reapportionment order of the commissioner under AS 29.20.090(e); or

(3) the last day on which the Attorney General of the United States may review a proposed change in the composition or apportionment of the assembly.

Sec. 29.20.120. Applicability of apportionment provisions. The provisions of AS 29.20.080 - 29.20.110 apply to home rule and general law municipalities, except they do not apply to a

(1) unified municipality;

(2) home rule borough if the borough, by home rule charter, provides for reapportionment of the assembly.

DRD:gc
93-052.glc

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

- 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697
- KEY BANK BUILDING
100 CUSHMAN ST. S ITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317
- P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-5225 465-6735

February 9, 1993

David Dierdorff, Revisor of Statutes
Legislative Affairs Agency
130 Seward Street
Goldstein Bldg., Rm. 414
Juneau, AK 99801-2105

Dear Dave:

Thanks for providing me with a copy of the 1993 special revisor's bill governing apportionment of borough assemblies, as well as a copy of the regular revisor's bill.

I have circulated the copies to the appropriate assistant attorneys general. They reported uniformly that the bills make technical improvements in the law and that the bills present no legal problems if enacted into law.

I appreciated the opportunity to review these bills.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: *Deborah E. Behr*
Deborah E. Behr
Assistant Attorney General

DEB:cl

GENERAL LAW BOROUGHs

There are eight general law boroughs in Alaska. Only those which have chosen to have their assembly members elected by district are affected by this legislation. The eight general law boroughs are:

Aleutians East

Kenai Peninsula

Bristol Bay

Ketchikan Gateway

Fairbanks North Star

Kodiak Island

Haines

Matanuska-Susitna

I do not know which of these, if any, have apportioned their assembly.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200
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PHONE: (907) 276-3550
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JUNEAU, ALASKA 99811-0300
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FAX: (907) ~~465-5295~~ 465-6735

February 9, 1993

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Legislative Affairs Agency
130 Seward Street
Goldstein Bldg., Rm. 414
Juneau, AK 99801-2105

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I appreciated the opportunity to review these bills.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: *Deborah E. Behr*
Deborah E. Behr
Assistant Attorney General

DEB:cl

GENERAL LAW BOROUGHES

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Aleutians East

Kenai Peninsula

Bristol Bay

Ketchikan Gateway

Fairbanks North Star

Kodiak Island

Haines

Matanuska-Susitna

I do not know which of these, if any, have apportioned their assembly.

HB

180

SENATE COMMITTEE REPORT

DATE: 4/15/93

FURTHER: L&C

DATE TURNED INTO OFFICE: _____

CRA Committee considered HOUSE BILL NO. 180 am

"An Act relating to the residential housing inspection requirements of the Alaska Housing Finance Corporation."

and recommends:

replace with _____ CS _____ ()

or adopt previous _____ CS _____ ()

attaches amendment(s)

same title
 new title
 technical title change
 (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Dept of Revenue	3/5/93	φ	

Appropriation No Fiscal Note

DO PASS:

Al Adams

John P. Givens

Doreen J. Helman

OTHER RECOMMENDATIONS:

Robert E. Crilly, Jr.

Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. House Bill 180

Revision Date: February 25, 1993

Dept. Affected: Department of Revenue

Title: An Act relating to the residential housing inspection requirement of the Alaska Housing Finance Corporation

BRU: Alaska Housing Finance Corp

Component: Alaska Housing Finance Corp

Sponsor: Representative MacLean

Requestor: Representative MacLean

COMPONENT SERIAL NO. 0110

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

(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	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

Alaska Housing Finance Corporation does not anticipate any increased cost with the proposed amendment to AS 18.55.300.

Prepared by:

Kay Murphy

Phone: (907) 561-1900

Division:

Alaska Housing Finance Corporation

Date: March 4, 1993

Approved by:

[Signature]
REVENUE

Date: 3/5/93

Agency:

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**ALASKA STATE
HOMEBUILDERS ASSOCIATION**

Written testimony regarding HB 180
Senate Community and Regional Affairs
Hearing on April 24, 1993

April 23, 1993

The Alaska State Homebuilders Association supports HB 180 in its current form as of April 14, 1993. HB 180 does not require a fiscal note. We urge swift passage of this important legislation so as not to hamper AHFC financing of homes built in rural areas.

respectfully,

Tommy Doyle

1993 ASHBA President

Post-It™ brand fax transmittal memo 7671 # of pages 1

To: <i>Jim L.I.O.</i>	From: <i>S. DOMINIA L.I.O.</i>
<i>Please deliver to</i>	Co. <i>SICORA</i>
Dept. <i>written testimony</i>	Phone #
Fax #	Fax #



A M E N D M E N T

OFFERED IN THE SENATE

TO: HB 180 am

Page 1, line 2, after "Corporation":

Insert "; and providing for an effective date"

Page 2, after line 18:

Insert new bill sections to read:

"* Sec. 3. AS 18.56.300(e)(3) is amended to read:

(3) "rural area" means a community or [AN] area with a population of not more than 1400 that is not on the land-connected state highway system.

* Sec. 4. Section 3 of this Act takes effect July 1, 1995."



Attention: *Phillips*

Post-It brand fax transmittal no 7871	# of pages 1
To: <i>Senator Randy Phillips</i>	From: <i>Kenai Peninsula Builders Assoc</i>
Dept.	Phone # <i>776-5718</i>
Fax # <i>465-4979</i>	Fax # <i>776-8925</i>

April 16, 1993

Senator Randy Phillips, Chairman
Senate Community & Regional Affairs Committee
P.O. Box V
Juneau, Alaska 99811

FAX: 465-4979

RE: HB 180 Amendment

Dear Senator Phillips;

The Kenai Peninsula Builders Association's Board of Directors respectfully suggests the following amendment to HB 180:

Sec. 1. AS 18.56.300 (b) is amended by adding a new paragraph to read: Inspections of housing financed by AHFC in rural areas may be performed by any person approved by AHFC until June 30, 1995. After June 30, 1995, all inspections in rural areas with permanent populations of more than 1400 people shall be performed by ICBO certified residential inspectors.

Our association agrees that Alaska Housing Finance Corporation should be given the authority to deal with isolated problems of residential inspections in rural areas on a case-by-case basis. Thank you for your support on this issue!

Sincerely,

Jim Stroer, President
Kenai Peninsula Builders Association

cc: Senator Suzanne Little
Senator Judy Salo
Representative Gail Phillips
Representative Mike Navarre
Representative Gary Davis

Box 1753 • Kenai, Alaska 99611 • (907) 776-5719

BILL: HB 180 SHORT TITLE: AHFC HOUSING INSPECTION REQUIREMENTS
BILL VERSION: HB 180 AM
SPONSOR(S): REPRESENTATIVE(S) MACLEAN

CURRENT STATUS: (S) CRA STATUS DATE: 04/15/93
THEN L&L, RLS

TITLE: "AN ACT RELATING TO THE RESIDENTIAL HOUSING INSPECTION REQUIREMENTS OF THE ALASKA HOUSING FINANCE CORPORATION."

02/25/93	455	(H)	READ THE FIRST TIME - REFERRAL(S)
02/25/93	455	(H)	CRA, LABOR & COMMERCE
03/22/93	730	(H)	CRA RPT 3DP 4NR
03/22/93	730	(H)	DP: TUOHEY, OLBERG, WILLIAMS
03/22/93	730	(H)	NR: SANDEPS, BUNDE, DAVIES, WILLIS
03/22/93	730	(H)	-ZERO FISCAL NOTE (REV) 3/22/93
04/02/93	928	(H)	L&C RPT 4DP 2NR
04/02/93	928	(H)	DP: PORTER, SITTON, MACKIE, MUDER
04/02/93	928	(H)	NR: GREEN, HUDSON
04/02/93	928	(H)	-PREVIOUS ZERO FN (REV) 3/22/93
04/14/93	1235	(H)	RULES TO CALENDAR 4/14/93
04/14/93	1235	(H)	READ THE SECOND TIME
04/14/93	1235	(H)	AMENDMENT NO 1 BY DAVIES
04/14/93	1235	(H)	AM NO 1 ADOPTED UNAN CONSENT
04/14/93	1235	(H)	ADVANCED TO THIRD READING UNAN CONSENT
04/14/93	1235	(H)	READ THE THIRD TIME HB 180 AM
04/14/93	1235	(H)	PASSED Y37 N- E3
04/14/93	1243	(H)	TRANSMITTED TO (S)
04/15/93	1404	(S)	READ THE FIRST TIME - REFERRAL(S)
04/15/93	1404	(S)	CRA, LABOR & COMMERCE

HOUSE BILL NO. 180 am
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MACLEAN

Amended: 4/14/93
Introduced: 2/25/93

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the residential housing inspection requirements of the Alaska
2 Housing Finance Corporation."

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

4 * Section 1. AS 18.56.300(b) is amended to read:

5 (b) As a condition of a commitment to purchase or approve a loan under this
6 section for residential housing the construction of which begins after June 30, 1992,
7 the corporation shall require inspection of the unit of residential housing that is the
8 subject of the loan. The inspection must be performed by a municipal building
9 inspector, [OR] by a person who is approved or certified to perform residential
10 inspections by the International Conference of Building Officials or the International
11 Association of Electrical Inspectors, or, when the unit of residential housing is
12 located in a rural area, by an architect licensed under AS 08.48, by an engineer
13 licensed under AS 08.48, or by another qualified person approved by the
14 corporation. When the unit of residential housing is located in a rural area, the

1 person who makes the inspection may use methods, including reviewing the unit
2 by videotape, other than a personal physical inspection to make the inspection, if
3 the method is approved by the corporation, and variations from the applicable
4 code may be accepted at the corporation's discretion, if the person authorized to
5 inspect the unit under this subsection satisfies the corporation that the variation
6 does not adversely affect the structural integrity of the unit or the health and
7 safety of the residents. The person who makes the inspection shall determine whether
8 the construction conforms to relevant provisions of the construction codes of the
9 municipality or of the state building code, as applicable, at each of the following stages
10 of construction:

- 11 (1) plan approval;
- 12 (2) completion of footings and foundations;
- 13 (3) completion of electrical installation, plumbing, and framing;
- 14 (4) completion of installation of insulation;
- 15 (5) final approval.

16 * Sec. 2. AS 18.56.300(e) is amended by adding a new paragraph to read:

17 (3) "rural area" means an area that is not on the land-connected state
18 highway system.

APR 16 1993

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723
(907) 852-7111



WHILE IN JUNEAU
State Capitol, Room 507
Juneau, Alaska 99801-1182
465-4833
465-4525
463-3241 FAX

HOUSE OF REPRESENTATIVES

MEMORANDUM

District 37

North Slope
Borough

Anaktuvuk Pass
Atkasuk
Barrow
Kaktovik
Nulqsut
Point Hope
Point Lay
Walnwright

Northwest Arctic
Borough

Ambler
Buckland
Deering
Kiana
Kivalina
Kobuk
Kotzebue
Noatak
Noorvik
Selawik
Shungnak

Seward Peninsula

Brevig Mission
Diomedes
Shishmaref
Teller
Wales

TO: Senator Randy Phillips
Chair, Community and Regional Affairs Committee

FROM: Rep. Eileen Panigeo MacLean *EP*

DATE: April 16, 1993

RE: Scheduling of HB 180

HB 180 has been referred to the C&RA Committee, and I am requesting a hearing on this bill at your earliest convenience.

HB 180 responds to an unintended consequence of last year's merger of DCRA housing loans into AHFC. AHFC's building inspection requirements in AS 18.56.300(b) were designed for residential construction within municipalities or along the road system. Their application to remote settings was not anticipated, and can result in thousands of additional dollars added to the cost of a new home. This works against the development of new housing in remote areas where it is most needed.

HB 180 does not eliminate the requirement for multiple building inspections during construction. Instead it allows AHFC to use some flexibility in applying the existing criteria in remote settings.

HB 180 broadens the pool of eligible inspectors by including licensed architects and engineers, and more importantly it authorizes AHFC to identify other qualified people in rural communities who are capable of doing one or more of the required inspections.

In addition, this bill allows the use of videotape or other means that get the job done without requiring a site inspection. And it authorizes AHFC to use flexibility in its interpretation of building codes as long as health and safety considerations are not compromised.

AS 18.53.300(b) was originally enacted to ensure that areas immediately outside municipal boundaries are held to comparable inspection requirements on AHFC-funded residential housing construction projects. While a requirement of four on-site inspections may be reasonable in urban areas, it imposes an unreasonable burden in areas where inspectors must be flown in.

HB 180 has the support of the banks involved in rural lending. It is welcomed by AHFC. And builders throughout the state have testified to the need for a more flexible arrangement in rural areas.

If you need further documentation, please contact David Harding of my staff (-3862).

Thank you.

Sponsor Statement
HB 180
Rep. Eileen Panigeo MacLean

HB 180 relates to the residential housing inspection requirements of the Alaska Housing Finance Corporation. When DCRA's rural housing loan programs were merged into AHFC last year, they became subject to AHFC's inspection requirements as listed in AS 18.56.300(b). These requirements were never intended to apply to rural housing loan programs; in fact, AHFC's primary rural loan program (non-conforming housing) is specifically exempted in the statute.

Rural housing loans have been subject to the AHFC inspection requirements since July 1, 1992. These statutory requirements mandate a minimum of four site visits by a qualified inspector. Very few of these inspectors live in rural communities. The result is that a homeowner building a new house must pay for an inspector to fly in five times to review the progress of the project. If the inspector finds any problems during one of these site visits, additional inspection trips may be necessary.

Lending institutions have found that these requirements can add thousands of dollars to the price of a new home. This is an unnecessary and unfair burden on rural homeowners who already are faced with extremely high home construction costs.

While it would be simpler to exempt the former DCRA rural loans from such requirements, the housing inspection process can serve a useful purpose. It assures safe construction and offers lending institutions a level of comfort in financing rural projects. However, the key to assuring safe construction in rural areas without sending the price through the roof is flexibility in applying the inspection requirements.

HB 180 would provide this flexibility in the following ways:

- It broadens the pool of eligible inspectors statewide by allowing licensed architects and engineers to conduct the inspections. These professionals are clearly qualified to accomplish the task, and they often travel to rural areas to monitor construction projects.
- It allows AHFC to identify other qualified individuals in rural communities. A local contractor or journeyman in a trade might be obvious candidates to carry out part or all of a remote inspection.
- It authorizes inspection methods other than a physical site visit by an inspector. For example, AHFC could approve an inspection of footings and foundations based on videotape or photographs.

In addition, this bill authorizes AHFC to accept building methods or materials that may not meet state building codes if the corporation is satisfied that the code variation does not sacrifice health or safety. Such variations may help to remedy the rural disadvantage regarding available materials. If a building material were available that may not meet code but would stand up to an engineering review, then AHFC would be allowed to accept such equivalent substitutions.

HB 180 has the support of lending agencies around the state. AHFC agrees with the need for greater inspection flexibility. And builders appreciate the need for different inspection criteria in remote areas. The bill has a zero fiscal note from AHFC.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

March 4, 1993

SUBJECT: Sectional summary of HB 180

TO: Representative Eileen MacLean
Attn: David

FROM: Theresa L. Bannister *TLB*
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.

Section 1. Amends AS 18.56.300(b) (in the Alaska Housing Finance Corporation chapter) to

(A) allow additional persons (licensed architects and engineers, and other AHFC-approved persons) to perform in rural areas the inspections required by AS 18.56.300(b);

(B) allow the inspector to use methods other than personal physical inspections to make the inspections in rural areas, if the methods are approved by the AHFC;

(C) authorize the AHFC to accept in rural areas variations from the applicable building code, if the inspector satisfies the AHFC that the variations don't adversely affect the structural integrity of the unit being inspected or the health and safety of the residents.

Section 2. Defines "rural area" for sec. 1.

If I may be of further assistance, please advise.

TLB:gc
93-193.glc

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. House Bill 190

Revision Date: February 25, 1993
 Title: An Act relating to the residential housing inspection requirement of the Alaska Housing Finance Corporation
 Sponsor: Representative MacLean
 Requestor: Representative MacLean

Dept. Affected: Department of Revenue
 BRU: Alaska Housing Finance Corp
 Component: Alaska Housing Finance Corp
 COMPONENT SERIAL NO. 0110

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (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	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

Alaska Housing Finance Corporation does not anticipate any increased cost with the proposed amendment to AS 18.56.300.

Prepared by: Kay Murphy
 Division: Alaska Housing Finance Corporation
 Approved by: [Signature]
 Agency: REVENUE

Phone: (907) 561-1900
 Date: March 4, 1993
 Date: 3/5/93

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Sec. 18.56.220. Duty to advise about corporation's programs. The corporation shall make a reasonable effort, through seminars, training sessions, and other forms of technical assistance, to assist local governments, regional housing authorities, nonprofit organizations, and other organizations and individuals to understand the corporation's housing programs and the opportunities that exist to obtain financial assistance from the corporation. (§ 98 ch 4 FSSLA 1992)

Effective dates. — Section 152, ch. 4, FSSLA 1992 makes this section effective July 1, 1992.

Sec. 18.56.300. Construction standards for housing eligible for purchase of loans. (a) The corporation may not make or purchase a housing loan for residential housing the construction of which begins after June 30, 1992, unless the seller of the mortgage loan complies with the provisions of this section and unless

(1) the unit is in compliance with the construction codes of the municipality, if the unit is located within a municipality that has adopted and enforces construction codes and each of those codes meets or exceeds the comparable standards for similar housing established by the state building code; or

(2) the unit is in compliance with the comparable standards for similar housing established by the state building code

(A) if the unit is located

(i) within a municipality whose construction codes do not meet the standards for similar housing established by the state building code;

(ii) within a municipality that does not enforce construction codes;

or

(iii) outside a municipality; or

(B) as to each specific code within the construction codes of the municipality that has adopted and enforces construction codes if the specific code does not meet or exceed the comparable standard for similar housing established by the state building code.

(b) As a condition of a commitment to purchase or approve a loan under this section for residential housing the construction of which begins after June 30, 1992, the corporation shall require inspection of the unit of residential housing that is the subject of the loan. The inspection must be performed by a municipal building inspector or by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

- (1) plan approval;
- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

(c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

(d) This section does not apply to a nonconforming housing loan made or purchased by the corporation.

(e) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the publications identified as the minimum plumbing code under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580. (§ 2 ch 85 SLA 1990; am § 1 ch 29 SLA 1991; am §§ 1, 2 ch 52 SLA 1991; am § 99 ch 4 FSSLA 1992)

Effect of amendments. — The 1992 amendment, effective July 1, 1992, in subsection (d), inserted "nonconforming" and "or purchased" and deleted "under AS 18.56.106" from the end.

Sec. 18.56.390. Definitions for AS 18.56.010 — 18.56.390. In AS 18.56.010 — 18.56.390, unless the context clearly indicates a different meaning,

(1) "adjustable rate mortgage loan" means a mortgage loan with respect to which the interest rate varies or is expected to vary from time to time by reference to an index or formula or other reference point;

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March 9, 1993

Representative Eileen MacLean
State Capital
Room 507
Juneau, AK 99801

Dear Representative MacLean:

We believe HB180 is a necessary change in Section I AS 18.56.300(b) regarding mandatory construction inspections that affect the entire state of Alaska. The change will mitigate the severe financial and procedural impact of the law on rural areas while still providing quality housing, health, and safety protection.

There are approximately 178 ICBO certified inspectors who graduated from a class put on in 1992 by AHFC in anticipation of this law. These inspectors are distributed through 33 communities around the state. These private inspectors may not provide their services at reasonable cost when considering the social need to provide modern housing in rural Alaska.

We see two problems with the existing statutes for rural home builders: 1) The high cost of a home builder supporting the inspection program, and 2) the required inspectors are limited narrowly to only ICBO inspectors. In outlying areas such as St. Paul, King Cove, or Nome, the cost of four on-site inspections is for round-trip airfares plus possibly room and board. Anchorage/St. Paul is currently \$1,054 round-trip. If a typical inspector charges \$1,800 for a house, the total bill could exceed \$7,800. Costs for on-site visits for appraisal, surveys, thermal standards, and environmental considerations are in addition to this.

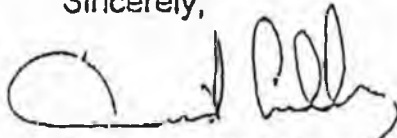
Secondly, by limiting the inspector pool to only ICBO inspectors, many qualified architects, engineers or other responsible persons are eliminated in assisting in the inspection process. Some of these local officials may be more experienced in local conditions than a newly created inspector flying out from an urban area. Many architects and engineers have frequent occasion to fly to rural areas to inspect projects and could add a home inspection at little extra cost.

Representative Eileen MacLean
March 9, 1993
Page Two

It is our understanding that the original legislation exempted DCRA's Rural Housing Program from the statute, but an unintended by-product of the merger of DCRA's rural housing program into AHFC was to make this law a fact-of-life for the entire state.

We believe the solution to this problem is through passage of house bill 180 as it is currently written and asks for the legislature's support of the bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Cuddy", written in a cursive style.

David Cuddy, President

gs

~~NATIONAL~~
Bank of Alaska



Corporation Headquarters P.O. Box 122600 Anchorage, Alaska 99512-0600 (907) 575-1122

March 11, 1993

Representative Harley Olberg
Alaska State Legislature
State Capital
Juneau, AK 99801-1182

Re: Residential Housing Inspection
Requirements of AHFC

Dear Representative Olberg:

National Bank of Alaska has been a participant in the development of the housing needs of Alaskans since its inception 77 years ago. Due to the difficulty of attracting capital to our state for housing, NBA maintained an office in New York for that purpose in the 1950s and have participated in the creation of Alaska Housing Finance Corporation. NBA has been actively involved with Fannie Mae, Freddie Mac, HUD, VA, the Farmers Home Administration, and other secondary market lenders to assure the flow of capital to meet the housing needs of all Alaskans. It is our belief that the long-term viability of the state of Alaska is dependent on the equal access of housing to all inhabitants. Government regulations that inhibit equal access to housing or create a situation that discriminates by adding burdensome costs to particular residents of our state and does not foster equal access to housing of our population are not acceptable.

We believe that the ICBO legislation previously enacted created a costly bureaucratic situation for rural residents of the state of Alaska and does not practically increase equality of housing to our rural residents. We therefore have supported and encouraged the enactment of House Bill 160 which deals with inspections in rural and remote Alaska and ask that you provide support to this legislation as well. Keep in mind that the proposed amendments to the existing law relate to rural areas and increases the ability of Alaska Housing Finance to meet quality and safety objectives by giving it flexibility to deal with problems of remote communities. Rural in this legislation means an area that is not land connected by the state highway system.

March 11, 1993

Page Two

Alaskans, in general, abhor other people forcing governmental authority onto us when we feel that these rules inhibit our ability to function as a unique society. Please keep in mind that Alaska has numerous communities and climates with unique situations which may require unique solutions. Costs related to Government regulations that may seem reasonable to a Kenai home builder may cost ten times as much for a home in the Bush. The original ICBO law was not intended to cover rural Alaska; however, with the merging of DCRA and Alaska Finance Corporation such a regulatory requirement now exists.

Your support and assistance in this matter would be greatly appreciated. If you have additional questions about the technical aspects of the bill, please contact Jim McCormack at 265-2878.

Sincerely yours,



Jan K. Sieberts
Senior Vice President

sr

GUINN BUILDING SERVICES
GENERAL CONTRACTOR
PO BOX 1061
BETHEL, AK. 99577
343-4513 FAXER


STATE OF ALASKA
RE: HB 180

SIRS:

I AM A GENERAL CONTRACTOR LIVING AND DOING BUSINESS HERE IN BETHEL, AK. I WOULD LIKE TO VOICE MY SUPPORT FOR HB 180 REGARDING THE LOOSENING OF INSPECTIONS ON STATE FUNDED CONSTRUCTION. THE COST OF LIVING AND DOING BUSINESS HERE IN BETHEL AND THE SURROUNDING AREA IS BAD ENOUGH WITHOUT THE PROHIBITIVE COSTS OF THESE INSPECTIONS. AS AN EXAMPLE, IF I WAS SHORT 2 PIECES OF SHEETROCK FOR A JOB TODAY, I CAN BUY THEM IN ANCHORAGE FOR \$9.00 EACH, BUT IT WILL COST ME \$75.00 EACH TO GET THEM HERE, FOR A TOTAL OF \$ 43.00 EA. IN SOME INSTANCES, THE COST OF THE INSPECTIONS MAY BE THE DIFFERENCE BETWEEN AN APPROVAL OR DENIAL OF FUNDS FOR A PROJECT. MANY TIMES THERE IS A COMPETENT ENGINEER OR CONTRACTOR IN TOWN OR CLOSE BY THAT CAN ATTEST TO THE QUALITY OF PHASES OF A BUILDING. ALSO, IF CHOSEN, THE USE OF VIDEO WILL GREATLY CUT DOWN THE COST OF THE PROJECT.

GENERALLY, THE QUALITY THE STATE IS TRYING TO ATTAIN ON THESE PROJECTS IS MORE THAN SATISFACTORY WHEN A LICENSED GENERAL CONTRACTOR IS HIRED. THE PROBLEMS ARISE WHEN A SPECIALTY CONTRACTOR WHO HAS NO KNOWLEDGE OF THE REGULATIONS, AND IS UNLICENSED TO DO THE TOTAL SCOPE OF WORK TRIES TO DO THE JOB. THE REGULATIONS THE STATE HAS ADOPTED PUT ALL CONTRACTORS ON AN EQUAL BASIS, AND SHOULD BE KEPT IN PLACE AND ADHERED TO.

SINCERELY,

 03-10-93

JIM GUINN, OWNER

TESTIMONY ON

H.E. - 180

PROCEEDING II, 1973

My name is Henry Huntington. In building my own house in Barrow, I started in June 1972. When I heard about the inspections, it sounded like a good thing - so I could make sure everything was okay with the construction. But then I found out that there was only one potential inspector in Barrow. He didn't even want to do it, and would have charged \$2000 just to start with, if no arrangements were needed. That was ridiculous. I'm proud in Point Barrow, I'd have to fly him there at great expense, if he would even be willing to go there, which he probably wouldn't. The cost and the effort required was not worth the product. It is just another hoop to jump through that benefits only AFPC. It really is not appropriate in rural areas where inspectors are few and far between and building is enough of a pain as it is.

By contrast, I got an Energy Rating quickly and easily and for \$60. I was happy to do that, and it is good to know that my house is a 5-star. ~~The~~ That type of system makes much more sense, because it is useful to the homeowner at an affordable cost, and provides AFPC with the information they need. While the idea of checking construction to make sure it is adequate is a good one, without some way to provide for this inspection in a reliable and cost-effective manner, the law is inappropriate to rural Alaska.

H.R. 180 is a step in the right direction for helping rural Alaskans build quality homes with a minimum of regulatory cost and logistical burden.

EAGLE CONTRACTING CORPORATION

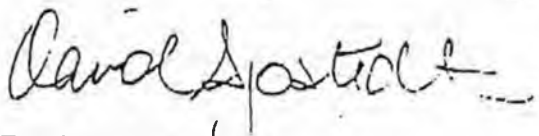
You've tried the rest now try the best.

March 10, 1993

RE: House Bill 180

This letter is to urge you to support HB 180. This bill would greatly benefit rural communities with regard to the expense of building.

Sincerely,



David Sjostedt
President

HOFFMAN-LANGLIE, INC.

GENERAL CONTRACTORS
P.O. BOX 721 BETHEL, AK 99559
(907) 543-3983 FAX (907) 543-3956

3/11/93

Eighteenth Legislature
Juneau, AK

RE: House Bill No. 180

Attn: Legislators

This letter is in support of House Bill No. 180, sponsored by Rep. Eileen Panigeo Maclean, which addresses the problem of the five required inspections on residential housing in rural Alaska.

As a general contractor in the Bethel area for the past 15 years, we know the cost of building in the rural areas is much higher than other areas. Although we feel building inspections benefit all parties concerned, HB 180 at least gives the homeowner some options, which may result in lowering the total cost of construction.

If inspections could be done by more than one qualified agency, the construction process would be able to proceed much faster, and probably much cheaper than depending on one source for inspections.

Since the building season is short, rural builders need some flexibility for getting the required inspections done.

In closing, our company strongly supports HB 180 and its benefits to rural homebuilders, and feel it would not hinder quality construction in rural Alaska. Thank you.

Sincerely,



Michael E. Langlie - President
Hoffman-Langlie, Inc.



APR 16 1993

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723
(907) 852-7111

WHILE IN JUNEAU
State Capitol, Room 507
Juneau, Alaska 99801-1182
465-4833
465-4525
463-3241 FAX

HOUSE OF REPRESENTATIVES

MEMORANDUM

District 37

North Slope
Borough

Anaktuvuk Pass
Atkasuk
Barrow
Kaktovik
Nulqsut
Point Hope
Point Lay
Wainwright

Northwest Arctic
Borough

Ambler
Buckland
Daering
Kiana
Kivalina
Kobuk
Kolzebue
Noatak
Noorvik
Selawik
Shungnak

Seward Peninsula

Brevig Mission
Diomedes
Shishmaref
Teller
Waios

TO: Senator Randy Phillips
Chair, Community and Regional Affairs Committee

FROM: Rep. Eileen Panigeo MacLean *EP*

DATE: April 16, 1993

RE: Scheduling of HB 180

HB 180 has been referred to the C&RA Committee, and I am requesting a hearing on this bill at your earliest convenience.

HB 180 responds to an unintended consequence of last year's merger of DCRA housing loans into AHFC. AHFC's building inspection requirements in AS 18.56.300(b) were designed for residential construction within municipalities or along the road system. Their application to remote settings was not anticipated, and can result in thousands of additional dollars added to the cost of a new home. This works against the development of new housing in remote areas where it is most needed.

HB 180 does not eliminate the requirement for multiple building inspections during construction. Instead it allows AHFC to use some flexibility in applying the existing criteria in remote settings.

HB 180 broadens the pool of eligible inspectors by including licensed architects and engineers, and more importantly it authorizes AHFC to identify other qualified people in rural communities who are capable of doing one or more of the required inspections.

In addition, this bill allows the use of videotape or other means that get the job done without requiring a site inspection. And it authorizes AHFC to use flexibility in its interpretation of building codes as long as health and safety considerations are not compromised.

Senator Randy Phillips
April 16, 1993

-2-

AS 18.56.300(b) was originally enacted to ensure that areas immediately outside municipal boundaries are held to comparable inspection requirements on AHFC-funded residential housing construction projects. While a requirement of four on-site inspections may be reasonable in urban areas, it imposes an unreasonable burden in areas where inspectors must be flown in.

HB 180 has the support of the banks involved in rural lending. It is welcomed by AHFC. And builders throughout the state have testified to the need for a more flexible arrangement in rural areas.

If you need further documentation, please contact David Harding of my staff (-3862).

Thank you.

HB

221

SENATE COMMITTEE REPORT

DATE: 4/13/93

FURTHER: L&C

DATE TURNED INTO OFFICE: _____

CRA Committee considered HOUSE BILL NO. 221

"An Act relating to workers' compensation for volunteer ambulance attendants, police officers, and fire fighters; and providing for an effective date."

and recommends:

- replace with _____ CS _____ ()
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DOL	3/16/93	0	
DDA	3/18/93	0	

Appropriation No Fiscal Note

DO PASS:

Robin L. Taylor

John A. Zbaroff

Loren A. Helman

OTHER RECOMMENDATIONS:

Reed E. Allen, D. Pass

Chair, Signature and Recommendation

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450

FAX (907) 465-2029

Mail Stop 3101

130 Seward Street, Suite 409

Juneau, Alaska 99801-2105

MEMORANDUM

March 22, 1993

SUBJECT: Sectional Summary of HB 221

TO: Representative Bill Hudson

FROM: Michael F. Ford *M.F.*
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. Provides that for purposes of calculating the compensation paid to a volunteer ambulance attendant, police officer, or fire fighter, the person would receive workers' compensation benefits equal to that paid a full-time employee where the injury occurred or equal to the amount that the person would receive based on earnings in their regular employment, whichever is higher.

Section 2. Provides that a person who is injured while performing service as a volunteer ambulance attendant, police officer, or fire fighter, is for purposes of workers' compensation benefits considered an employee of the municipality in which the person performs the volunteer service, if the person is not already covered by insurance.

Section 3. Repeals a provision of law allowing a municipality to elect to extend coverage to volunteer ambulance attendants, police officers, or fire fighters.

Section 4. Effective date.

MFF:gc
93-251.glc

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : HB 221

Revision Date: _____
 Title: Workers' Compensation :
Volunteer Fire Fighters, Etc
 Sponsor: Representatives Hudson, Grussendorf
 Requestor: House Community & Regional Affairs

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

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: 3/16/93

Approved by Commissioner: Charles W. Mahler *Charles W. Mahler*
 Agency: Department of Labor Date: 3/16/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 221

Revision Date: _____
Title: 'An Act relating to workers' compensation for volunteer ambulance attendants, police officers and fire fighters.'
Sponsor: Hudson
Requestor: _____

Department Affected: Administration
BRI: Risk Management
Component: _____
COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES:

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

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

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

POSITIONS:

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

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)
This bill would not affect Risk Management budget requirements.

Prepared by: Don Hitchcock, Director
Division: Risk Management

Phone: (907) 465-2180
Date: _____

Approved by Commissioner: Nancy Bear Usura
Agency: Administration

Date: 3/18/93

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Alaska State Legislature

APR 14 1993

COMMITTEES
CHAIR
Labor & Commerce
VICE CHAIR
Resources
MEMBER
Transportation
Regulation Review
Economic Development
Task Force

REPRESENTATIVE BILL HUDSON

State Capitol
Juneau, Alaska
99801-1182
(907) 465-3744

MEMORANDUM

April 14, 1993

TO: Representative Randy Phillips, Chair
Community and Regional Affairs Committee

FROM: Representative Bill Hudson

SUBJECT: House Bill 221, "An Act relating to workers' compensation for volunteer ambulance attendants, police officers, and firefighters . . ."

House Bill 221 has passed the House and has been referred to your committee. This is to respectfully request you schedule this bill for a hearing at your earliest convenience.

House Bill 221 received a vote of 32 yeas, 2 nays, in the House and enjoys the support of fire fighters statewide. Attached you will find:

- * Sponsor Statement
- * Fiscal Note
- * Sectional Analysis
- * Alaska Statutes 23.30.092
- * Alaska Workers' Compensation Board Ruling of 2/17/93
- * Letters of Support

Please do not hesitate to call me or Lynda Giguere of my staff should you have any questions or desire more information.

Attachments



satisfactory proof that an employer is no longer entitled to it. After revocation the board may grant a new certificate to an employer, upon the employer's petition and satisfactory proof of the employer's financial ability as provided in this chapter. An employer authorized as a self-insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or independent, licensed, resident adjusters with power to effect settlement within the state. (§ 39 ch 193 SLA 1959; am § 1 ch 1 SLA 1962)

Collateral references. — 32 Am. Jur. 2d. Workers' Compensation. § 663.
100 C.J.S., Workmen's Compensation. §§ 354-356.

Homeowners' or personal liability insurance as providing coverage for liability under workmen's compensation laws. 41 ALR3d 1306.

Sec. 23.30.092. Volunteer ambulance attendants', police officers', and fire fighters' insurance. A political subdivision may elect to provide benefits and compensation to its volunteer ambulance attendants, police officers, or fire fighters by obtaining insurance that would provide its volunteer ambulance attendants, police officers, or fire fighters with benefits and compensation at least equivalent to those conferred upon volunteer ambulance attendants, police officers, or fire fighters by this chapter, and the election shall be considered compliance with the coverage and insurance provisions of this chapter. The election shall be made by filing copies of the insurance policy or policies with the commissioner. (§ 3 ch 41 SLA 1968; am § 1 ch 77 SLA 1979)

Revisor's notes. — In 1989, the terms "police officers" and "fire fighters" were substituted for "policemen," and "firemen" in this section under §§ 59 and 60, ch. 50, SLA 1989.

Sec. 23.30.095. Medical treatments, services, and examinations. (a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires, not exceeding two years from and after the date of injury to the employee. However, if the condition requiring the treatment, apparatus, or medicine is a latent one, the two-year period runs from the time the employee has knowledge of the nature of the employee's disability and its relationship to the employment and after disablement. It shall be additionally provided that, if continued treatment or care or both beyond the two-year period is indicated, the injured employee has the right of review by the board. The board may authorize continued treatment or care or both as the process of recovery may require. When medical care is required, the injured employee may designate a licensed physician to provide all medical and related benefits. The employee may not make more than one change in the employee's choice of attending physician without

ALASKA WORKERS' COMPENSATION BOARD

P.O. Box 25512



Juneau, Alaska 99802-5512

In the Matter of the Self-
Insurance Certificate of

THE CITY AND BOROUGH OF JUNEAU,
ALASKA.

FILED with
ALASKA WORKERS'

FEB 17 1993

COMPENSATION BOARD
JUNEAU, ALASKA

We met in Juneau, Alaska on 4 February 1993 to consider a petition of the City and Borough of Juneau (CBJ) for an order extending coverage under the CBJ's Certificate of Self-Insurance to volunteer firemen. The CBJ is represented by attorney T.G. Batchelor. Ken Kareen, the CBJ Personnel Director testified at hearing. The Alaska Department of Labor, Workers' Compensation Division was represented by Self-Insurance Administrator Richard Austerman. We closed the record and concluded our deliberations on 4 February 1993.

The CBJ is a self-insured employer under the Alaska Workers' Compensation Act (AWCA)¹ and regulations promulgated

¹ AS 23.30.075(a) provides in pertinent part: "An employer under this chapter, unless exempted, shall either insure and keep insured for the employer's liability under this chapter in an insurance company . . . or shall furnish the board satisfactory proof of the employer's financial ability to pay directly the compensation provided for."

AS 23.30.090 provides in pertinent part: "If an employer has complied with the provisions of this chapter relating to self-insurance, the board shall issue the employer a certificate which shall remain in force for a period fixed by the

thereunder at Chapter 46 of Title 8 of the Alaska Administrative Code (8 AAC 46).

The CBJ asserts that volunteer firemen² have workers' compensation coverage under AS 23.30.243(a) under certain circumstances, i.e., proceeding to or engaging in a fire suppression or rescue operation or the protection of life or property.³ The CBJ asserts it is not clear what other types of activities are covered under the AWCA for the volunteer firemen.

By its petition, the CBJ seeks an order which would extend AWCA coverage to volunteer firemen under the CBJ self-insurance certificate, while engaged in "approved" training and community service activities. At hearing, the CBJ informed us it wishes us to determine if we have any objection to their voluntarily providing coverage under its certificate of self-insurance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

AS 23.30.092 provides:

A political subdivision may elect to provide benefits and compensation to its volunteer . . . firemen by obtaining insurance which would provide its volunteer . . . firemen with benefits and compensation at least equivalent to those conferred upon volunteer . . . firemen by this chapter, and the election shall be considered compliance with the coverage and insurance provisions of this chapter. The election shall be made by filing copies of the

board."

² AS 23.30.265(30) provides: "'volunteer fireman' means an individual whose name is registered with the state fire marshal as a member of a regularly organized volunteer fire department or who serves with a full-time fire department on a temporary, voluntary basis."

³ AS 23.30.243 is quoted and discussed below.

insurance policy or policies with the commissioner.

AS 23.30.243(a) provides:

For the purpose of workers' compensation, any injury, disability or death incurred by a fireman by reason of the fireman's proceeding to or engaging in a fire suppression or rescue operation, or the protection or preservation of life or property, anywhere in the state is considered to have arisen out of and been sustained in the course of employment, and the fire department or regularly organized volunteer fire department of the fireman's primary employment or registration is considered to be the employer, except when the injured, at the time of injury or death, is acting for compensation from another.

AS 23.30.092 provides a procedure for the resolution of the CBJ's problem, i.e., purchasing workers' compensation insurance coverage for the volunteer firemen, and filing a copy of the insurance policy with the Commissioner of Labor. We assume the CBJ is aware of this option, and has declined to purchase such insurance due to the cost.

The question remains, can the CBJ cover its volunteer firemen under its self-insurance certificate? This issue has never been addressed by the AWCB. We have reviewed the AWCA and 8 AAC 46, the Self-Insurance regulations. We find nothing which prohibits the CBJ from electing to cover its volunteer firemen under its self-insurance certificate. We find nothing which leads us to believe that AS 23.30.092 was intended to require a municipality to purchase insurance as the exclusive method of insuring its volunteers for workers' compensation liability. Absent any specific language precluding it, we find it is permissible for the CBJ to self-insure workers' compensation liability for its volunteer firemen.

Concerning the specific terms of the coverage which the CBJ wishes to provide, and which we are asked to authorize, we find

In Re: CBJ Self-Insurance Certificate

nothing which prohibits the CBJ and volunteer firemen from entering into an agreement under which the CBJ agrees to provide workers' compensation coverage in accord 8 AAC 46 and the guidelines set out in the petition.⁴ After doing so, the CBJ should notify the Self-Insurance Administrator. 8 AAC 46.100. It must, of course, also notify its excess insurance carrier as the change will effect the CBJ's exposure to liability for workers' compensation benefits. We find that the parameters of coverage the CBJ wishes to provide its volunteer fireman, including coverage during training, is a matter within its discretion, subject only to its ability to meet its obligation to injured employees and volunteers under the AWCA. The CBJ's ability to pay is an issue which is reviewed annually, and more often if necessary, by the Self-Insurance Administrator and the AWCB.

Finally we turn to the issue of our authority to enter an order binding the CBJ to provide workers' compensation coverage to volunteers during training. The CBJ argues that signing the proposed order will bind the AWCB and the CBJ to providing coverage to volunteer firemen during training. We do not agree. The discussion above is based on the assumption that the CBJ elects to provide the coverage under consideration, and elects to remain bound by that election. We must now consider how the AWCB can resolve a case where a volunteer fireman is injured during training, but due to a change in personnel or policy, or for whatever reason, the CBJ declines to voluntarily provide coverage to the injured volunteer.

Assuming such a "volunteer" is truly a volunteer, and not an employee⁵, we presume we would apply AS 23.30.243. Notably, that

⁴ We note that 8 AAC 46.120 requires that all records necessary to complete and verify the accuracy of all reports and documents submitted to the AWCB must be retained for three years.

⁵ AS 23.30.265(12) provides: "'employee' means an employee employed by an employer as defined in (13) of this section."

statute does not mention firemen who are injured during training. Based on the plain language of the statute, it appears likely coverage under the AWCA would be denied. We do not issue advisory opinions. Furthermore, we find it would be improper to enter an order which appears to be contrary to the express language of AS 23.30.243. For those reasons we decline to execute the order proposed. We believe the most effective method of assuring volunteer firemen coverage under the Alaska Workers' Compensation Act is by means of an amendment of the AWCA, presumably AS 23.30.243.

At hearing, the CBJ informed us that legislation had been introduced in 1992 which would have amended AS 23.30.243 by adding "training" to the scope of its coverage. We recognize that volunteer firemen are an important and valuable community asset. It is obvious that in order to become and remain qualified to engage in fire fighting and related emergency activities, volunteers must engage in training, and that they should have insurance in the event they are injured while engaging in such authorized activities. This panel favors amending AS 23.30.243 in order to provide coverage under the AWCA to volunteer firemen while they engage in authorized training activities. A copy of this Decision and Order shall be forwarded to the Commissioner of Labor, who is also the Chairman of the AWCB, with the request that he consider an appropriate amendment to the AWCA.

AS 23.30.265(13) provides: "'employer' means the state or political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of this chapter and carried on in this state."

We determine if a person is an employee by applying the "relative-nature-of-the-work test." This multi-part test is set out in 8 AAC 45.890. Obviously we have insufficient information to determine if a hypothetical "volunteer" may qualify as an "employee" for the purposes of this decision.

ORDER

The proposed order is denied.

Dated at Juneau, Alaska this 17th day of FEBRUARY, 1993

ALASKA WORKERS' COMPENSATION BOARD

/s/ LAWSON N. LAIR
Lawson N. Lair, Designated Chairman

/s/ DON KOENIGS
Don Koenigs, Member

UNAVAILABLE FOR SIGNATURE
Nancy J. Ridgley, Member

APPEAL PROCEDURES

A compensation order may be appealed through proceedings in Superior Court brought by a party in interest against the Board and all other parties to the proceedings before the Board, as provided in the Rules of Appellate Procedure of the State of Alaska.

A compensation order becomes effective when filed in the office of the Board, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it is filed.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of The Self-Insurance Certificate of THE CITY AND BOROUGH OF JUNEAU, ALASKA; dated and filed in the office of the Alaska Workers' Compensation Board in Juneau, Alaska, this 17th day of February, 1993.



Bruce Dalrymple
Bruce Dalrymple

ALASKA STATE FIREFIGHTERS ASSOCIATION

P.O. Box 2092, Cordova, Alaska 99574



March 31, 1993

Dear Sirs:

As President of the Alaska State Firefighters Association I am asking for your support to aid the passage of H.B. 221.

When I joined the Cordova Volunteer Fire Department I was told I was covered by the Alaska Worker's Compensation Act (AWCA). It was my understanding that this was whenever I participated in department training drills, I performed maintenance duties, responded to emergencies or took part in sanctioned Fire Department activities.

There is now some question as to the level of coverage volunteers have. After a training accident at the William Hagavig Regional Training Center last year there was a delay in assuring coverage for two injured firefighters. This is not acceptable! The level of coverage needs to be clarified in the AWCA to ensure adequate coverage for all volunteer fire fighters state wide. H.B. 221 will do this.

To give a little background to this issue consider that the Alaska Worker's Compensation Board (AWCB) stated in a ruling handed down Feb 17, 1993, that "Assuming such a 'volunteer', is truly a volunteer, and not an employee, we presume we would apply AS 23.30.243. Notably, that statute does not mention firemen who are injured during training. Based on the plain language of the statute, it appears likely coverage under the AWCA would be denied." The AWCB goes on to say. "We believe the most effective method of assuring volunteer firemen coverage under the Alaska Workers' Compensation Act is by means of an amendment to the AWCA, presumably AS 23.30.243."

Last fall I wrote a letter of support for what became H.B 150. I now feel the addition of the wording "participating in training" is not going to cover volunteers adequately. Volunteers perform many functions in addition to training. These include pre fire planning, fire investigation, building and equipment maintenance, administrative duties, fire investigation and teaching fire prevention to citizens. These are only a portion of the activities volunteers may participate in to maintain a fire department.

On March 12, 1993 Representative Bill Hudson and Representative Ben Grussendorf introduced H.B. 221. This bill assures that Volunteer Ambulance Attendants, Police Officers and Fire Fighters are considered employees of the municipality in which they provide thier services. As employees they would receive the same coverage as a paid person which is only right since they are all taking the same risks while performing the same tasks.

H.B. 221 is appropriate and needs your full support.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Plumb", with a long horizontal line extending to the right.

Robert J. Plumb, president

03/25/93
12:37:36

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE HUD Hudson

POMS100
LHSCDEB
WASTEBASKET

From: Mr. Greg Hayden
Box 1826

Valdez

AK99686

Tel: 835-4560

Bill# HB 221 Title: WORKERS COMP: VOLUNTEER FIRE FIGHTERS, ETC
Subject:

SUPPORTS THIS LEGISLATION

Message: THANK YOU FOR INTRODUCING HB 221 IN SUPPORT OF VOLUNTEER
FIREFIGHTERS. THIS BILL IS EXTREMELY IMPORTANT TO US. SINCERELY, GREG HAYDEN,
VALDEZ VOLUNTEER FIREFIGHTERS ASSOCIATION.

Entered By: LIOCDJG on 3/25/93 PomID 9009 Distribution 1
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B[

M-M27 LINE 1 COL 1

04/01/93
13:53:30

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE HUD Hudson

POMS100
LHSCDEB
WASTEBASKET

From: Mr. Pat
Box 240282

Eggers

Douglas

AK99824

Tel: 364-3366

Bill# HB 221 Title: WORKERS COMP: VOLUNTEER FIRE FIGHTERS, ETC
Subject:

SUPPORTS THIS LEGISLATION

Message: WE NEED HB 221. I REPRESENT THE FIREFIGHTERS IN YOUR AREA AS FIRST VICE-PRESIDENT OF ALASKA STATE FIREFIGHTERS ASSOCIATION. THIS BILL IS OUR TOP PRIORITY THIS YEAR. PLEASE LEND YOUR SUPPORT FOR THIS IMPORTANT CLARIFYING BILL. THANK YOU VERY MUCH.

Entered By: LIOCJIM on 4/ 1/93

PomID 10372

Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B[

M-M27 LINE 1 COL 1



Cordova Volunteer Fire Department

FIRE CHIEF DEWEY WHETSELL

P.O. Box 304
Cordova, Alaska 99574
(907) 424-6100

Royce

March 23, 1993

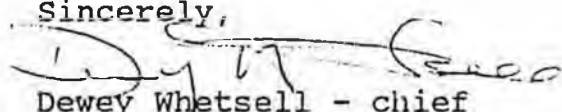
The Honorable Bill Hudson
Alaska House of Representatives
Juneau, Alaska

Dear Representative Hudson:

On behalf of the fifty volunteers of the Cordova Volunteer Fire Department, I would like to thank you for introducing H.B. 221. This bill is extremely important to us. In these times of changing legal complexities, it is important to try to protect a 270 year old American institution -- the Volunteer Fire Department. So many people depend entirely on volunteers for protection. It is vital that we protect the men and women that make up this institution.

Thank you very much.

Sincerely,


Dewey Whetsell - chief

Michael L. Gundlach
PO Box 1236
Cordova, AK 99574
March 23, 1993

The Honorable Bill Hudson
Alaska House of Representatives
Juneau, Alaska

Dear Representative Hudson:

Thank-you for introducing H.B. 221 in support of Volunteer Firefighters. This bill is extremely important to me and the members of the Cordova Volunteer Fire Dept. and the citizens of the City of Cordova.

Sincerely,



Michael L. Gundlach
Captain, CVFD



Alaska State Legislature

REPRESENTATIVE BILL HUDSON

State Capitol
Juneau, Alaska
99801-1182
(907) 465-3744

COMMITTEES

CHAIR
Labor & Commerce
VICE CHAIR
Resources
MEMBER
Transportation
Regulation Review
Economic Development
Task Force

SPONSOR STATEMENT

HOUSE BILL 221

House Bill 221 was introduced to clarify Workers' Compensation statutes that have been the cause of much confusion or misinterpretation, particularly with regard to benefits for volunteers.

Workers compensation benefits are intended, subject to minimum and maximum limits, to replace the lost wages of injured workers. Section 1 of HB 221 recognizes that volunteers should receive wage replacement based on the actual wages lost or the comparable wage they would receive were they paid employees rather than volunteers. Current law limits wage loss benefits for volunteer fire fighters, for example, who may have high earning capacity in their regular employment, to the benefits based on the wage paid a carrier fire fighter. House Bill 221 corrects the inequities in benefit calculations for volunteer ambulance attendants, police officers and fire fighters by calculating compensation based on the higher wage earned.

Section 2 of HB 221 is to clarify the original intent of AS 23.30.243, which is to extend coverage for volunteer fire fighters. In the past year, compensation benefits for volunteer fire fighters, while engaged in fire department activities other than responding to emergencies, has been questioned. Since "employees" are covered for injuries arising out of and in the course of employment, volunteer fire fighters are similarly covered. Unfortunately, AS 23.30.243 has been misinterpreted to limit coverage only to those instances where the volunteer was responding to an emergency. This section was originally intended to extend coverage, not limit it.

Therefore, in order to restore the original intent of AS 23.30.243, and to clarify once and for all that volunteers are employees and are covered as any other employee for the purposes of workers' compensation, Section 2 of HB 221 amends AS 23.30 by adding a new section that defines volunteer ambulance attendants, police officers and fire fighters as "employees."



Section 3 repeals AS 23.30.092. This statute has been interpreted to mean that a municipality "may" provide workers compensation coverage for volunteers. Conversely, it may be incorrectly interpreted to mean that a municipality may elect not to provide coverage. In reality, this section provides that an alternative policy may substitute for a workers' compensation policy so long as the benefits are equal or better than a statutory workers' compensation policy. However, this section has done nothing but cause confusion and I believe repealing it will clarify that all volunteers who meet the definition in AS 23.30 must be covered by workers' compensation.