

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8793 HOUSE STATE AFFAIRS

HB

372

Revision Date: _____ Dept. Affected: Revenue
 Title: Restaurant & Eating Place Liquor License BRU: Alcoholic Beverage Control Board
Hb 372 Component: ABC Board
 Sponsor: Rep. Rokeberg
 Requestor: House Labor Commerce Committee COMPONENT SERIAL NO. 100

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Douglas B. Griffin
 Division: Alcoholic Beverage Control Board
 Approved by Commissioner: _____
 Agency: Department of Revenue

Phone: 907-277-8638
 Date: 1/16/96
 Date: 1/19/01

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Cross references. — For legislative findings and purpose in connection with the 1995 enactment of subsection (g), see § 1, ch. 3, SLA 1995 in the Temporary and Special Acts.

Effect of amendments. — The first

1995 amendment, effective July 9, 1995, added subsection (g).

The second 1995 amendment, effective July 1, 1995, repealed subsection (c), relating to filing of a \$2,500 cash bond or surety bond with the application.

Sec. 04.11.100. Restaurant or eating place license. (a) A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises.

(b) A license may be issued under this section only if the board determines that the premises to be licensed are a bona fide restaurant or eating place.

(c) A license may be issued under this section only if the sale and service of food and alcoholic beverages and any other business conducted on the licensed premises of the restaurant or eating place is under the sole control of the licensee.

(d) The biennial fee for a restaurant or eating place license is \$600.

(e) A license may be renewed under this section only if the licensee provides evidence to the board's satisfaction that gross receipts from the sale of food upon the licensed premises constitute no less than 50 percent of the gross receipts of the licensed premises for each of the two preceding calendar years.

(f) Notwithstanding the provisions of (b) and (e) of this section, upon written application and approval of the local governing body, the board may issue or reissue a restaurant or eating place license and exempt the licensee from the requirements of (b) and (e) of this section. A licensee exempt as provided in this subsection shall provide food items for sale on the premises as shown on a menu approved by the board and available to patrons. The board may not

(1) issue or reissue a license as provided under this subsection if

(A) the issuance or reissuance would result in more than one exempt restaurant or eating place license for every 10 restaurant or eating place licenses allowed under the provisions of AS 04.11.400(a)(2) or (3);

(B) the premises would be located in a building having a public entrance within 200 feet of the boundary line of a school or a church building in which religious services are being regularly conducted; for purposes of this subparagraph, the 200-foot prohibition is measured from the outer boundary line of the school or the public entrance of the church building by the shortest pedestrian route to the nearest public entrance of the restaurant or eating place;

(2) reissue a restaurant or eating place license as exempt as provided under the provisions of this subsection if the license was issued under the provisions of AS 04.11.400(g); or

(3) transfer an exempt license issued under this subsection to another person. (§ 2 ch 131 SLA 1980; am § 4 ch 93 SLA 1985; am §§ 2, 3 ch 63 SLA 1993; am § 5 ch 101 SLA 1995)

**RESOLUTION
OF THE
SPENARD COMMUNITY COUNCIL
SCCR -95**

A RESOLUTION ESTABLISHING SUPPORT FOR REPEAL OF A PORTION OF HCS CSSB 87(JUD) RELATING TO ALCOHOLIC BEVERAGE CONTROL.

WHEREAS, the Anchorage Municipal Charter Article VIII grants unto a duly recognized Community Council the basic right of self-determination, and

WHEREAS, the Spenard Community Council being a duly organized community council under Section 2.40.010 of the Municipal Code, and

WHEREAS, the Spenard Community Council area has one hundred and seventeen liquor licences within it's boundaries, and

WHEREAS, Spenard has twenty seven percent of all Anchorage liquor licenses within it's boundaries, and

WHEREAS, Spenard has only six percent of the population of Anchorage within it's boundaries, and

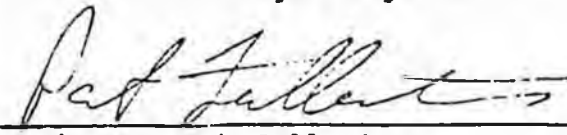
WHEREAS, the Spenard Community Council has experienced a long and ongoing negative effect from the ravages of alcohol, and

WHEREAS, because of our ongoing experiences with the alcohol industry, and

WHEREAS, alcohol influences eighty percent of all convicted criminals in the state of Alaska, and

WHEREAS, the availability of alcohol increases consumption, and

BE IT THEREFORE RESOLVED, that the Spenard Community Council requests and supports the repeal of that section of HCS CSSB 87(JUD) which allows ten percent of Restuarant or eating place licenses to be exempt from the fifty percent food provision of license requirements. We further ask that no exempt licenses approved subsequent to this act be given grandfather rights.



Chairman, Pat Fullerton

FEB 08 1996



*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*

*341 E. 56th, Suite 200 • Anchorage, Alaska 99518
(907) 563-8133 • Fax: (907) 563-8640
Toll Free in Alaska: (800) 478-2427*

February 2, 1996

Representative Norman Rokeberg
Alaska State Legislature
Juneau, Alaska

Dear Representative Rokeberg,

At the January 30, 1996 CHARR Board of Directors meeting, House Bill No. 372 which you have sponsored was discussed at great length. The Board has directed me to communicate our position to you. CHARR supported the adoption of Senate Bill 87 last year which was introduced to correct problems in existing ABC statutes. CHARR historically has opposed the concept of increasing the number of any type of retail beverage alcohol license available and we continue to oppose any expansion of this number. We support this intent of your legislation but we do feel that the title of House Bill No. 372 is unnecessarily broad.

We appreciate the opportunity to comment on the legislation and the consideration you have shown us.

Yours truly,

A handwritten signature in cursive script that reads "Carol Wilson".

Carol Wilson
Executive Director

BASIS 24 PAGES SELECTED Committee Minutes
have to hold the election to change or remove or adopt an option they want.

MR. SHARROCK said there are other technical amendments, a few of which are somewhat new, that the board also suggested or desired. Those are insignificant in his mind, except maybe one that they had asked to be included in this version of the bill, which is a provision to convert restaurant licenses in the community if that restaurant business person wants to have entertainment. It does not create a new class of license, it allows a person to convert a beer and wine or restaurant license into what he refers to as a semi-tavern license. The reason the bill chose not to create a new license by regulation is because if it did, then that many more licenses would be available under the population limitation provisions and the board did not want to do that at all. The board thought it would be easier to address it under one class of license already. You may recall the Girman case the board had a year or so ago, and this is the board's proposed solution to that kind of thing, to help people out that run into that problem, that run a different sort of business that is not a full-fledged restaurant.

*House
Judiciary
Committee
5/5/95*

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP EXIT MENU PRINT END FUD FIRST LAST QUIT
SMA 02 A01C117 MUM LPT1 A

BASIS 24 PAGES SELECTED Committee Minutes
Re said the sectional analysis addresses the different things the board felt was appropriate.

Number 600

REPRESENTATIVE FINKELSTEIN asked what the outcome was of the Girman case.

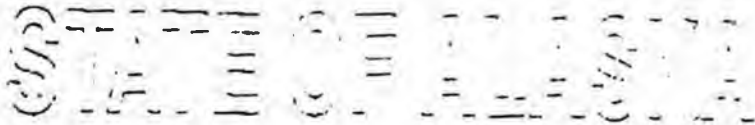
MR. SHARROCK answered that the proprietor submitted to the board what he believed was a sufficient menu for food to be served at the restaurant, which was somewhat expanded from what the board had looked at before, and the board accepted it.

REPRESENTATIVE FINKELSTEIN asked what the current composition of the board was.

MR. SHARROCK answered that, as required by law, there are two members from the industry.

Number 650

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP EXIT MENU PRINT END FUD FIRST LAST QUIT
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DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

TONY KNOWLES, GOVERNOR

530 W 7TH AVE.
ANCHORAGE, ALASKA 99501-6698

February 9, 1996

Representative Norman Rokeberg
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182
FAX: 907-465-2040

RE: HB 372 - Liquor licenses issued to a restaurant or eating place

Dear Representative Rokeberg:

This letter is drafted in response to our telephone conversation on February 8, 1996. We discussed HB 372, a bill you have introduced to repeal AS 04.11.100(f). This provision, passed last year as part of SB 87, allows a restaurant or eating place licensee (commonly referred to as a beer and wine license) to become "exempt" from some requirements normally placed on a bona fide restaurant.

An exempt licensee would need to provide food items, but would not need to necessarily meet the requirement of AS 04.11.100(e) that 50 percent of gross receipts of a licensed premises come from the sale of food. Under the "exempt" status the establishment could also be exempt from the constraint of 15 AAC 104.305 that live entertainment be provided only from 6 p.m. to 9 p.m.

Based on my research of the history of SB 87, the "exempt" provision was a compromise designed to address a request from some restaurant owners that wished to provide entertainment later into the evening and entertainment purveyors who wanted the ability to serve beer and wine. There was discussion of creating a new type of license or additional licenses like those allowed for the promotion of tourism (AS 04.11.400(d)) or public convenience (AS 04.11.400(g)). However, this alternative would have created additional licenses in a market that is already saturated based on population quotas contained in the statute.

The "exempt" approach to restaurant and eating place licenses was decided to best meet the expressed need because it would:

- 1) not create additional licenses, but merely allow existing licensees within the population quota to expand entertainment offerings;
- 2) require approval of the local governing body to exempt the licensee;
- 3) limit the number of exempt licensees to 10% of the restaurant or eating place licenses (the calculation based on general population limitations of one restaurant license for each 1,500 population or fraction of the adjusted population would be as follows for the Municipality of Anchorage: $229,775 \text{ divided by } 1,500 = 154 \times 10\% = 15$; Based on the same formula the City of Fairbanks: 2 exempt licenses and the City and Borough of Juneau: 2 exempt license;
- 4) require the sale of food items as shown on a menu approved by the ABC Board;
- 5) prohibit issuance of an eating place exemption to establishments licensed under public convenience provisions (AS 04.11.400(g)) and (15 AAC 104.335); and
- 6) prohibit transfer of an exempt license to another person.

These controls are important and valuable. However, it is clear, as noted in the testimony before the Senate Finance Committee last year (see enclosed minutes), the intent and result of the exempt provision is to allow the application of a beer and wine license beyond a setting where dining is the preeminent activity. This allows for a limited number of beer and wine licensees to operate, at times, as a tavern or, to use the words of Mr. Sharrock in explaining Section 4 of SB 87 to the Senate Finance Committee, a "semi-tavern."

To date, the ABC Board has approved "exempt" status for Legal Pizza and Railway Brewing Company in Anchorage and the ABC Board will consider the request from Chandalar Inn in the Matanuska-Susitna Borough at its board meeting of February 14 to 16. China Express, Ichiban Japanese Restaurant, Sushi Gardens, and Fiori D'Italia of Anchorage are in the process of requesting exempt designations and will be considered at a subsequent ABC Board meeting.

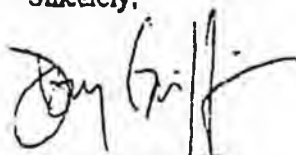
SB 87 contained a number of provisions important to the hospitality industry. The ABC Board and its staff acted to assist the Legislature and the industry in drafting legislation that would strike the proper balance between adequately regulating the alcoholic beverage trade and allowing freedom for entrepreneurs to meet public demand for expanded entertainment and recreation options.

Let me express the considered and informed consent demonstrated by the Nineteenth Legislature during its first session last year and Governor Knowles' general agreement with SB 87 when he signed it into law as Chapter 3, SLA 1995. The ABC Board is proceeding in implementing the provisions of this new law. I and the Board stand ready to work with you on HB 372 or any other legislation you wish to offer to find the proper balance in regulation of the alcoholic beverage industry for the welfare of all Alaskans.

The ABC board will be in Juneau February 15 and 16 and will be available to discuss your bill further. The Board meetings will be held at the Juneau Assembly Chambers and the board is staying at the Westmark the evening of February 15, 1996.

Feel free to contact me further regarding HB 372 or any other matter related to alcoholic beverage regulations.

Sincerely,



Douglas B. Griffin
Director

Enclosures: Senate Finance Committee Minutes

cc: ABC Board Members
Bob Bartholomew, Legislative Liaison



Anchorage, Alaska
Subsidiary of Hectoliters, Inc.

1964 Lous...o Drive • Anchorage, Alaska 99517 • Telephone 907-243-7778 • Fax 907-243-7778

February 24, 1996

Representative Norm Rokeberg
Alaska State Legislature

RE : House Bill No. 372 (Repeal of AS 04.11.100(f))

Dear Representative Rokeberg,

I would like to voice my objection to House Bill No. 372 which is being introduced by Rep. Bettye Davis and yourself.

This bill as written would effect our business in a very negative way. We have made business decisions, leased property from the State of Alaska, purchased equipment and designed our establishment with this license in mind. We currently hold one of the licenses you are advocating to have repealed.

We have been working with the Alaska Railroad in their effort to develop the Ship Creek drainage into less of an industrial area and more into upscale business oriented area. We are not an establishment that is either a nuance or eyesore to the community.

The repeal of our licence would effect us financially in excess of \$800,000 based upon our current investment. If this were a renewable natural resource issue such as commercial fishing or timber, where the revocation of the licence would result in the potential of a resource continuing or increasing, then I may be persuaded. But to repeal a licence that, has been approved by the State of Alaska Alcohol, Beverage and Control Board, the local Community Council, the Municipality of Anchorage twice (police dept. included) and has been the focus of four separate public forums along with being not transferable to another site, is not defensible.

If the legislature wishes to repeal a licensing law, while grandfathering in the businesses that have licences, while I don't agree, at least that would follow a more common practice on licenses.

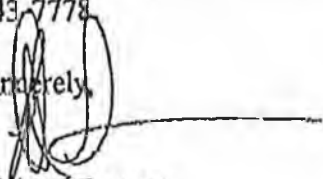
I would very much appreciate a copy of the Bill No. 372's summary papers so I could better understand your position and the precedent for repealing licences on

approved operations with no community documented problems. In addition, I want to know when this bill will be presented to the committee, whether you or the committee intend to attach this bill to other legislation or the bill will be part of group of bills to be voted upon as a group

Please respond by contacting me at (907) 243-7775 or fax a response to (907)

243-7778

Sincerely,



Richard Sassara

cc: Rep. Bettye Davis
Rep Cynthia Toohey
Rep. Con Bundy
Committee on State Affairs Members
Committee on Labor and Commerce Members



Anchorage, Alaska
Subsidiary of Hectoliters, Inc.

1994 Loussau Drive • Anchorage, Alaska 99517 • Telephone 907-243-7778 • Fax 907-243-7778

March 8, 1996

Representative Norman Rokeburg
State Capital
Juneau, Alaska 99801-1182

RE : Bill #372

Dear Rep. Rokeburg:

Thank you very much for responding to my letter of February 24, 1996 regarding my concern on HB #372. There are a couple items of interest I would like to bring to your attention that you may not be familiar with in regards to the Exempt Restaurant Licence.

You indicate that the passage of this bill (repeal of our licence) would require us to serve food. On the contrary, if you read the statute, an Exempt Restaurant Licence requires you to have a full menu like any restaurant. The menu itself, requires review and approval by the Alcohol, Beverage and Control Board (ABC). This bill does not establish another "bar"/"tavern", but allows a true full service restaurant to have entertainment past 9:00pm. It should also be noted the entertainment style and type are reviewed by the ABC Board as well.

In addition, you stated that the Anchorage Municipal Assembly and the Spenard Community Council support HB #372. I find this interesting due to the fact that my licence and two others that I am familiar with were unanimously approved by the Municipal Assembly during four separate public hearings. I can not speak for the Spenard Community Council but the Downtown Community Council has gone on record supporting my licence and others. I made a public presentation to that body, which is a requirement of the Municipal Assembly and the ABC Board. My point being, if the local government and public oppose this licence, why did the Government entities approve unanimously and they be no public opposition. As the statute reads, this licence requires approval not just a non-objection like every other type of liquor licence. This licence gets more scrutiny then even a full Liquor Dispensary Licence.

To clear up a misconception, please also be aware that this licence does not generate additional licences. These licences are re-issuing of restaurant licences and they do not exceed the number allowed by population count.

I did not receive the sponsor statement and other materials indicated to be with your correspondence.

Thank you once again for your attention to my concerns on HB #372 and should you have any question please do not hesitate to contact me at (907) 243-7775.

Sincerely,



Richard K. Sassara

cc: House State Affairs Committee Members
House Judiciary Members
Representative Cynthia Toohey
Representative Con Bunde
Representative Betty Davis

HB

382

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

P.O. BOX 110806
JUNEAU, ALASKA 99811-0806
PHONE: (907) 465-2534
FAX: (907) 465-2974
TDD: (907) 465-5437

DATE: January 24, 1996

TO: Walt Wilcox, Aide
Representative Jeannette James

FROM: Catherine A. Reardon, Director *e CR*
Division of Occupational Licensing
Department of Commerce and
Economic Development

SUBJECT: Sunset Extension Bills

JAN 24 1996
Rep. Jeannette James

I spoke with Randy Welker, the Legislative Auditor, to clarify a few points in his January 17 memo and sunset audits. I hope this information assists your effort to incorporate all audit recommendations into the bills.

On page 1 of his memo, Mr. Welker recommends clarifying Alaska Statute (AS) 08.71.145 regarding licensure of opticians by credential. Mr. Welker explained to me that he suggests amending that statute to specifically mention all the requirements in Regulation 12 AAC 30.100. Page 8 of the optician audit discusses this suggested language.

On page 2 of his memo, Mr. Welker recommends amending AS 08.20.140 to codify the current practice of requiring all chiropractic applicants to take the state exam. Repeal of the AS 08.20.140 and AS 08.20.120(b) will achieve Mr. Welker's goal, because all applicants would then have to satisfy the requirements of AS 08.20.12(a).

On page 2 of his memo, Mr. Welker recommends that the Legislature amend the optician statute to clarify whether employees of optometrists who provide optician services must be licensed opticians. This is a subject of substantial controversy between optometrists and opticians. The Division of Occupational Licensing believes that the current law requires optometrists' employees to be licensed opticians; however, directly addressing the issue in statute would certainly resolve the ongoing dispute.

Finally, Mr. Welker's memo recommends amending the law to give the Division of Occupational Licensing authority to impose civil fines for unlicensed activity. Mr. Welker explained that he is recommending this authority be granted for all division licensing programs, not just the optician program. The creation of a new section in AS 08.01 modeled after AS 08.48.295 (architects, engineers and land surveyors) would achieve this goal. Licensing boards should impose the fines in programs which have boards. The division should impose fines in programs it directly administers.

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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

MEMORANDUM

TO: The Honorable Mark Hanley
The Honorable Richard Foster
Co-Chairs, House Finance Committee

FROM: Randy S. Welker *Randy*
Legislative Auditor

DATE: January 17, 1996

RE: Sunset Audits

The Legislative Budget and Audit Committee has released the enclosed sunset audit reports on the Board of Dispensing Opticians, the Board of Chiropractic Examiners, and the Board of Examiners in Optometry.

I would like to take this opportunity to provide the following comments on the legislation you have before your committee on each board.

Board of Dispensing Opticians (HB 382)

We have recommended that the termination date of the board be extended to June 30, 2000 as provided for in House Bill 382.

We are also recommending certain statutory changes regarding licensing by reciprocity and credentials. In Recommendation No. 1, we support the repeal of AS 08.71.150. This section is essentially irrelevant and serves to provide legal support for applicants who have been rejected and are predisposed to legally challenging the board's decision.

Also in Recommendation No. 1, we suggest that AS 08.71.145 should be clarified to provide that a person licensed in another state with requirements and standards essentially equivalent to those of Alaska shall be issued a license in Alaska without examination. Such language would reflect the current standard being utilized by the board and provide a stronger statutory basis for those standards.

Board of Chiropractic Examiners (HB 404)

Our audit conclusion recommended a four year extension of this board until the year 2000. This is one year sooner than the date contained in House Bill No. 404.

We are also recommending the legislature consider modifying AS 08.20.140. This statute provides a process by which applicants may be licensed as chiropractors without taking the state examination if they are licensed in another jurisdiction that has requirements equivalent to Alaska. The board has determined that no other jurisdiction has requirements essentially equivalent to those of Alaska. This has rendered the licensure by credentials statute meaningless.

Statutory amendment should codify current practice, thereby providing clear notice of the licensing requirements and standards.

Board of Examiners in Optometry (HB 405)

We are recommending that the board be extended to June 30, 2002. Additionally, we are recommending several changes to the optometry statutes.

First, we suggest the repeal of AS 08.72.150 which establishes an administrative deadline for submitting applications to the Division of Occupational Licensing. We believe this deadline should be set by the board and the division through regulation.

Next, we recommend the repeal of the license requirements relating to branch offices (AS 08.72.125). It appears that the conditions and concerns that originally gave rise to branch office licensing no longer exist.

We are also recommending the repeal of language relating to health and visual acuity requirements for licensure. AS 08.72.140 and AS 08.72.181 contain unreasonable and potentially discriminatory requirements.

Finally, we are recommending the Legislature clarify the statute that relates to the supervision and registration requirements of unlicensed individuals employed by opticians and optometrists.

We would respectfully request that the House Finance Committee consider amending the bills before you to address the issues summarized above regarding these specific boards.

Additionally, on a broader basis, we believe that the Division of Occupational Licensing would benefit from statutory authority to impose civil fines for unlicensed activity. This would apply to all professions under its jurisdiction. We provide a brief discussion of the

The Honorable Mark H. ...y
The Honorable Richard Foster
Co-Chairs, House Finance Committee

- 3 -

January 17, 1996

issue in Recommendation No. 2 of the audit on the Board of Dispensing Opticians. If an appropriate vehicle is available to accommodate this measure, we believe the division will improve in the efficiency and cost effectiveness of enforcement activities.

We are available to assist you in analyzing the boards currently under sunset review. Please feel free to contact me at any time.

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Mary Pagenkopf

*House State Affairs
1-16-96 8:00am
HB 382*

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Audit Report



DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BOARD OF DISPENSING OFFICERS

September 27, 1985



Audit Control Number

08-1435-00

Division of Legislative Affairs

P.O. Box 113300, Juneau, Alaska 99811-3300

CORRECTION

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Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BOARD OF DISPENSING OPTICIANS

September 29, 1995



Audit Control Number:

08-1435-96

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

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The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit help provide that information.

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Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

September 29, 1995

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF DISPENSING OPTICIANS

September 29, 1995

Audit Control Number
08-1435-96

This audit was conducted under the requirements of AS 44.66.050 and the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, under AS 08.03.010(c)(8), the Board of Dispensing Opticians is scheduled to terminate on June 30, 1996. The board would be allowed one year in which to conclude its affairs.

In our opinion, the Board of Dispensing Opticians should be reestablished. The regulation and licensing of qualified dispensing opticians is of benefit in protecting the public's health, safety, and welfare. We recommend that the legislature extend the Board of Dispensing Opticians until June 30, 2000.

The audit was conducted in accordance with generally accepted government auditing standards using criteria set out in AS 44.66.050(c). Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section on page one.

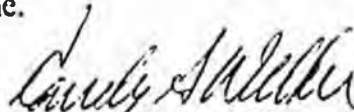

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Dispensing Opticians. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 44.66.010(11) states that the board will terminate on June 30, 1996, and will have one year from that date to conclude its affairs.

Objectives

Our specific audit objectives were:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the interest of the public. In assessing the operations and performance of the board, we utilized the criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board.

Scope and Methodology

The major areas of our review were licensing, examination, investigations, and board proceedings. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documentation of licensees.
3. Minutes of board meetings and division correspondence files.
4. Attorney general's opinions applicable to professional boards.

In addition we conducted interviews with Division of Occupational Licensing staff, and with selected licensed dispensing opticians, including the current chair of the board.

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ORGANIZATION AND FUNCTION

The Board of Dispensing Opticians was established under the provisions of Title 8, Chapter 71 of Alaska Statutes. The board consists of five members appointed by the governor and subject to legislative confirmation. Four members must be dispensing opticians and one a public member. Board members serve staggered terms of four years.

The board regulates the practice of opticianry. The board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations controlling the standards of professional opticianry practice.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when a person has violated dispensing opticians' statutes or regulations.

Board of Dispensing Opticians
(As of June 30, 1995)

Alicia Musser - Chairperson
Patricia Hedges-Gajdos
Cynde Oleck

note - two seats, including the public member seat are vacant

From a commercial perspective, the licensed dispensing optician is, compared to other professional groups, somewhat uniquely situated. The optician provides services that also can be provided by two other licensed professionals — optometrists and ophthalmologists (the latter being a licensed physician specializing in care of the eyes). State law specifies that the rights, privileges, and obligations of dispensing opticians are designed not to "*limit or restrict a licensed physician or optometrist from the practices enumerated*" in the dispensing optician statutes. Additionally, statute provides that "*each licensed physician and optometrist has all the rights and privileges which may accrue under [statute] to a dispensing optician licensed [under state law].*"

Opticians provide services to the public that also can be provided by individuals associated and supervised by optometrists and ophthalmologists. Some opticians work independently while others are employed by, or in some other way affiliated with, optometrists and ophthalmologists. As discussed further in this report, these unique commercial relationships and circumstances have contributed to allegations of widespread unlicensed activity along with confusion as to the extent that unlicensed individuals are required to be supervised by licensed professionals.

Division of Occupational Licensing

The Division of Occupational Licensing (OccLic), Department of Commerce and Economic Development provides administrative and investigative assistance to the Board of Dispensing Opticians. This assistance is funded by licensing and application fees as appropriated by the legislature. Administrative assistance includes budgetary services and functions such as: collection of fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings. On its own initiative, or in response to a complaint, OccLic may conduct an investigation if it appears a person has engaged in or is about to engage in a practice over which OccLic has authority. OccLic can issue an order that a person stop the practice, bring an action on Superior Court to enjoin the act, examine the books and records of an individual, and issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the Board of Dispensing Opticians should be reestablished. The regulation and licensing of qualified professionals is of benefit to the protection of the public's health, safety, and welfare. The board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified to practice. Also, assurance that those licensed act in a competent manner is provided by investigation of complaints and revocation or suspension of licenses when appropriate.

Although we determined the Board of Dispensing Opticians has demonstrated that it serves a public purpose, we do have concerns regarding certain aspects of its administrative operations. We discuss our concerns more extensively in both the Findings and Recommendations, and Analysis of Public Need sections of this report.

Alaska Statute 08.03.010(c)(11) requires that the Board of Dispensing Opticians be terminated on June 30, 1996. Under AS 08.03.020 the board has a one-year period to administratively conclude its affairs. We recommend that legislation extend the termination date for the board to June 30, 2000.

In making this recommendation we have departed from the trend began last year in our sunset review reports. In those reports we recommended longer extension periods for occupational licensing regulatory boards. This change reflected our view that the administration of most licensing boards was such that limited benefit would be provided by more frequent sunset reviews. We recommended, and the legislature adopted, ten year extensions for the various occupational licensing boards that were due to sunset on June 30, 1995.

In this instance, we recommend that the legislature return to a more limited, four year sunset review cycle. Our recommendation reflects concerns that we have regarding certain aspects of the board's performance. These concerns are discussed further in two sections of this report — Findings and Recommendations and Analysis of Public Need. As discussed in the Findings and Recommendation section, we suggest the legislature consider making certain changes to the statutes governing the Board of Dispensing Opticians. If the suggested changes are made, a review of operations conducted in preparation of a 2000 sunset date would provide an opportunity to assess the impact of any adopted statutory and administrative changes.

Essentially, in this instance we believe there is a prospective benefit to reevaluating the operations of the Board of Dispensing Opticians through the sunset review process. Accordingly, we recommend the legislature extend the board to 2000, consider the recommended statutory changes, and set in a motion a process by which the impact of these actions can be evaluated after three years of implementation.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should amend the statutes related to the licensing of opticians without examination.

Currently, under the statutes related to the Board of Dispensing Opticians, provision is made for individuals to be licensed without having to pass the State's practical examination. Provision is made through two different, although somewhat related, methods — reciprocity and credentials.

Reciprocity

Current statute permits an individual to be licensed as a dispensing optician if they have been practicing in another jurisdiction which has "*requirements for licensing and gives reciprocal rights equivalent*" to those of Alaska.¹ In practice, this provision has proven inapplicable, since Alaska has not entered into any reciprocal agreements with any other state. In the 1991 sunset report prepared by the Legislative Finance Division, it was recommended that this statute be repealed altogether since it was not effectively providing reciprocal licensure. During the audit period, the board issued no licenses through reciprocity.

Currently, the Department of Law (DOLaw) is analyzing this statute. DOLaw is informally advising that reciprocity may be allowed even in the absence of a formal agreement. As we understand it, the Department of Law points to the construction of the statute saying that reciprocal rights need only be equivalent and not necessarily memorialized in a formal agreement.

Credentials

Alaska law also permits an individual to be licensed without examination as an optician through a credentials process. State law (AS 08.71.145) provides that an individual with a valid license from another jurisdiction "*shall be issued a license without examination upon payment of fees and documentation that the board may require by regulation*" [emphasis added]. The board has issued several licenses over the past three years under this statutory provision.

¹The full statutory reference, at AS 08.71.150 states that

An applicant who has been licensed and has been practicing as a dispensing optician in a state, territory, district, or possession of the United States which has requirements for licensing and gives reciprocal rights equivalent to those of this state, and who otherwise meets the requirements of AS 08.71.110, shall be licensed by the board without examination.

AS 08.71.110, referenced in the statute, sets out the specific qualifications that an individual must have to apply for taking the optician licensing examination.

In its FY 93 Annual Report, the board endorsed the recommendation made in a prior sunset review that the reciprocity statute be repealed. The board also proposed the deletion of the credentials exception to licensure without an examination set out in AS 08.71.145.²

In our view, the legislature provided for licensure by reciprocity and credentials as a means to allow qualified individuals fair and reasonable access to the profession. Accordingly, we typically adopt a skeptical perspective of board actions and practices that serve to undermine statutory intent.

In this instance, however, we agree with the recommendation of the board and affirm the prior sunset review's recommendation regarding licensure by reciprocity. The current statute is essentially irrelevant and serves to primarily provide legal support for applicants who have been rejected and are predisposed to legally challenging the board's decision.

Although we believe the statutory provision for licensure by credential should be amended and clarified, we do not believe it should be repealed. The legislature made provision for licensure without examination to prevent the board from unduly restricting entry into the profession. Accordingly, a credential statute, clarifying the conditions for licensure without examination, better serves this legitimate public policy goal.

We recommend that the legislature set out in more specific statutory language the conditions for licensure without examination. As is done elsewhere in statute, we suggest a provision permitting licensing by credential in those instances where the applicant can provide satisfactory documentation that they are licensed in another jurisdiction where requirements and standards are essentially equivalent to those of Alaska. Such language would reflect the current standard being utilized by the board. Under regulation 12 AAC 30.100, applicants can be licensed without examination if they can demonstrate they have:

- a) passed an equivalent practical examination.
- b) passed the national examination (or an examination equivalent to the national examination),³ and,
- c) have received training equivalent to that of Alaska.

² The full statutory reference, at AS 08.71.145 states that

A person with a valid license as a dispensing optician from another state, territory, district or possession of the United States shall be issued a license without examination for those professional areas in which the person is licensed upon payment of any fee and documentation the board may require by regulation.

³The national examination is the National Opticianry Competency Examination and is administered by a private firm, Professional Testing Services.

According to the board's FY 93 Annual Report, only 14 of the 23 states that license opticians require that applicants successfully complete a practical examination. Under the equivalency requirement, applicants from these states would seem to be most likely, in the first instance, to qualify for licensure by credential. In the past, applicants licensed in Washington and Florida have been considered to meet Alaska's standards and accordingly, have been licensed by credential, without examination.

These circumstances indicate that such amending to the credential statute would not unduly jeopardize protection of the public. Likewise, clarification of the statute would serve to establish more clearly the intent of the legislature and better circumscribe the discretion of the board in providing for licensure without examination.

Recommendation No. 2

The legislature should consider adopting statutory changes to provide for more efficient and cost-effective control over unlicensed activity.

The investigative unit of the Division of Occupational Licensing is the agency primarily responsible for the enforcement of professional licensing laws. The unit utilizes legal processes set out in statute in carrying out its investigative and enforcement duties.

Unlicensed activity is a concern of the Board of Dispensing Opticians

As discussed in the Analysis of Public Need section, the incidence of what some eye care professionals view as unlicensed practice is of increasing concern. Opticians provide services to the public that also can be provided by individuals associated and supervised by optometrists and ophthalmologists. Some opticians work independently while others are employed by, or are in some other way affiliated with, optometrists and ophthalmologists. This unique commercial relationship has contributed to allegations of widespread unlicensed activity along with confusion as to the extent that unlicensed individuals are required to be supervised by licensed professionals.⁴

The Department of Law has advised the optometrists' licensing board that all individuals dispensing eyeglasses under its supervision should either be a licensed optician or a registered apprentice.⁵ Given the conclusions of this legal analysis, we received reports and complaints

⁴There are provisions in the statutes relating to both opticians and optometrists that acknowledge that services may be provided by non-licensed individuals under the supervision of the professional license holder. More specifically, optician statutes provide for what are termed registered apprentices and require applicants to serve an apprenticeship in order to sit for professional examination.

⁵In a July 1991 memorandum of advice from the Department of Law, the Division of Occupational Licensing was advised that individuals dispensing and fitting eyeglasses under the supervision of an optometrist still needed to be either a licensed optician or a registered apprentice. The attorney general has held this opinion even though statute specifies that the rights, privileges, and obligations granted to dispensing opticians are designed not to "limit or restrict a licensed physician or optometrist from the practices enumerated" in the dispensing optician statutes. Additionally, statute provides that "each licensed physician and optometrist has all the rights and privileges which may accrue under [statute] to a dispensing optician licensed [under state law]."

from dispensing opticians that there is extensive unlicensed activity. That is, numerous individuals are dispensing and fitting eyeglasses and contact lenses without a license — ostensibly under the supervision of licensed optometrists.⁶

Enforcement of unlicensed activity is low priority

In the context of risk to public health, unlicensed activity in the dispensing of eyeglasses poses a relatively minor threat. Although the threat of improperly fitted contact lenses is somewhat greater, the public health risk is still relatively small. Accordingly, local prosecuting attorneys assign the enforcement of optician licensing requirements a low priority. Likewise, given the many demands of various professions, the Division of Occupational Licensing's investigative unit is able to give limited attention to enforcement. However, the division may be able to more expediently shut down unlicensed practice through the use of civil penalties.

Under the current statute related to the licensing of architects, engineers, and land surveyors a civil penalty of up to a \$5,000 fine can be levied against an individual who engages in unregistered or unauthorized practice.⁷ In discussions with the Division of Occupational Licensing's investigative unit, this provision has proven to be an effective means to closing down unlicensed activity. Although it has not been invoked, it has been proven to be an effective deterrent and appears to encourage timely compliance with cease-and-desist notices.⁸ In our view, adopting legislation to give the unit this authority at its discretion would be a cost-effective way to address unlicensed activity in all professions in a comprehensive, efficient manner.

⁶As a result, the value and necessity of obtaining an optician license in order to work is lessened. Individuals can continue to work under the supervision of optometrist, without obtaining the necessary license. This decreases the number of license holders, which has the effect of increasing license fees, which in turn lessens the incentive of individuals to maintain their license in good standing. From a commercial standpoint, due to lack of enforcement of licensing requirements, the dispensing optician license in many circumstances is meaningless.

⁷AS 08.48 295 provides for the following

(a) In addition to any other provision of law, if a person practices or offers to practice architecture, engineering, or land surveying in the state without being registered or authorized to practice in accordance with the provisions of this chapter, the board may enter an order levying a civil penalty.

(b) A civil penalty levied under this section may not exceed \$5,000 for each offense. In levying a civil penalty, the board shall set the amount of the penalty imposed under this section after taking into account appropriate factors, including the seriousness of the violation, the economic benefit resulting from the violation, the history of violations, and other matters the board considers appropriate.

⁸A cease-and-desist order is often the first remedy sought by the investigation unit of the Division of Occupational Licensing. Essentially, such an order is a legal document that charges an individual with a certain violation of statute and requires them to stop the activity in question.

Accordingly, we suggest the legislature consider amending the central licensing statutes at AS 08.01.075(a)(8) to specify that civil fines may be imposed for violation of either general licensing statutes and regulations, in addition to violation of the statutes or regulations related to any given professional licensing board.

Recommendation No. 3

The board should improve the objectivity and consistency of the practical examination.

The board requires applicants for licensure to pass a national written examination and a practical examination to demonstrate sufficient ability to dispense optical products. The current practical examination is very subjective.

Five times in the past four years the scores given applicants for the practical examination have been challenged. In two of these instances, test scores were changed when re-graded, and in one of these cases the applicant went from a failing to a passing score.

The board acknowledges that the consistency and scoring procedures for the examination must be improved. The board has started work on developing an examination manual which should make the examination process more objective, more consistent, and less vulnerable to challenge. Unfortunately, the public board member, who was the most active individual in developing these changes, resigned in January 1995. It is our understanding that drafting of the manual has been set aside since that time.

We encourage the board to continue making the examination manual a priority, and recommend that the board assign the effort to a subcommittee of the board for further development.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of the board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

Although there has been some inconsistencies and defects in the administration of the State's practical examination, the board has served the public by examining and licensing qualified applicants. The board has also proposed changes to statutes and regulations in order to enhance the quality of opticianry care in Alaska.

The board has enforced the laws for ongoing license holders in a uniform and consistent manner. It has held regular meetings and examinations throughout the audit period in accordance with statutory requirements.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

Two board seats have been vacant since January of 1995. This causes a strain on the ability of others on the board to effectively fulfill the duties of the board. As of the date of this report, two seats remain unfilled — including the public member seat.

Due to budget constraints the board has been forced to cut back to one annual face-to-face meeting. While teleconference meetings have been held, most substantive administrative action and the state practical examination must be administered during the two-day annual face-to-face meeting. This has made it difficult for the board to complete all its tasks.

The nature of the opticianry industry also impedes the operation of the board. The industry is in a state of flux. Traditional optician shops are facing increased competition from chain store operations which often offer less expensive, allegedly lower quality eyeglasses. As discussed in Recommendation No. 2, these stores are often accused of using unlicensed, unsupervised employees. Investigation of unlicensed dispensing of eyeglasses is a low priority for the Division of Occupational Licensing's investigative unit due to the low level of health risk it represents to the public.

Consistent with statute, Occupational Licensing has increased the biannual licensing fees from \$230 to \$385.⁹ There has been a substantial decline in the number of licensed opticians during the most current license renewal period. Informed observers we spoke with have speculated that many license holders may have come to see that the license is not worth it in view of the increase in fees. As discussed in the Organization and Function section, the structure of the vision care profession is such that an individual does not necessarily have to be licensed as an optician to legally dispense optical products.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board has recommended the repeal of AS 08.71.150, which provides for licensure by reciprocity. This was also recommended in the 1984 and 1991 sunset reports. It has been the board's contention that the statute was unnecessary since no other state offered reciprocity to Alaskan license holders. Licensure without examination can be achieved through what is termed licensure by credential. For further discussion of the issues involved in licensure by reciprocity and credentials, see Recommendation No. 1. As reflected by our analysis presented in that recommendation, we do not necessarily agree with all aspects of the board's position — however, we do feel this issue should be clarified in statute.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effective of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it provides.

All but one meeting was advertised in three Alaskan newspapers, with adequate notice for interested individuals to attend or to make written comment. One meeting was not advertised in the Juneau or Fairbanks papers. Two meetings, including this one were rescheduled. Therefore, cancellation notices were required to be published.

At each meeting, the public was encouraged to submit either oral or written testimony before the board.

⁹AS 08.01.065(c) requires that the Department of Commerce and Economic Development establish licensing fees so

... the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. . . . "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus

(1) all expenses of the board that regulates the occupation if the board regulates one occupation; . . .

In order to comply with the requirements of the statute, the Division of Occupational Licensing raised the license fees for Dispensing Opticians more than two-thirds from \$230 to \$385 for the 1995 renewal.

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Public notices of proposed regulations are published in major newspapers. As noted above, meetings were adequately advertised, and time was set aside for public testimony.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or to the Ombudsman have been processed or resolved.

Overall, the investigation of complaints against licensees received by the Division of Occupational Licensing is effective. While timeliness is an issue, given the circumstances surrounding the cases that have remained open for an extended period, progress is reasonable. Complaints are prioritized appropriately and handled accordingly.

The licensing board appears willing to take effective licensing enforcement action, and to operate in a fair and objective manner. In only one instance was a case heard by a hearing officer. In that case, the hearing officer's proposed decision was upheld. While the board's willingness to enforce licensure laws is not in question, the efficiency with which it acts is in doubt. In two cases, licenses to dispense contact lenses were erroneously issued by the board. One applicant voluntarily returned the license, but another is resisting the rescission.

It is noteworthy that of the fourteen investigative cases opened from FY 92 through FY 95, only four involved allegations of misconduct by a licensed optician. Three of those four cases were closed with findings of no violation, or compliance. One case is still opened. More than 70% of investigative cases involved licensing application problems, unlicensed practice, or challenges to licensing examination scores. The remaining investigations involved applicant's complaints regarding examinations, allegedly unlicensed practice, and concerns involving applicant information.

The two complaints reported to the ombudsman were of a limited scope. The first involved an allegedly improper prescription and the refusal of the optician to correct the error. The ombudsman's investigator directed the complainant to file a formal complaint with the board.

The second complaint dealt with the refusal of the Division of Occupational Licensing to allow an applicant to sit for the examination because the application was received after the deadline. The ombudsman found that the deadline was set by statute and was due to national examination standards. However, the complainant was advised to appeal to the Board of Dispensing Opticians. Neither of these complaints is cause for concern as to the efficiency with which the board fulfills its mission.

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

Applicants to the board of dispensing opticians are licensed according to statute. Of the ten licenses tested, two minor errors were detected. Additionally, as discussed above, it was brought to our attention that two licenses for the dispensing of contact lenses were issued in error.

The written examination process adequately and fairly tests an applicants' basic knowledge. However, the state practical examination is highly subjective and subject to challenge. This raises concerns regarding the efficiency with which the board presents qualified applicants to serve the public. See Recommendation No. 3 for further discussion.

Fewer than half the states nationwide regulate opticians. Of the 23 states that do, only 14 require any type of practical examination. There is little if any apparent standardization among the practical tests given in different states. Given these facts, it also appears that Alaska is one of the most difficult states in the nation in which to obtain a license. This may be cause for concern about barriers to entry into the opticianry market. For further discussion, see Recommendation No. 1.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

No complaints regarding the Division of Occupational Licensing were received by the ombudsman. We did not find any evidence that the board was not complying with state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

The board needs to meet more than once a year to be effective. At the present, the board has one two-day meeting annually. One day is needed to conduct the state practical examination. Not enough time is left to administer other board business effectively.

Vacant board seats must be filled in a more timely manner to ensure that the board functions properly. Currently, two seats have been vacant for more than six months. This leaves only three members to fulfill all board obligations. Low examiner/examinee ratios have been cited as one cause for problems with the state practical examination. A complete board, coupled with an additional meeting/examination would alleviate this problem.

The state practical examination must be more standardized. Lack of standardization has led to inconsistency in examination scoring. This is partially due to the low examiner/examinee ratios and partially due to the hurried manner in which board members are forced to grade examinations. The board had begun work on a testing manual, but the member most involved in the drafting of the manual resigned and the project has fallen by the wayside. More standardization is essential to reduce the number of challenges currently received to test scores and to better allow the board and occupational licensing to defend the scores that are given. See Recommendation No. 3 of the Findings and Recommendations section of this report.

Statutory changes are necessary to allow better enforcement against unlicensed activities. Unlicensed practice is common in the opticianry industry. Due to the nature of the service, and the demands on occupational licensing's investigators, prosecution of such matters is a low priority. Unlicensed practice is a class B misdemeanor in Alaska. Therefore, the penalty for unlicensed practice, as well as the risk of prosecution is low. Increasing the penalty for such practice would help deter. For further discussion see Recommendation No. 2.

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DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

P.O. BOX 110806
JUNEAU, ALASKA 99811-0806
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November 30, 1995

Mr. Randy S. Welker
Legislative Auditor
Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811

RECEIVED
DEC 08 1995

LEGISLATIVE AUDIT

Dear Mr. Welker:

Reference the Board of Dispensing Opticians Preliminary Audit Report. Thank you for this opportunity to comment.

Recommendation No. 1:

The Legislature should amend the statutes related to the licensing of opticians without examination.

We concur that license by credentials (AS 08.71.145) and license by reciprocity (AS 08.71.150) provisions should be repealed or clarified by the Legislature. These provisions have caused much concern over the past year, and the board has been involved in litigation as a result of the confusion. Regulations which were enacted several years ago relating to license by credentials have now been determined by the Attorney General's office to be beyond the scope of statutory authority.

As noted in your report, less than half the states regulate opticians. Some of the states that do have a licensing scheme in place may not require training prior to examination. Some require only a written exam and no practical examination, and still others may require training only. Under the current interpretation of license by credential and reciprocity provisions, a process is now in place whereby Alaska residents have a much harder time qualifying for a license (i.e., Alaska residents are required to complete an apprenticeship as well as national written and state practical examinations prior to licensure). Placing a higher burden of proving competency on Alaska applicants while simply accepting another jurisdiction's determination of competency without regard for the licensing requirements of that jurisdiction does not appear to be in the best interest of the public. If an Alaska applicant fails the Alaska exam, or for whatever reason does not qualify for a license under other provisions of AS 08.71, they could simply apply and receive a license in a jurisdiction where the requirements are less stringent and then apply for Alaska license under AS 08.71.145 or 150. Providing this type of loophole in our licensing scheme is not in the best interest of the public being served or in providing for equal treatment of Alaska optician applicants.

Recommendation No. 2:

The Legislature should consider adopting statutory changes to provide for more efficient and cost-effective control over unlicensed activity.

We concur with your analysis and have attempted to correct this concern by proposing statutory revisions during past legislative sessions.

In our opinion, unlicensed activity will continue to rise unless legislative action is taken regarding unlicensed activity penalty provisions. Licensees share in the cost of administering and enforcing the licensing program. As fewer individuals comply with the licensing requirements, there are fewer practitioners to which the enforcement costs are spread. The license fees will continue to increase potentially leading even more individuals to fail to renew their license. There is no particular incentive to comply with the licensing requirements when coworkers and competing businesses are not being forced to cease business or comply with licensure. Lack of ability to fine individuals for unlicensed activity only aggravates the casualness some industry's practitioners may have regarding licensure.

Recommendation No. 3:

The board should improve the objectivity and consistency of the practical examination.

We concur with this recommendation. As noted, the board also shares concerns with the examination process and with the limited opportunity available during meetings; they are attempting to resolve areas of concern.

Analysis of Public Need:

We concur with your comments under the analysis of public need. One comment which should be discussed, however, is related to the board's need to meet more frequently to conduct business (currently the board meets only once a year for one day). The costs of administering the program, including travel and per diem costs for the board, are borne by the licensees. We continue to have an increase in license fees since there is a decline in practitioners who are complying with licensure. Although the board can easily justify additional board meeting time, they are at that same time attempting to operate in a cost-efficient manner and keep travel and per diem costs at a minimum. Teleconference meetings have been held in the past, however, it can be difficult to accomplish complex tasks such as rewrite of examinations via teleconference. We will continue to explore cost-effective avenues for the board to accomplish the mandates of its position.

Sincerely,


William Hensley
Commissioner

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110195a

cc: Catherine Reardon, Director
Division of Occupational Licensing, DCED
bcc: Barbara Gabier, Program Coordinator

FISCAL NOTE

No. 1
 Bill Version: HB 382
 (H) Publish Date: 1/16/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act extending the termination date of the BRU: Occupational Licensing
 Board of Dispensing Opticians: _____ Component: Operations
 Sponsor: Representative James
 Requestor: Reoresentative James COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	7.3	7.3	7.3	7.3	7.3	7.3
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL	1.4	1.4	1.4	1.4	1.4	1.4
SUPPLIES	0.1	0.1	0.1	0.1	0.1	0.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.8	9.8	9.8	9.8	9.8	9.8
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	48.9	5.3	48.9	5.3	48.9	5.3

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	9.8	9.8	9.8	9.8	9.8	9.8
TOTAL	9.8	9.8	9.8	9.8	9.8	9.8

Estimate of any current year (FY 96) cost: \$ 14.4

POSITIONS

FULL-TIME	
PART-TIME	
TEMPORARY	

ANALYSIS: (Attach a separate page if necessary)
 HB 382 extends the Board of Dispensing Opticians to June 30, 2000. The costs identified above are included in the FY 97 operating budget and therefore, new funds are not required. Costs shown represent only Direct expenses of the board based on FY 95 activity. Administrative Indirect expenses are also assessed annually per capita by the number of current licensees. FY 95 program costs (direct and administrative indirect) totalled \$14.4. Fees were adjusted in May 1995 to cover full costs of the program over a two-year period and will be reviewed again prior to the next renewal.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 10, 1996
 Approved by Commissioner: William L. Hensley Date: 1-11-96
 Agency: Commerce and Economic Development

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COMMITTEE COPY

(7)
Date Referred to Committee: January 8, 1996

HOUSE COMMITTEE REPORT

FURTHER REFERRALS:

1/16/96
Rules
Ref to
FIN
1/17/96

Date of Committee Action: 1-13-96

The STATE AFFAIRS Committee considered:

HB 382

HOUSE BILL NO. 382

EXTEND BOARD OF DISPENSING OPTICIANS

"An Act extending the termination date of the Board of Dispensing Opticians; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) C F D fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Jeanette James</i>	James	✓			
<i>Brian D. Porter</i>	Porter			✓	
<i>Jack Green</i>	Green			✓	
<i>Chad Robinson</i>	Robinson	✓			
<i>Scott Ogden</i>	Ogden	✓			
		(3)		(3)	

CHAIR'S SIGNATURE *Jeanette James*
James

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-9006



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives
House District 34

SPONSOR STATEMENT

January 15, 1996

HB 382 Extend Board of Dispensing Opticians-James
Extends Board for 4years

HB 404 Extend Board of Chiropractic examiners-L&C
Extends Board for 5 years

HB 405 Extend Board of Optometrists-L&C
Extends Board for 5 years

The boards are responsible for overseeing the licensing of the Doctors covered by the appropriate board. The board must be extended if the doctors are to be licensed.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 382

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act extending the termination date of the BRU: Occupational Licensing
Board of Dispensing Opticians;.... Component: Operations
 Sponsor: Representative James
 Requestor: Representative James COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	7.3	7.3	7.3	7.3	7.3	7.3
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL	1.4	1.4	1.4	1.4	1.4	1.4
SUPPLIES	0.1	0.1	0.1	0.1	0.1	0.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.8	9.8	9.8	9.8	9.8	9.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	48.9	5.3	48.9	5.3	48.9	5.3
--------------------	------	-----	------	-----	------	-----

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
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FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
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Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 10, 1996
 Approved by Commissioner: William L. Hensley Date: 1-11-96
 Agency: Commerce and Economic Development

Post-It [®] brand fax transmittal memo 7671		# of pages	1
To: <i>REP JAMES</i>	From: <i>FRAN</i>		
Co: <i>HSTA</i>	Co: <i>Time LIO</i>		
Dept:	Phone # <i>452-4448</i>		
Fax #:	Fax #:		

As a member of the Opticians Association of Alaska, I would like to ask you to consider the importance of the continuance of our State Board of Dispensing Opticians. We as professional dispensing opticians play a significant role in the health and safety of consumers who require prescription eyewear or contact lenses. It is in the public's best interest to have qualified licensed professionals design, fit and deliver prescription eyewear. . Pilots, bus drivers, truck drivers and other occupations that require well fitted and flawless eyewear are some examples of consumers that need obvious critical visual acuity.

We are the professional people who fit, fabricate and ultimately dispense one of the most important products consumers require: good vision. We believe these important health care needs can best be met through the preservation of required continuing education and licensed dispensing opticians in Alaska. Thank you for the opportunity to speak on this bill.

HB382 01/15/96 7:25:35 PM

Jean Madden
 PO 84356
 Fairbanks, AK
 99708
 (907) 474-3435

Written testimony for HB 382 teleconference 1/16/96 @ 8:00 am

01/16/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:09:27

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:60125 SCHEDULED FOR:01/16/96 08:00 TO 10:00

FOR:ANC

PUBLIC HEARING

HOUSE STATE AFFAIRS

LOCATION: ANCHORAGE

HB 382

LARRY

HARPER

TESTIFY

ERIC

HB

384

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2133

Dear Pioneers' Home Residents and Pioneers' Home Friends,

For over 82 years, the Pioneers' Homes have served senior Alaskans. Beginning in 1913, in an abandoned U.S. Marine barracks in Sitka, the first territorial legislature housed and cared for elderly prospectors, miners, fishermen, and other Alaskan men in need of housing and care.

Today there are six Pioneers' Homes across the state caring for 600 elderly Alaskans. The average age of these residents is 85. The most common disability shared by residents is Alzheimer's Disease and Related Disabilities (ADRD).

In order to meet the ADRD needs of the residents, the Pioneers' Homes have focused on specialized ADRD treatment. At the same time the Homes continue to provide programs and treatments for those residents who have needs unrelated to ADRD.

During the long history of the Pioneers' Homes, the services have changed to meet the needs of the residents. Also, during this history, the Homes have been financed by a changing mix of territorial/state subsidy and resident fees.

The earliest resident fee of one dollar per day began in 1916. The first monthly rates began in 1954. Since monthly rates began, 45 years ago, monthly rates have been raised seven times.

Today, residents as a group pay about 17% of the total operating costs of the Homes; the state provides 83% of total operating costs. Capital funds for the construction of the Homes and for continued building maintenance has been provided exclusively by state funds. Many Alaskans feel that this state subsidy for both the operating and capital budgets of the Homes cannot be continued.

During the 1995 legislative session, HB 246: Privatizing Alaska Pioneers' Homes, was introduced. The immediate consequence of private sector ownership would be new rates equal to the full cost of care. As you know, Governor Knowles opposes HB 246.

September 11, 1995

2

The state has been unable to provide funding for all of the identified needs of the Pioneers' Homes during the past few budget years. Smaller operating budgets have caused staff layoff, and inadequate capital budgets have resulted in the deterioration of the six Pioneers' Homes' buildings.

Due to decreasing state revenues and the mandate requiring balanced state budgets, inadequate operating and capital budgets for the Homes can be anticipated in future years.

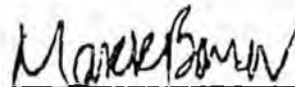
Without adequate funding, the Homes will not continue to provide present programs and treatment services.

We must decide whether the Pioneers' Homes will continue to exist by deciding how the Pioneers' Homes will be financed.

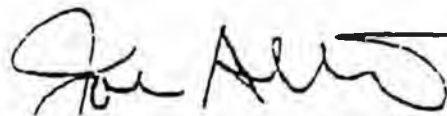
Resident rates have been increased by about 10% per year in 1993, 1994, and 1995. After these increases, the residents' contribution to Pioneers' Homes' operating budget is about 17%. Private sector assisted living and nursing facilities are expensive and usually charge residents 100% of operating and capital costs.

Together we must create a plan which will finance the operations of the Pioneers' Homes. We ask you to join in this planning process by providing your ideas, as individuals or as groups. The continuation of the Pioneers' Homes depends on each of us, our ideas, and our full support.

Sincerely,



Mark Boyer
Commissioner



Amos (Joe) Alter, Chair
Pioneers' Homes Advisory Board

cc: Pioneers' Home Advisory Board Members

PIONEERS' HOME ADVISORY BOARD

Amos "Joe" Alier, Chair

P.O. Box 110211
Juneau, AK 99811-0211



October 9, 1995

The Honorable Tony Knowles
Governor, State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Knowles:

Your Pioneers' Homes Advisory Board has completed the 1995 annual visit to each of the six homes in the State system. We have listened to comments from home residents, family members, the public, legislators, and operational staff. This letter summarizes comments and discussions resulting from the visits and includes those recommendations considered a matter of state policy. More detailed comment and recommendations are included in the enclosed copies of our letters to Commissioner of Administration, Mark Boyer, and Division of Senior Services administrators.

We compliment you and your staff on the outstanding accomplishments we found. Resident need is being matched with the level of care required to meet that need. Alaska Pioneers' Homes are on the forefront of long term care for the elderly. Our state homes are a model for the nation. Individual physical, mental and social needs are given priority in the system as well as economic needs. This has been accomplished even with budget reductions each of the past several years, little or no money for long neglected maintenance of the facilities, and significant reductions in staff levels. The 600 bed Pioneers' Homes system, approximately half of the long term care beds in the state, is the only Alaskan alternative for families who must deal with family members with Alzheimer's or related dementia. We found great appreciation expressed by residents and family members for the vital service the homes provide.

Alaska is at a crossroads in determining the future of long term care for the elderly, particularly those persons suffering from Alzheimer's and related dementia. This is not a problem of just persons in Pioneers' Homes, just the elderly, just the poor, or the rich. It is now or potentially a problem of every Alaskan regardless of age or station. The root of the problem and the object of public policy development is who pays for long term care. Long term and short term action must be taken as we Alaskans seek to close the budget gap and at the same time act as responsible, caring citizens. Public policy should recognize both the pluses and minuses individually and for the state as a whole in determining the future of Pioneers' Homes. Jobs, economy, social structure, family values, fiscal impact, as well as long term health care, are all affected by our decisions.

Following are our conclusions and recommendations:

1. The current level of quality care cannot be sustained with further reductions in personnel and budget. The greatest operational cost for the system is personal services.

Robert Gore, Vice Chair
Donald M. Hoover, Member
Dan Pistorasi, Member

Vallie Byrdson, Member
Robert Kallenberg, Member

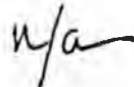
John Dapevich, Member
Estella Odeather, Member

Due to neglected maintenance budgets many health and safety items need immediate attention to protect the state against potential liability claims. The highest priority needs should be addressed as soon as possible and supplemental funding should be provided.

2. Alternatives should be found for recovering the full cost of care. Studies should be initiated as soon as possible to identify specifics of potential trust fund, insurance or other mechanisms for defining the risk pool characteristics, premiums needed, benefits, potential fund sources, and projected relationships of such proposals to long term care provided in the private sector. Threats of Medicare and Medicaid funding reductions, the latter being the principal source of revenue for long term care in the private sector, could place additional stress upon the currently overloaded Pioneers' Homes.
3. Potential funding proposals received during hearings in the several homes included (a) require all residents to pay full cost of care with the understanding no person would be discharged from a home for inability to bear such costs; (b) make a legislative appropriation from the Permanent Fund Reserve Account sufficient to establish an actuarially sound payment system and sustain such system through co-payments by the state and residents, state appropriations to be made annually from the Permanent Fund Reserve Account; (c) discontinue admission to a Pioneer Home in simple residential status and fund the program from Mental Health Fund sources.
4. We recommend full cost of care be recovered by the year 2003. While alternatives for long term care financing are being defined more clearly, we recommend current rates be increased annually for each level of care by an amount equal to the difference between the present rates and the estimated full cost of care divided by the number of years remaining until 2003. In no event should any individual either be denied entry to or discharged from a Pioneers' Home due to inability to pay. Increased funds generated through rate increases should be retained by the Pioneers' Homes.
5. Additional positions should be established to provide the assisted living services which would be necessary if all currently unoccupied residential beds were filled.

We thank you for your deep commitment to the Pioneers' Homes and for the privilege of advising you on the conditions surrounding the System. Members of the Board will be available and would like to personally meet with you to discuss the above recommendations further.

Sincerely yours,



Amos J. "Joe" Alter, Chair
Pioneers' Homes Advisory Board

Enclosures: Letters to Commission Boyer,
Director, Division of Senior Services, Sipc,
Deputy Director, Kohn

A M E N D M E N T

AMENDMENT TO HB 384

BY REPRESENTATIVE ROKEBERG

1 Page 1, line 12, after "the";

2 Delete "income"

3 Insert "payment"

4 Page 1, line 12 after "department";

5 Delete "payment of"

(d) [Repealed, § 28 ch 90 SLA 1991.] (§ 51-2-13 ACLA 1949; am § 1 ch 158 SLA 1955; am § 1 ch 118 SLA 1957; am § 1 ch 89 SLA 1961; am § 1 ch 63 SLA 1965; am E.O. No. 30 (1968); am §§ 1, 2 ch 7 SLA 1971; am § 3 ch 11 SLA 1979; am §§ 1, 2 ch 155 SLA 1984; am § 2 ch 35 SLA 1990; am § 28 ch 90 SLA 1991)

Revisor's notes. — Formerly AS 47.25.020. Renumbered in 1990. amendment, effective July 3, 1991, repealed subsection (d).

Effect of amendments. — The 1991

Sec. 47.55.030. Admission on payment. (a) A person eligible for admission under AS 47.55.020 may on application be admitted to the home upon the person's agreement to pay to the state each month an amount the Department of Administration considers sufficient to compensate the state for the cost of care and support of the person at the home. When this agreement is entered into the Department of Administration may require security for the payments.

(b) The Department of Administration shall adopt regulations establishing a monthly rate for the compensation a resident is to be charged under (a) of this section. The rate charged need not fully compensate the state for the cost of care and support. The commissioner of administration shall review the rate each year.

(c) The Department of Administration shall provide to all residents of the Pioneers' Home written notice of any proposed change in the rate charged for care and support of persons at the home. Notice under this section shall be given not less than 60 days before a change is adopted. The notice must include the time, date, and place of a hearing to be held by the Department of Administration under (d) of this section. The department may not change the rate charged more than once in a fiscal year.

(d) Not less than 30 days before a proposed rate change is adopted, the Department of Administration shall conduct a hearing at which interested persons shall be given the opportunity to submit written or oral testimony, statements, arguments or contentions relating to the proposed rate change. The department shall consider all relevant matter presented to it before adopting a rate change.

(e) [Repealed, § 28 ch 90 SLA 1991.] (§ 51-2-14 ACLA 1949; am § 2 ch 89 SLA 1961; am E.O. No. 30 (1968); am § 3 ch 155 SLA 1984; am § 94 ch 138 SLA 1986; am § 3 ch 35 SLA 1990; am § 28 ch 90 SLA 1991)

Revisor's notes. — Formerly AS 47.25.030. Renumbered in 1990. amendment, effective July 3, 1991, repealed subsection (e).

Effect of amendments. — The 1991

THE RESIDENT COUNCIL
SITKA PIONEERS' HOME

120 Katlian
Sitka, AK 99835
747-6398

JAN 6 1981

Representative Norman Rokeberg
State Capitol
Juneau, AK 99801-1182

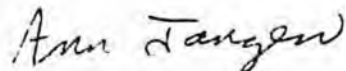
Dear Representative Rokeberg :

We have just received a copy of House Bill No. 384, which carries your name. On behalf of the residents here in Sitka, I want to thank you for this.

The anxiety level at the Home continues to be high as we approach the Legislative session. Just knowing that this bill is possible helps.

Thank you again for your sensitivity to the situation in which many of us find ourselves.

Sincerely yours,



Ann Janzen, Secretary



WELCOME

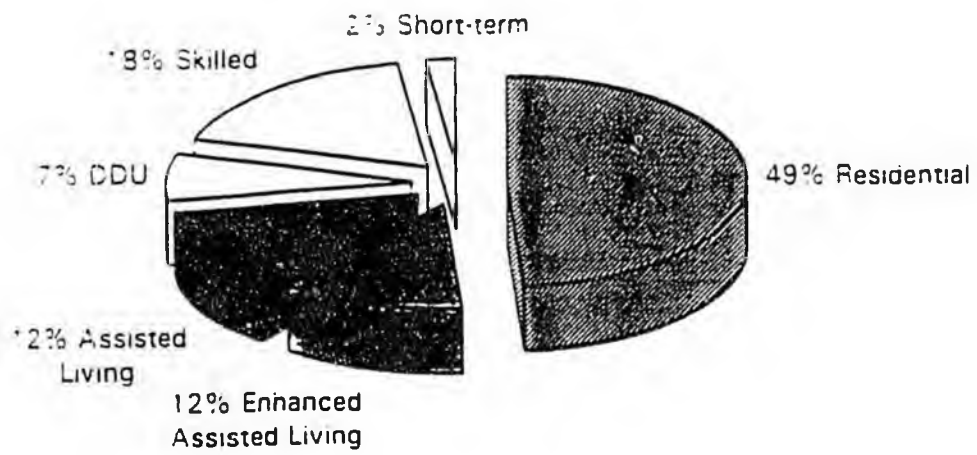
ALASKA PIONEERS' HOMES MISSION STATEMENT

(Excerpted from the Pioneers' Homes' Division Manual)

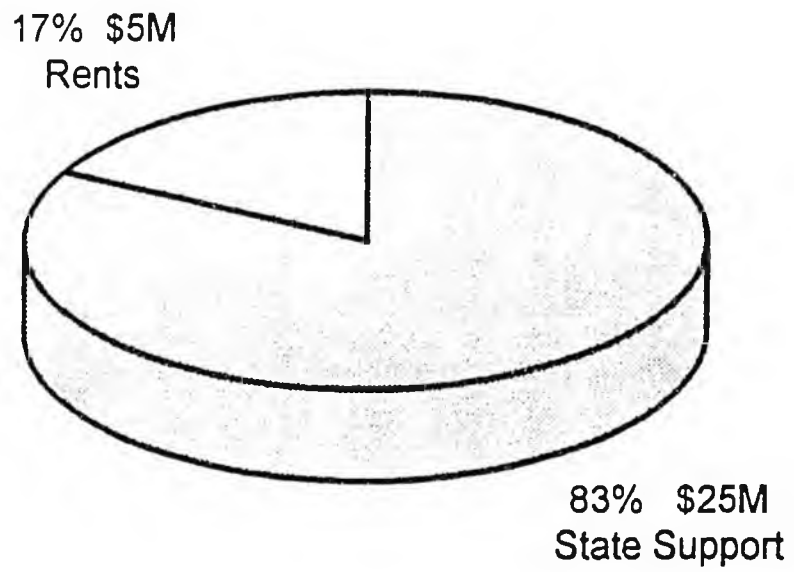
"The Pioneers' Homes are dedicated to serving Alaskans by providing specialized residential services in Sitka, Fairbanks, Palmer, Anchorage, Ketchikan, and Juneau. These services are designed to maximize independence and quality of life by addressing the physical, psychosocial, and spiritual needs of residents in a continuum of care, ranging from assisted living to skilled nursing care, with special capacities for Alzheimer's disease and related dementias. Services are provided by caring, experienced, and qualified staff who recognize that strong community support and interaction are vital to our mission."

Levels of Care 1995

110 Residential Residents
28 Assisted Living Residents
26 Enhanced Assisted Living Residents
16 Dementia Unit Residents (DDU)
41 Skilled Care Residents
4 Short-term Beds
225 Total



1995 Pioneer Home Operational Budget 30 Million



Advisory Board Fiscal Plan

It is proposed that the present four levels of care be changed to five levels of care with the addition of ADRD Unit level of care. Further, it is proposed that the present Residential level of care receive a name change to Coordinated Services.

Level of Care	Estimated Monthly Cost	Present Monthly Charge	Difference	FY97 Monthly Increase (1/7 of difference).	FY97 Rate
Coordinated Services	\$2129	\$ 735	\$1470	\$ 210	\$ 945
Basic Assisted Living	\$3862	\$ 860	\$3002	\$ 428	\$1288
Enhanced Assisted Living	\$5079	\$ 965	\$4114	\$ 588	\$1533
ADRD Unit	\$5262	\$ 965	\$4297	\$ 614	\$1579
Nursing	\$6448	\$1100	\$5348	\$ 764	\$1864

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

OIL & GAS, CHAIRMAN
LABOR & COMMERCE, VICE CHAIRMAN
ADMINISTRATIVE REGULATION REVIEW, VICE CHAIRMAN
HEALTH, EDUCATION & SOCIAL SERVICES, MEMBER
ECONOMIC DEVELOPMENT, MEMBER



INTERIM
716 WEST 4TH AVENUE, SUITE 640
ANCHORAGE AK 99501
PHONE (907) 258-8191
FAX (907) 258-2916

SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE (907) 465-4968
FAX (907) 465-2040

Representative Norman Rokeberg

Sponsor Statement HB 384

**"An act relating to payment requirements for retention in the Pioneers' Home;
and providing for an effective date"**

HB 384 gives statutory protection to what has been the standard policy since the beginning of the Pioneers' Homes in Alaska -- that residents who cannot pay are not evicted. HB 384 will provide a statutory safety net that prevents the state from evicting residents.

Currently, ⁵¹⁸70 of the 603 residents in the states' six Homes cannot pay the full rent. Since significant annual rate increases have been proposed by the governor, many of the residents are living in fear of the consequences if they cannot afford the proposed rates.

Many of the residents are living on Social Security and the Longevity Bonus, which, for many, totals no more than \$1,000 a month. The residents are frightened and scared that they will be evicted, even though it has been a long-standing unwritten policy that no resident will be evicted based on an inability to pay.

I believe it is crucial to the peace of mind of the elderly residents that this unwritten policy become state policy. I urge your support in this matter.

ties to exempt seniors from having to pay property taxes on the first \$150,000 of their homes' assessed value. But the state has steadily contributed less toward the program, requiring the municipalities to foot the bill. Today, the state pays

executive director. "I think [the tax exemption] really does help people, but it would be hard to get a direct cause and effect identified on that issue," Demmert says. However, when all the programs for seniors begin to be

ment it has been." Demmert says her office receives many calls and letters from people out of state, who are scouting for a retirement location. "They're asking what benefits are available as a part of their research and

But on the other hand, I also know, working here, that we clearly do have to figure out some way to save." Lee Carman, president of the Fairbanks Chapter of the American Association of Retired Persons (AARP), says he

consensus from seniors, it is certain that the governor's proposals won't just slide through the legislature, Carman says. "I don't know whether the legislature's going to give him anything or not," Carman says. "They like to fight politics."

Pioneers' Home bill allows those unable to pay to stay

by David Washburn
Senior Voice staff

Rep. Norm Rokeberg (R-Anchorage) has introduced a bill that would forbid the state from evicting Pioneers' Homes residents who cannot afford to pay their rent.

Rokeberg says he sponsored the bill, HB 384, because Pioneers' Homes residents and their families are worried about the state's plan to increase rates at the Homes over the next seven years.

Last fall, the Pioneers'

Home Advisory Board recommended the increases because current rates do not cover the costs of the program. Operating the six Pioneers' Homes costs the state over \$30 million a year. Funds generated from the residents' rent pays for approximately 15 percent of the costs; the state subsidizes the rest.

Rokeberg says he learned during hearings on the increases that there is no statute specifically protecting resi-

dents from being evicted for inability to pay full rent.

"It's clearly not been the policy of the state to expel anybody, and I understand that," Rokeberg says. However, a clearly-worded law would help put residents'

minds at ease, he says.

State officials agree current laws are not worded as clearly as they could be, but emphasize that HB 308 simply enacts into law what is already standard policy.

"It's always been the prac-

tice to not throw anybody out for not being able to pay," says Jim Kohn, deputy director of the Division of Senior Services.

Kohn says there are 603 seniors currently living in the Homes, about 70 of whom cannot pay the full rent.



SENIORS

Are you wearing your parka & mukluks to bed each night?

Whether you rent or own, **CALL WEATHERIZATION** and ask if you qualify for **FREE WEATHERIZATION** for your mobile home, apartment or house.

**YOU'VE EARNED THE RIGHT TO BE WARM
IN YOUR OWN HOME. CALL NOW!**



State of Alaska Alaska Commission on Aging Legislative Teleconference Meeting Sites

The Alaska Commission on Aging will begin weekly Legislative Subcommittee meetings on Tuesday, February 6, 1996, and will continue throughout the legislative session. Meetings are scheduled for Tuesdays from 10:00 a.m. till 11:00 a.m.

Public sites include:

- Anchorage** Division of Senior Services Office, 3601 C Street, Suite 310, Anchorage, AK 99503.
- Fairbanks** North Star Council on Aging, 1424 Moore Street, Fairbanks, AK 99701.
- Juneau** Alaska Commission on Aging, State Office Building, Room 757, Juneau, AK 99811.
- Kodiak** Kodiak Senior Center, 302 Erskine Ave., Kodiak, AK 99615.
- Mat-Su** Mat-Su Legislative Information Center, 600 E. Railroad Ave., Wasilla, AK 99654.
- Nome** XYZ Senior Center, 95 Hunter Way, Nome, AK 99762.
- Sitka** Center for Community, 700 Katlian, Suite B, Sitka, AK 99835.

Anyone requiring special devices and equipment to participate in the meet

4. We recommend full cost of care be recovered by the year 2003. While alternatives for long term care financing are being defined more clearly, we recommend current rates be increased annually for each level of care by an amount equal to the difference between the present rates and the estimated full cost of care divided by the number of years remaining until 2003. In no event should any individual either be denied entry to or discharged from a Pioneers' Home due to inability to pay. Increased funds generated through rate increases should be retained by the Pioneers' Homes.

DEPARTMENT OF ADMINISTRATION

DIVISION OF SENIOR SERVICES

December 15, 1994

P.O. BOX 112211
 JUNEAU, AK 99811
 FAX (907)

LONGEVITY BOND PHONE (907) 465-4400

PIONEERS' HOMES PHONE (907) 465-4400

Dear Pioneers' Home Resident:

During October 1994, public hearings were held at each of the Pioneers' Homes regarding proposed new rates for each level of care in the Homes. The proposal also included the addition of a new level of care, Enhanced Assisted Living. In addition to public hearings, the rate proposal was extensively advertised throughout the state. The increased rates were approved as proposed.

Former Deputy Commissioner Robertley Waidron and I thank you for your oral and written testimony which included very favorable comments regarding the services provided by each Pioneers' Home. We understand that some residents will find it financially difficult to meet this added expense.

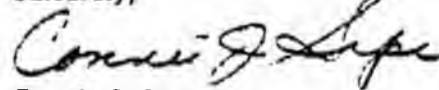
The new rates will be effective beginning February 1, 1995. If you have income or assets, you must pay the rate charged. If you do not have sufficient income or assets, please talk to the social worker or a business office staff member for assistance. No one who is unable to pay the full rate will be asked to leave the Home or be discriminated against in any way.

Beginning February 1, 1995, the charge for care in the Pioneers' Homes will be:

Residential	\$735.00
Basic Assisted Living	\$860.00
Enhanced Assisted Living	\$965.00
Skilled Nursing	\$1100.00

If you have any questions or concerns, please contact your Home Administrator or Jim Kohn, Deputy Director at 465-4400.

Sincerely,



Connie J. Sipe
 Director

I have circled your new rate. Residents who move to the new Special Care unit who need more assistance than Basic Assisted Living can provide will be charged the Enhanced Assisted Living rate when that occurs. If you have any questions, please feel free to call upon me.

TONY KNOWLES, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF PIONEERS' BENEFITS

P.O. BOX 10211
JUNEAU, ALASKA 99811-0211
PHONE: (907) 465-4400

February 7, 1996

Representative Norman Rokeberg
State Capital
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

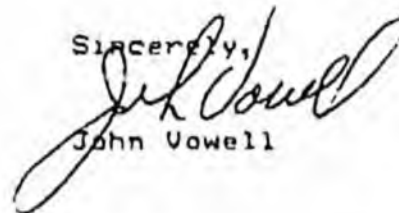
On behalf of the Residents of the Anchorage Pioneers' Home I wish to give their support to HB 384, "An act relating to payment requirements for retention in the Pioneers' Home". Resident Council President, Mr. John Gibbons, presented HB 384 to the Resident Council at their February 5, 1996 meeting and received a 100% vote to support passage of this legislation.

Speaking for myself, as Administrator of the Anchorage Pioneers' Home, I am very much aware of the need for the Administration to address the issue of Pioneer Home Resident rents being more in line with the cost of the services they receive. I am also aware that it has always been the historical practice that a persons income or ability to pay the full cost of care has never been consideration for admission or continued stay at the Homes.

It is always important to remember and related to others in the Legislature that a Pioneer Home is not just a facility for Senior Alaskans but the "Home" of Senior Alaskans and with passage of HB 384 our Residents will be provided a peace of mind so important in maintaining a healthy outlook for the future.

I congratulate you on your sponsorship of HB 384. Please free to call upon Mr. Gibbons or myself if we can be of any assistance in support of your bill.

Sincerely,



John Vowell

ANCHORAGE PIONEERS' HOME
923 WEST ELEVENTH AVENUE
ANCHORAGE, ALASKA 99501-4399
PHONE: (907) 276-3414

FAIRBANKS PIONEERS' HOME
2221 EAGAN AVENUE
FAIRBANKS, ALASKA 99701-5797
PHONE: (907) 456-4372

JUNEAU PIONEERS' HOME
4875 GLACIER HIGHWAY
JUNEAU, ALASKA 99801-9518
PHONE: (907) 780-6422

KETCHIKAN PIONEERS' HOME
141 BRYANT STREET
KETCHIKAN, ALASKA 99901-6575
PHONE: (907) 225-4111

PALMER PIONEERS' HOME
250 EAST FIREWEED
PALMER, ALASKA 99645-6638
PHONE: (907) 745-4241

SITKA PIONEERS' HOME
120 KATLIAN STREET
SITKA, ALASKA 99835-7501
PHONE: (907) 747-3213

HB

401

ANCHORAGE WATER & WASTEWATER UTILITY



Rick Mystrom,
Mayor

300Q Arctic Boulevard
Anchorage, Alaska 99503-3898



Owned by the
Municipality of Anchorage

HB401

PAGES INCLUDING COVER SHEET: 5 DATE: 3-7-96

TO: Rep. J. James FAX: (1) 465-2381

LOCATION: House State Affairs Comm. PHONE: (1) 465-3743

SUBJECT: HB 401

FROM: Diana Bennett FAX: (907)

LOCATION: AWWU finance PHONE: (907) 786-5623

COMMENTS: Thank you for the opportunity to provide support for this bill.

We are transmitting from a Canon Fax L770 - (907) 562-3421. In the event of a transmission problem call (907) 786-5502.

PLEASE DO NOT HIGHLIGHT DOCUMENT NOTATIONS

Testimony before House State Affairs Committee

My name is Diana Bennett. I am the Finance Manager of the Anchorage Water and Wastewater Utility (AWWU), a department of the Municipality of Anchorage. I am here today to speak in favor of House Bill 401 and its companion bill in the Senate, number 207, bills authorizing the State of Alaska to issue revenue bonds for the purpose of funding wastewater and other water quality improvement projects thru the Alaska Clean Water loan fund.

Although AWWU shares a common workforce and management, it is actually two separate utilities for regulatory purposes, establishing separate rates for service and incurring separate debt for capital projects. The wastewater utility relies substantially, almost entirely, on the Alaska Clean Water loan fund to finance its comprehensive capital improvement plan. We anticipate borrowing \$4-6 million annually from the loan program. I hope the funds will be available to do so.

The low interest loan program has been extremely popular and well received throughout the country. The Anchorage Wastewater Utility has borrowed \$8.8 million from the low interest loan program, at rates substantially lower than would be possible in the regular bond market. We estimate this has saved the ratepayers at least \$400,000 over the past four years, in addition to the flexibility the program affords us. In the years this Alaskan program has been in existence, the Alaska Department of Environmental Conservation (ADEC) has made loans totaling \$53 million. There is still a tremendous need for low cost funding throughout the state. ADEC received requests for \$13 million in loans for the current fiscal year.

The bill under discussion will allow what many other states have done and leverage this initial capitalization money from the federal government. Increasing the amount of funds available allows projects to be completed sooner than if we have to wait for our projects to move above the "cut line". This is a good way to increase

the pool of money available for necessary water quality projects, without putting any other programs at risk. The burden for repayment remains with the communities requiring the funds. There is a strong incentive for them (us) to make our payments.

Without increasing the availability of funds, at the current request level of \$13 million, the state will run out of money to loan in only 2 years. The loans are being repaid, but the repayment stream has not reached equilibrium yet, and when it does it will only be, I believe, \$4 - 5 million - well below the projected need. The communities around the State need this source of low interest money to help finance sorely needed water quality improvements.

The revenue bonds will be backed, not by the full faith and credit of the state, but by the revenue coming from repayment of the loans. In the history of the low interest loan program, there has never been a default - not in the entire United States. In fact, in Alaska, there has

never been a late payment! These bonds will be extremely safe. The State will not be required to "bail out" any agency over this.

You may have seen a Municipality of Anchorage memo listing some recommended changes to this bill. The Utility is substantially in favor of the bill as was originally written, however, we were asked to comment on the bill, with an eye to any proposed changes. This Utility works closely with ADEC and we have agreed among our two groups that this bill, with or without any or all of the suggested revisions is extremely workable, and will benefit the whole state of Alaska. I urge you to pass this bill. Thank you for your time.

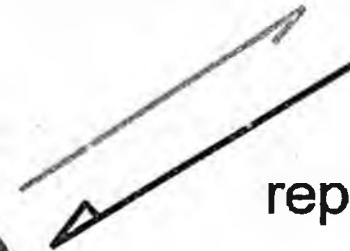
March 7, 1996
Diana Bennett, CPA
Finance Manager, AWWU
3000 Arctic Blvd.
Anchorage, Alaska
(907) 786-5623

LEVERAGING THE CLEAN WATER FUND

FEDERAL CAPITALIZATION GRANTS
STATE APPROPRIATIONS



loans



repayments



1 bond issuance costs
2 annual bond payments

bond proceeds



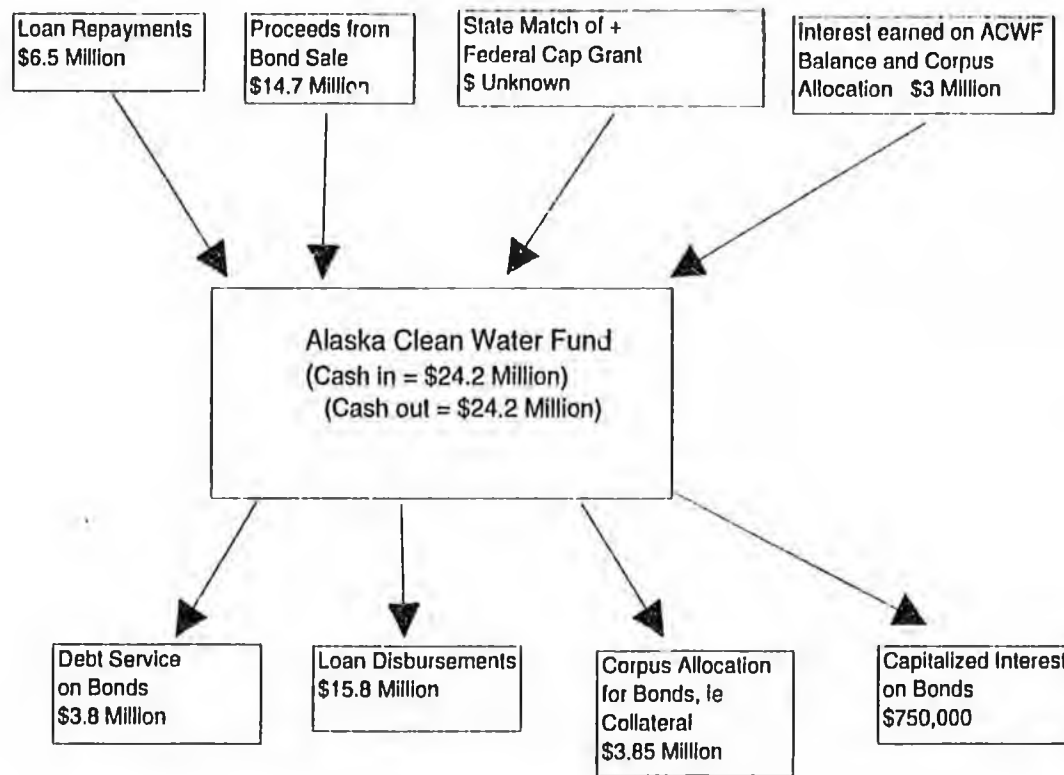
1 issue bonds

2 annual bond payments



PROJECTED YEARLY CASH FLOW OF ACWF
(AVERAGE FY 97 - FY 05)

9 years Average



15 million total capex

200B million / year

*Waste water
Solid waste*

Averages used from spreadsheets prepared by GFA and DEC.

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 401
P O Box 110001
Juneau, Alaska 99311-0001
(907) 465-3500
Fax (907) 465-3532

HB 401

January 8, 1996

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to authorize the state bond committee to issue and sell state revenue bonds to fund public wastewater treatment systems, solid waste management systems, nonpoint source water pollution control projects, and estuary conservation and management projects. This bill also authorizes the Department of Environmental Conservation to use the Alaska clean water fund, a revolving loan fund, as security for the payment of the principal and interest on the bonds, provided the bond proceeds are deposited in the fund. By using the fund as security for the bonds, the state will be able to leverage or increase the amount of money in the fund that is available to municipalities and state agencies for water pollution control projects.

Section 2 of the bill provides the legal framework for the bond issuance and sale. This section is patterned after the international airports revenue bonds statutes, and establishes a cooperative relationship between DEC, which administers the Alaska clean water fund, and the state bond committee, which will administer the bond program. The bill requires the state bond committee to conduct its activities in the best interests of the state and its inhabitants, in a manner that will accomplish the most advantageous sale of the bonds, with due regard for the continued funding of projects under the Alaska clean water fund program.

The Honorable Gail Phillips
January 8, 1996
Page 2

Sections 3-12 of the bill amend the clean water fund loan program to clarify the statute. It authorizes DEC to use the fund to secure state-issued bonds and to make other amendments necessary to acknowledge the bond-issuance and repayment process.

I urge your prompt consideration and passage of this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER

410 Willoughby Avenue
Juneau, Alaska 99801-1795

Phone: 465-5066
Fax: 465-5070

February 21, 1996

The Honorable Jeannette James, Chairperson
House Committee on State Affairs
Alaska State Legislature
Juneau, Alaska 99801

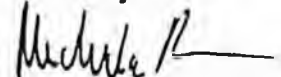
SUBJECT: Request for hearing on House Bill 401

Dear Representative James:

The Governor's Office and the Department of Environmental Conservation request that public hearings be scheduled for House Bill 401, passed by the House Community & Regional Affairs Committee. This bill is important for Alaskans for many reasons. It affords a way for our communities to obtain low-cost financing for their water pollution projects far into the future. This proposal will accomplish this goal without any significant general funding required and in fact, at some point in the future, could eliminate the need for legislative appropriations. Alaskan communities are simultaneously faced with many federal regulatory burdens and diminishing financial resources. It is important that we provide them with financial tools to deal with the many problems that they encounter. This bill would provide one of these financial tools.

We have attached a short analysis of the bill for your convenience in understanding the intent of the Legislation. At this time, the Alaska Clean Water Fund has the required collateral to support the proposed revenue bond leveraging plan. If legislation is enacted this session, adequate collateral would remain to ensure a large enough bond issue to meet anticipated demand. Delay in enacting this legislation will reduce the program's effectiveness in meeting our water pollution capital project needs. For this reason, we ask that the hearings be scheduled as soon as possible. If you wish to discuss this legislation, please call Keith Kelton at 465-5135. Thank you for your consideration.

Sincerely,



Michele Brown
Commissioner

MB\KK:lp (d:\ecol\clerical\white\sr\hearing1.rq1)

Enclosure: Bill Analysis

cc: Pat Pourchot, Office of the Governor

**SENATE BILL 207
HOUSE BILL 401**

DEPARTMENT OF ENVIRONMENTAL CONSERVATION BILL SUMMARY

This bill will authorize the State Bond Committee to issue and sell State revenue bonds to provide funds for the Department of Environmental Conservation (DEC) to offer low-interest loans to municipalities. The municipalities would use these funds to finance the construction of public wastewater treatment systems, solid waste management systems, nonpoint source water pollution control projects and estuary conservation and management projects. DEC already operates the Alaska clean water fund, a revolving loan program that is funded by federal grants and State appropriations. The demand for these subsidized loans has been growing with the increase in federal requirements placed upon the local communities and the concurrent reduction in State revenues in the last few years. It is estimated that the demand for loans will exhaust the available supply of funds by the summer of 1998.

One solution to this problem is to leverage the Alaska clean water fund, that is, to increase the amount of money available to finance water pollution control projects by using the fund as collateral to secure State-issued revenue bonds. Programs similar to this proposal are currently in place in 21 states. Communities collect user fees for their sewerage and solid waste projects to provide the money to make their annual loan payments to the Department. Under this leveraging concept, the annual loan repayments would be used to pay back the bond investors. Nationwide, in the six years of operation of the clean water loan funds, there has never been a loan default. With such an excellent repayment history, the program risk is very small. A sizable corpus of money in the fund would provide extra security for the bonds and would also result in lower program costs which could be passed onto the municipalities. If this bill could be enacted this session, an adequate amount would be available in the corpus to accomplish this. Delays in passage will reduce the amount available to leverage and minimize the effectiveness of the legislation.

This type of bond sales program has been previously authorized to the State bond committee. In fact, this legislation is patterned after the statute created for the International Airport bond sales done by the committee for the Department of Transportation. The State bond committee has the expertise to properly conduct a bond sales issue. DEC has the expertise to properly run the clean water fund program. This legislation provides a simple, efficient method to assist the incorporated communities of the State by ensuring that low-cost loans for essential projects will be available well into the future, while reducing the demand for general-funded capital projects.

January 23, 1996

SENATE BILL 207
HOUSE BILL 401

SECTIONAL ANALYSIS

Introduction

Senate Bill 207 (the bill) and its counterpart, House Bill 401, will authorize the state bond committee (committee), which consists of the commissioners of the Departments of Administration, Commerce and Economic Development, and Revenue, to issue and sell state revenue bonds to fund public wastewater treatment systems, solid waste management systems, nonpoint source water pollution projects, and estuary conservation management projects. The bill authorizes the Department of Environmental Conservation (DEC) to use the Alaska clean water fund (fund), a revolving loan fund, as security for the payment of the principal and interest on the bonds, provided the bond proceeds are deposited in the fund.

The Alaska clean water fund and the proposed bond program are designed to comply with requirements for participation in a federal matching grant program under the Clean Water Act and, therefore, do not present any problem under the dedicated funds prohibition of the State Constitution.

By using the Alaska clean water fund as security for the bonds, the state will be able to leverage or increase the amount of money in the fund that is available to municipalities and state agencies for water pollution control projects.

Section 1. Section 1 of the bill recognizes that the proposed bond program is an appropriate use of the public credit, and that it will serve a public purpose by allowing public water pollution control projects to be financed and constructed much sooner than would otherwise be possible. This statement of the policies and purposes underlying the bill will also reflect the legislature's

intent that the bonds to be issued are revenue bonds.

Section 2.

This section of the bill will create a new article, article 3A, in Title 37, the public finance title of the Alaska Statutes.

Sec. 37.15.560. BOND AUTHORIZATION - Authorizes the state bond committee to issue and sell revenue bonds to raise money to be deposited in the Alaska clean water fund. This section characterizes the Alaska clean water fund as a public enterprise of the state and the proposed bonds as revenue bonds. Under the Alaska Constitution, state-issued revenue bonds do not require voter approval. This section authorizes the committee to enter into agreements and perform those functions that are normally required to accomplish the task of issuing and selling bonds.

Sec. 37.15.565. BOND REDEMPTION FUND - A bond redemption fund is established. This is a standard financing technique for making it easier and more accountable to perform the many functions necessary in the bond issuance and sales process. Also, to provide accountability for any future principal and interest payments and any premium redemptions on the bonds. The state bond committee will be responsible for administering the bond redemption fund, and may invest the proceeds of the bond redemption fund according to the 'prudent investor' standards established in AS 37.10.070, providing the earnings on these investments are retained in the bond redemption fund.

Sec. 37.15.570. BOND TERMS - The state bond committee may issue, sell, or redeem the bonds so as to achieve the greatest advantage for the State. The committee can make decisions based upon the market conditions, and does not require approval of another agency to execute these decisions. The committee will decide the level of security required from the Alaska clean water fund and the portion of the fund that will provide this collateral security. The committee may appoint a trustee to perform all necessary functions. The committee must give due regard to the continued funding of projects under the