

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9917 HOUSE LABOR & COMMERCE

1492

Department of Natural Resources statement for HB 88, a bill relating to private property liability immunization for recreational trail use.

The administration seeks to amend AS 09.65 to extend immunity for civil damages to include improved land and to provide a mechanism for private owners to dedicate easements for public use trails.

Many trails in Alaska cross private property, with the permission of the landowner. When longtime landowners sell their property, many of the new owners are questioning the public's right to use these long established trails. Trail users are concerned that more and more trails will be lost as property is sold. To counter this loss of trails, local trail users are approaching current landowners about dedicating trail easements across their property. Some new landowners, when they realize a trail is on their land, are also interested in dedicating a recreational trail easement. But more often than not, the first question asked is "will the state indemnify me from litigation?"

Existing legislation allows for tort immunity on "unimproved land" only. This limits the options of landowners to obtain liability protection as many of the existing trails cross improved land, especially in rural subdivisions where the trails are main route of travel.

Immunizing private property owners from liability for allowing public use of trails across their land was raised at each outdoor recreation workshop held in 16 Alaskan communities by the Alaska Division of Parks and Outdoor Recreation during fall 1997. In a majority of the communities, securing trail easements and dedicating existing trails was the number one issue facing local outdoor recreation enthusiasts. From snowmobilers to hikers, all were in agreement that trail dedication needed more attention. The liability question is a major impediment to developing a statewide trail system. Key to trail dedication is securing easements across private property. A snowmobile club representative on the Governor's Trails and Recreational Access for Alaska (TRAACK) board raised this issue three years ago and that led to the request for this amendment.

By allowing the private property holder to donate an easement across their land, thus making it a permanent trail, the trail becomes eligible to receive federal trail grant money. These funds are distributed by Division of Parks and Outdoor Recreation to trail groups to groom and maintain dedicated trails. Trails that are not fully dedicated are not eligible for funding as there is no permanence that a trail improved with public moneys would remain open for the public to enjoy and use.

LAW OFFICES OF
WILLIAM BIXBY
POST OFFICE BOX 1229
VALDEZ, ALASKA 99686

MAR 17 1999

William Bixby
Michael Franciosi

March 17, 1999

Telephone (907) 835-4775
Fax (907) 835-2793

Fax No. (907) 465-2040

RE: HB 88

Rep. Norman Rokeberg
Chairperson
House Labor and Commerce Committee
Room 24 State Capitol
Juneau, Alaska 99801

Dear Rep. Rokeberg:

I am the chairperson of the Valdez Area State Park Citizen Advisory Board. The advisory board is a group of local citizens of diverse background appointed by the Director of the Division of Parks and Outdoor Recreation. Our purpose, according to State adopted land use plans, is to advise the Division of Outdoor Recreation and the Legislature as to the management of State lands in our area.

At our last monthly meeting on March 10, 1999 the Valdez Area State Park Citizen Advisory Board unanimously passed the motion in support of House Bill 88. Our resolution not only included unanimous support for HB 88 but also requested that the House hold hearings on this Bill as soon as possible.

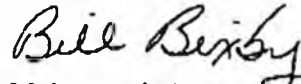
Discussion at our Citizen Advisory Board was very supportive of the Bill. The Valdez Citizen Advisory Board has been working in conjunction with the Valdez Trail Committee, a non-profit organization comprised of area residents who are volunteering their time, money and skills to rebuild the historic trails in our area, i.e., from Valdez to Copper Center (and hopefully beyond). Additionally, our advisory board has supported the building of a trail from Chitina to Cordova along the Copper River with access to the Valdez trail system, either across Marshall Pass or via the Tiekel River Valley. We believe HB 88 will make completion of these trails and other trails throughout Alaska easier to complete by getting permission from the landowners who would not have to worry about liability to the users of their land for recreational purposes.

Rep. Norman Rokeberg
March 17, 1999
Page 2

HB 88 provides a wonderful balance between competing societal interests by protecting the landowner and allowing recreational use of privately owned land to the user of the trails. Not only will the landowners benefit, the recreational users obviously will have expanded opportunities. We also feel that area businesses will also benefit as would the increase of recreational opportunities comes the increase in tourism. With the downswing in oil prices, HB 88 provides an excellent opportunity for the legislature to help support recreational opportunities not only for the residents of Alaska but also to those who come to visit our state, hence help develop our tourism industry.

Please let me know if and when hearings are scheduled on this Bill as members of our Advisory Board would like to testify in its support.

Best regards,



William Bixby, Chairman
Valdez Area Park Citizen
Advisory Board

LAW OFFICES OF
WILLIAM BIXBY
POST OFFICE BOX 1229
VALDEZ, ALASKA 99686

MAR 17 1999

William Bixby
Michael Franciosi

March 17, 1999

Telephone (907) 835-4775
Fax (907) 835-2793

Fax No. (907) 465-2040

RE: HB 88

Rep. Norman Rokeberg
Chairperson
House Labor and Commerce Committee
Room 24 State Capitol
Juneau, Alaska 99801

Dear Rep. Rokeberg:

While I have written a letter in support of HB 88 as the Chairperson of the Valdez Area Park Citizen Advisory Board, I would also like to express my personal support for the Bill. I am private landowner. I own Tsaina Lodge which is the only piece of private property in Thompson Pass just outside of Valdez. The historic Valdez to Eagle Trail runs through my privately-owned property.

I have been approached by the Valdez Trail Committee about rebuilding the trail through my property, however, I have grave concerns about the liability I can incur if a recreational user gets hurt on my property. As a personal injury attorney, I am very concerned and hesitant to give my permission to have the trail rebuilt through my property. As a citizen and hiker I would like to give that permission, but as an attorney and landowner I know I should not. HB 88 helps to alleviate concern about the liability I could incur if a recreational user was injured on my property. I wholeheartedly support the passage of HB 88. Keep up the good work.

Best regards,

Bill Bixby
William Bixby



DEPARTMENT OF NATURAL RESOURCES MAR 16 1999
 OFFICE OF THE COMMISSIONER
 400 WILLOUGHBY AVENUE
 JUNEAU, ALASKA 99801-1796
 PHONE: (907) 465-2400
 FAX: (907) 465-3886

Deliver to: Janet Sartz

Location: _____ FAX: 2040

Date: 3/16/99 Time: _____

From: Carol Canale DNR

Number of pages: 4
 Including cover sheet

Comments: Janet some info on the TRAAK
Committee, & resolution - HB88
You should also be receiving letters
or e-mails from other users, groups.
Thanks Carol

If you experiece any problems receiving this FAX, please call Sharon or Karen @ the above phone number.

Kirk Hoessle President Alaska Wildland Adventures P.O. Box 389 Girdwood, AK 99587 Home: 907-983-2667 Work: 907-783-2928 Fax: 907-783-2130 e-mail: kirkawa@aol.com	02/14/96	02/14/01
Rose Isaac Tanana Chiefs Conference P.O. Box 129 Tok, AK 99780 Home: 907-883-5927 Work: 907-883-5181 Fax: 907-883-1114	02/14/96	02/14/00
Peter E. Rice 1395 Pond Reef Road Ketchikan, AK 99901 Home: 907-225-3383 Work: 907-225-4104 Fax: 907-225-7215 e-mail: price@ktn.net	02/14/96	02/14/00
Ginny H. Wood 1819 Muskox Trail Fairbanks, AK 99709 Home: 907-479-2754 Fax: 907-479-4310 e-mail: rscmh@aurora.alaska.edu	02/14/96	02/14/01
Lee Johnson 2650 Dale Road Fairbanks, AK 99709 Home: 907-452-2897 Work: 907-451-2179 Fax: 907-451-2188 e-mail: LJohnson@envircon.statc.ak.us	2/20/97	2/14/99
The Honorable Jim Vorderstrasse Mayor of the City of Barrow P.O. Box 629 Barrow, AK 99723 Work: 852-5211 Fax: 852-2023 e-mail: barrowmayor@barrow.com	11/12/97	2/14/99
The Honorable Ed Zeine Mayor of Cordova PO Box 34 Cordova, AK 99574 Work: 907-424-6280 Home: 907-424-3192	10/2/98	

TRAAK BOARD MEMBERS and agency contacts 10/98

<u>Members/Officers</u>	<u>Appointed</u>	<u>Term Exp.</u>
Helen Nienbueser CHAIR 2561 Lovejoy Drive Anchorage, AK 99508 Home: 907-277-9330 Fax: 907-277-9330 e-mail: helen@igc.apc.org	02/14/96	02/14/00
Mitzi C. Barker VICE-CHAIR 24517 Teal Loop Chugiak, AK 99567 Home: 907-688-9335 Work: 907-688-9335 e-mail: planner@gci.net	02/14/96	02/14/00
Chip Dennerlein Alaska Regional Director National Parks & Conservation Assoc. 329 F Street, Suite 208 Anchorage, AK 99501 Home: 907-278-3420 Work: 907-277-6722 Fax: 901-277-6723 e-mail: cdennerlein@npca.org	02/14/96	02/14/99
Sue Sherman c/o Ahtna, Inc. PO Box 649 Glenallen, AK 99588 Home: 907-822-3448 Work: 907-822-3476 Fax: 907-822-3495 e-mail: ssherman@ahtna-inc.com	10/13/97	02/14/01
Lanie Fleischer 1401 West 11 Avenue Anchorage, AK 99501 Home: 907-274-2453 Work: 907-263-2022 Fax: 907-263-2099 e-mail: lanie@bbbs.ak.org	02/14/96	02/14/99
Austin Helmers 501 N. Skip Circle Wasilla, AK 99654 Home: 907-376-2050 Fax: 907-745-9635 e-mail: ahelmers@matnet.com	04/17/96	02/14/00

TRAAK Citizen Advisory Board

Resolution 96-4

Liability of Recreational Use of Private Lands and Water and Public Lands

WHEREAS: A statewide system of trails may encourage and promote the use of privately owned lands and water and public land for beneficial recreational purposes; and,

WHEREAS: Privately owned lands, corporate lands, and land managed by non-profit corporations may be leased to the state or its subdivisions for beneficial recreational uses; and,

WHEREAS, Private businesses may promote and facilitate the use of privately owned lands and water and public lands for recreational purposes; and,

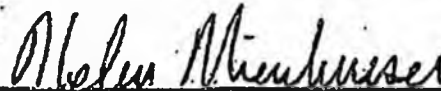
WHEREAS, Private business may utilize for commercial purposes privately owned lands and water and public land; and,

WHEREAS, These privately owned lands and water and public land may be used simultaneously by a wide variety of motorized and non-motorized recreationists; and,

WHEREAS, Private citizens and public representatives may be designing, developing, maintaining and managing open recreational areas and facilities on privately owned lands and water and public land for beneficial recreational purposes;

NOW BE IT RESOLVED the Citizen's Advisory Board of TRAAK calls on the State of Alaska to take whatever steps necessary to ensure those landowners that allow these recreational activities on their property and those involved in the design, development, maintenance and management of facilities and open areas on privately owned lands and water and public land not be held responsible for compensation for personal injuries or property loss resulting from their action and recreational use. No action taken as a consequence of this resolution shall result in dedication of any land, except as expressly permitted or provided by the owner.

Signed on the 11th day of Sept. 1996.



Helen Nienhueser, Chairperson

March 16, 1999

Representative Norman Rokeberg, Chair
House Labor and Commerce Committee
State Capital
Juneau, Alaska 99801-1182

MAR 17 1999

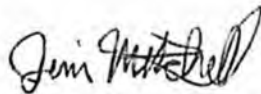
Dear Representative Rokeberg:

Ketchikan Outdoor Recreation and Trails Coalition, Inc. (Trails Coalition) strongly supports the passage of legislation which will protect private landowners from litigation arising from public trails crossing their land. We request that House Bill 88 be scheduled for a hearing before your committee, and would appreciate any support you can give to this or similar bills during the legislative process.

The Trails Coalition has been involved in a number of trail planning and trail development efforts. The Ketchikan Trails Plan was published in 1995. In 1997 we worked with others in the community to develop the Trails Ketchikan proposal to construct eight new trails in the Ketchikan area. Our work in this area has made us acutely aware of the need for liability protection for private landowners. Despite being located in the Tongass National Forest, many of the trails in the Trails Ketchikan proposal involve crossing some private property, and the liability issue must be resolved. Two trails involve some Mental Health Land Trust property, and liability protection is one of their concerns. In essence we have found that the liability issue is often a sticking point to receiving easements and right-of-ways for public trails. No one wants to accept liability, hence the need for the state to pass protective legislation.

Thank you for any support you can give to this issue.

Sincerely,



Jim Mitchell, President
Ketchikan Outdoor Recreation and Trails Coalition, Inc.
P.O. Box 8401
Ketchikan, Alaska 99901

Subject: HB88

Date: Fri, 12 Mar 1999 16:31:29 -1000

From: bayes@xyz.net (Ann Bayes)

To: Representative_Norman_Rokeberg@legis.state.ak.us

CC: <Representative_Gail_Phillips@legis.state.ak.us>, <senator_John_Torgeson@legis.state.ak.us>

MAR 12 1999

Greetings,

It is my understanding that the Trail Liability Bill, HB 88, is currently in committee awaiting hearings. I would like to strongly encourage you to set this bill for a hearing before your committee. In order to take constructive steps to make the ideas for trails into realities, it is imperative that we remove the stumbling block of personal liability for private property owners who would otherwise be willing to work with their communities to establish trail networks.

The past year there has been a growing interest in the Anchor Point area to take some steps to formalize trail easements throughout the area for a variety of uses. The Anchor Point Advisory Planning Commission, in conjunction with the Kenai Borough Trails Commission, had a committee working last winter to identify existing trails as well as potential ones, particularly those which could provide good, road-accessible, trailheads which were also identified. This effort was widely received as an important step to take for our community.

There has also been tremendous support from the local community for a trail connecting the beaches of Cook Inlet with the center of town, an effort being led by the South Peninsula Citizen's State Parks Advisory Board. There is also an active grass-roots effort underway known as the Community Rivers Planning Coalition working to develop plans to guide our community toward sustainable growth and development.

Many local community groups find trails development a common goal and interest, one which people see as often being within their means to take responsibility for themselves. Thanks for your help in making progress on the underlying issue of trail liability which stands in the way of getting down to work.

Ann Bayes
P.O. Box 575
Anchor Point, Ak. 99556
907-235-6094

Subject: House Bill 88


Date: Mon, 15 Mar 1999 08:08:27 -0900

From: Lawrence R Miller <lrMiller@gvea.COM>

To: "representative_norman_rokeberg@legis.state.ak.us" <Representative_Norman_Rokeberg@legi

I am in favor of house bill 88 that would limit liability for private land owners that allow trail access for public use. This makes sense and will allow more use of many areas not available now.

Thank you
Larry Miller



Sitka State Parks Citizens Advisory Board, Box 142, Sitka, AK. 99835

March 12, 1999

Representative Norman Rokeberg
Alaska State Legislature
State Capitol
Juneau, AK 99801

MAR 15 1999

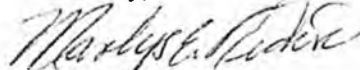
RE: HB88, Trail Liability

Dear Representative Rokeberg:

The Sitka State Parks Citizens Advisory Board strongly supports the Trail Liability bill HB88. This bill would immunize private property owners from litigation for allowing the public to use their land for recreation purposes. We believe this bill will ultimately improve recreational trails in Alaska and urge your support.

Thank you for the opportunity to comment on this important bill.

Sincerely,



Marlys Tedin
Chairwoman

CC: Senator Robin Taylor
Representative Ben Grussendorf
Director Jim Stratton, Alaska State Parks

Subject: Trail Issues

Date: Sat, 13 Mar 1999 14:42:34 -0900

From: "Rodda, John H" <RoddaJH@ci.anchorage.ak.us>

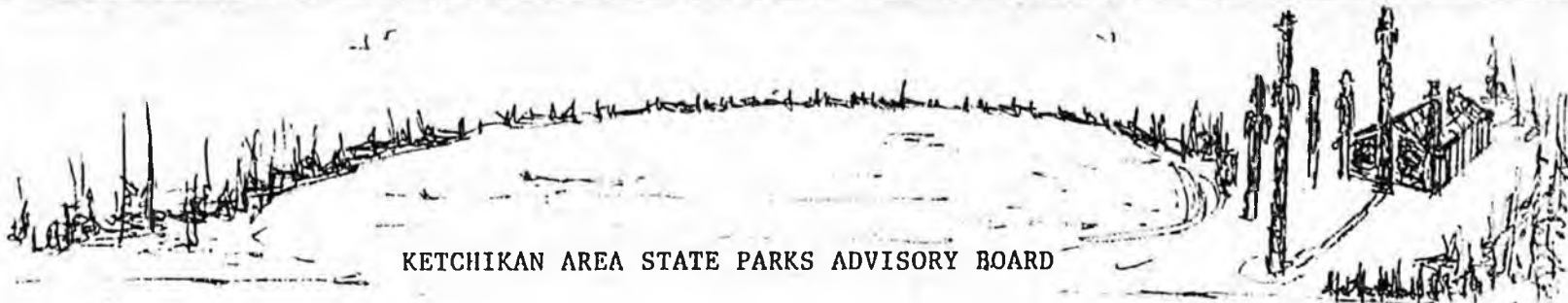
To: "representative_norman_rokeberg@legis.state.ak.us" <Representative_Norman_Rokeberg@legi

Norm,

There was a public meeting on Thursday, 3/11, at Chugiak High School; the general topic was snowmachine use within the Municipality of Anchorage. As you might imagine, the comments extended into use on Heritage Land Bank, State, and Federal lands. You may want to contact Assembly members Dan Kendall or Ted Carlson for more information, and what, if any, points they wish to share in regards to trail issues. Just wanted to pass this on.

John

MAR 15 1999



KETCHIKAN AREA STATE PARKS ADVISORY BOARD

March 10, 1999

MAR 12 1999

Honorable Norman Rokeberg, Chair
House Labor and Commerce Committee
State Capital
Juneau, Alaska 99801-1182

Dear Representative Rokeberg,

The Ketchikan Area State Parks Advisory Board has resolved unanimously to support the passage of House Bill 88, providing protection from litigation for private property owners who have trails crossing their land. We, respectfully request that the bill be given a hearing, and would appreciate very much your pushing this bill through the House process.

The Board feels that this protection is necessary for both private land owners and the public interest.. Free and open trails have long been a tradition in Alaska.

The Board also supports Senate Bill 45, which has a similar goal of protection for the land owner, but we would like to see a provision added that easements across private land be dedicated for continued public use.

Would you please share this letter with the other committee members?

Thank you for your consideration.

Sincerely,

Robert Olsen, Chair
Ketchikan Area State Parks Advisory Board

Subject: Trail Liability

Date: Fri, 12 Mar 99 14:41:27 -0900

From: "Jack Jefferies" <jack_jefferies@alaska.smtplink.amedd.army.mil>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative Rokeberg,

I very adamantly and wholeheartedly support the Senate Bill 45 that was introduced by Senator Halford and is a broad liability protection bill that covers recreation and trail liability concerns as well as liability protection for reasons other than recreation... that would immunize private property owners from litigation for allowing the public to use their land for recreation use/purposes... We have many private owners here in the Northern area that would otherwise not allow public trail across their land for fear of litigation!

The next thing we need to do is to have a budget that would better support trail maintenance, so we can keep our trails safe, comfortable and low impact on the environment.

I really appreciate your support in our Alaska statewide trail system.

Thank you very much,

Jack L. Jefferies

MAR 15 1999

Subject: HB88

Date: Fri, 12 Mar 1999 21:41:03 -0900

From: "Karin Sturdy" <bearsprd@seward.net>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Rep Norman Rokeberg:

I support HB88, Trail Liability. In Seward, we are huge fans of trails for many uses. We mountain bike, bird watch, snowmobile, race, ski, hike, pick blue berries, photograph, hunt, camp, etc... We need to assist our government agencies in keeping these trails open for the public. If we protect the land owners, we protect our trails. Everyone wins.

Thanks for your leadership on this issue. We appreciate your support.

Karin Sturdy
PO Box 2121
Seward, Alaska 99664

MAR 15 1999

Subject: HB88

Date: Sat, 13 Mar 1999 21:43:25 -0900

From: Roxann Dayton <dkennel@mtaonline.net>

To: Representative_Norman_Rokeberg@legis.state.ak.us

As a musher in Alaska for the last 15 years I have become increasingly more and more worried about the future of public access on trails. This really cam to a head in the past five weeks when I was working on a simms grant for dog mushing trails in Big Lake. I personally went to two of the private land owners homes in Anchorage and requested a letter from them granting the Aurora Dog Musers Club giving mushers permission to cross their land and use snowmachines to groom the trails. I gave them a week before calling them back and requesting a letter since the application was due in the DNR office in 3 days. My heart went in my thought when they asked if they would be liable for people crossing their property. I said that this bill was in for review and that I had not heard the result. I feel very fortunate in that these people are neighbors that I hav eknown for the past 9 years. They are good people hoping for the best for others. They have enjoyed the Anchorage Fur Rendezvous since they first arrived in Anchorage in the 1950's. I am sure that is why they were willing to write the letter for me in that my husband Eddie Dayton has run the Fur REndezvous since 1989. We love our quiet little secluded spot in Big Lake, but every day I pray it will stay this way. My husband reminds mw that we can't stop progress or the repeating of closing of trails all over the states. Haivng grown up in Minnesota wiht thousands of snowmachiners and farmers with barb wire fences I can understand the private land owners concern. The farmers were only trying to keep thier cows in thier pastures. We must be sure to protect the persons who are willing to share their land with responsible outddor recreationalist. This is so important to me and I am sure to all outdoor enthusiast. Please don't let the rotten apple spoil tha basket. Make reckless persons responsible for their actions and the innocent protected from the ones just looking for an easy buck even if it means distroying honest peoples lives.

Take what I say seriously. Protect trails and also protect the land owners. Tahnk you.

MAR 15 1999

Subject: HB88

Date: Sun, 14 Mar 1999 20:53:05 -0900

From: "Bearclaw Inc." <bearclaw@alaska.net>

To: Representative_Norman_Rokeberg@legis.state.ak.us

Dear Sir

I live and play on the Kenai Peninsula. I am very involved in the local snow machine club. A little over a year ago we decided to apply for a grant from the state to help work on and maintain trails. As a lot of the land in the Caribou Hills is state land I contacted DNR and began to work with them. We had a day set aside for them to come down and go out on the trails. I got a call that went something like this. We will not be able to go with you as we cannot trespass. I was confused as the trail we were talking about was on state lands and most of these had easements set up for trails. The problem was the first 1 to 2 miles is University lands. I made an appointment to visit the lands folks in Anchorage at the University. To make a long story short they said thanks for telling us we have a problem we will close access to the public. This astounded me. This trail has been in use for over 20 years. The reason. LIABILITY !! I contacted our legislator John Torgerson and he began to follow up. I believe this bill will solve these problems. Please pass HB88. We should all be working together, We the people of Alaska own public lands. We shouldn't have to jump this many hoops to travel across lands we have been on for over 20 years. Thanks for your time. Greg B. Barclay Box 1349 Soldotna Alaska 99669 Phone # 262-1400. E-mail bearclaw@alaska.net

MAR 15 1999

Subject: HB 88

Date: Fri, 12 Mar 1999 05:45:28 -0900

From: "John Johnston" <fyfnet@uaf.edu>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Sir,

As the Executive Director of FairNet, the community network for Interior Alaska, I would like to express my support for the passage of HB 88. In my day to day duties for FairNet I receive numerous letters requesting information on tourist activities and the availability for travel via trails. These request come from all over the world by individuals and families planning to come to Alaska for their vacation.

The passage of HB 88 would allow the various trail user groups within our state the opportunity to define and refine the trail systems that they use. This would result in a more supportive environment for residents, visitors and tourists to Alaska and provide them with greater resources to explore the outdoors that Alaska is so well know for. whether it be by bicycle, hiking, snowmobiling, skiing or other mode of trail travel, the passage of HB 88 can do no less than enhance the opportunity to enjoy our great state.

John Johnston
fyfnet@uaf.edu
<http://www.fairnet.org/>

"The only man who never makes a mistake is
the man who never does anything" Theodore Roosevelt

Subject:

Date: Thu, 11 Mar 1999 20:27:01 -0800

From: Tony Blanford <blanford@ptialaska.net>

To: Representative_Norman_Rokeberg@legis.state.ak.us

Dear Mr. Rokeberg:

I am a distance musher who recently raced the Yukon Quest. In fact, I moved to Fairbanks solely for its extensive trail system. Now that the area in Two Rivers is being developed, I am worried about many property owners closing off some of the trails, in part because of liability concerns.

One of the things that makes Alaska unique trail system, which allows unprecedented access to the wilderness, for both mushers and snow machiners alike, and allows people like me to pursue dreams such as the Yukon Quest while still being able to remain close to town.

I am most definitely in support of the Trail Liability Bill HB88. Please don't give private property owners another reason to close down such a unique trail system.

Tony Blanford, M.D.

Subject:

Date: Thu, 11 Mar 1999 20:24:52 PST

From: "Linda Himelbloom" <caribouherd@hotmail.com>

To: Representative_Norman_Rokeberg@legis.state.ak.us

CC: Representative_Alan_Austerman@legis.state.ak.us

Representative Rokeberg,

I am aware of the possible hearing on the Trail Liability Bill HB88. I support this legislation. This bill would release private property owners from possible litigation for permitting the public to use their land for recreation purposes (i.e., a trail). Without this bill, many private property owners that would be in favor of permitting public trails across their land would not allow it due to possible litigation.

Please support the Trail Liability Bill HB88. Thank you.

Sincerely,

Linda Himelbloom

P.O. Box 1866

Kodiak, AK 99615-1866

Get Your Private, Free Email at <http://www.hotmail.com>

Subject: trails liability bill

Date: Thu, 11 Mar 1999 18:00:36 -0900

From: JOE R GAUNA <joegauna@juno.com>

To: Representative Norman Rokeberg@legis.state.ak.us

CC: mtt@knix.net, HiteKE@bp.com, gizmo@arctic.net, stratto@dnr.state.ak.us, kehite@gci.net, tgswany@juno.com, bearqst@mosquitonet.com

Representative Rokeberg:

I am pleased to see that HB88 has been introduced. I agree with the concept and urge you to move it along through the legislative process as quickly as possible. I am not only a snowmobiler. I also hike and occasionally use a bicycle. I hope HB88 will pass this year and become law. It's in all of our best interest as reasonable access is vital to outdoor recreationists.

Thanks you for your positive actions.

Joe Gauna
7421 Silver Birch Dr
Anchorage Ak 99502
343-6776

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MAR 12 1999

Linda L. Wilhelmi
1801 Crescent Drive
Anchorage, AK 99508-5117

Rep. Norman Rokberg
State Capitol
Juneau, AK 99801

FAX: 465-2040

Rep. Norman Rokeberg

I understand you are looking at House Bill 88 which is a bill to protect landowners against litigation if they allow the public to utilize their land for recreation purposes.

I think this bill would be a great asset to the general public. Without this bill, many private property owners who would be favorable to allowing public trails across their land, will not allow it because of the fear of litigation. This is the number one impediment to a statewide trail system.

Please give this bill your favorable attention.

Sincerely,



Linda L. Wilhelmi

HB

94

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 94

Revision Date/Time (Note if correction) _____ Dept. Affected Revenue
 Title Removing employee of the Alcoholic Beverage BRU ABC Board
Control Board from exempt service Component ABC Board
 Sponsor Rep. Kott
 Requester House Labor & Commerce Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact on the ABC Board

Prepared by Doug Griffin, Director
 Division ABC Board
 Approved by Wilson L. Condon
 Commissioner Department of Revenue
 Agency

Phone 465-2301
 Date/Time February 25, 1999, 3:16 PM
 Date 2/26/99

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Alaska State Legislature

House of Representatives

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SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

MEMORANDUM

TO: Representative Norm Rokeberg, Chairman
House Labor and Commerce Committee

FROM: Representative Pete Kott

DATE: February 23, 1999

SUBJECT: Scheduling Request

I would like to have House Bill 94 (An Act removing employees of the Alcoholic Beverage Control Board from the exempt service) heard before the Labor and Commerce Committee.

I submit the following:

1. Sponsor Statement
2. Letter of Support from John Charbonneau
3. Copy of AS 39.25.110(15)

A representative from the Department of Revenue will testify to the bill. Mr. Marco Pignalberi, aide to Representative Cowdry, was an ABC agent when they were exempt employees. Mr. Pignalberi has agreed to be present if the committee wishes to receive historic testimony.

Pat Harman of my staff will be the point of contact for this bill. He may be reached at x6841.



Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us



Alaska State Legislature

House of Representatives

COMMITTEES
JUDICIARY COMMITTEE, CHAIR
RULES
MILITARY & VETERANS AFFAIRS
UTILITY RESTRUCTURING
ETHICS



INTERIM:
10928 EAGLE RIVER RD., SUITE 141
EAGLE RIVER, AK 99577

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

Sponsor Statement

HB 94

An Act removing employees of the Alcoholic Beverage Control Board from the exempt service.

This bill is a house keeping measure. The Alcohol Beverage Control employees are now all in the classified service and the statute AS39.25.110(15) is now superfluous and should be repealed.

At one time the Alcohol Beverage Control (ABC) employees were exempt and were appointed to their positions. Presently all ABC employees are in the classified service. The present statute lists ABC employees as in the exempt service. This statute is no longer applicable to the current situation.

My interest in this matter is based on Mr. Charbonneau's letter to me explaining the situation. Mr. Charbonneau is a constituent and resides in my district. I am responding to a constituent's request as his representative to the Alaska Legislature.

It is my understanding that the administration does not oppose this bill.

I urge your support for this legislation.



Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us



PROPOSED STATUTE CHANGE
AS 39.25.110(15) EXEMPT SERVICE

Representative Pete Kott:
State Capitol, Room 204
Juneau, Ak. 99801-1182

Dear Representative Kott,

It has come to our attention that a contradiction exists between state statute and union representation involving employees of the Alcoholic Beverage Control Board.

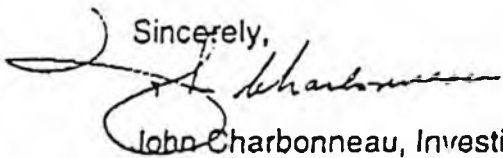
The Statute AS 39.25.110(15) Exempt service, shows "officers, agents and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110" are exempt employees.

All employees of the Alcoholic Beverage Control Board are represented by a union, pay union dues, and have been so since unions started representing employees of the State of Alaska. At no time, have employees of the A.B.C. Board been treated as exempt employees, nor have they desired to be treated as exempt.

We are requesting AS39.25.110(15) be amended by the deletion of section(15).

The other investigators of this agency have been contacted regarding this matter and are in concurrence with this request.

Thank you for your consideration regarding this matter. If there is any thing further you need please do not hesitate to call me.

Sincerely,

John Charbonneau, Investigator
State of Alaska
Alcoholic Beverage Control
550 W. 7th. Ave. Suite 350
Anchorage, Ak. 99501

Sec. 39.25.100. Classified service.

The classified service consists of all positions in the state service not included in the exempt service or in the partially exempt service.

History -

(Sec. 4 ch 144 SLA 1960)

Decisions -

Quoted in *Mueller v. Alaska State Bd. of Personnel*, 425 P.2d 145 (Alaska 1967); *State v. Bogenrife*, 513 P.2d 13 (Alaska 1973).

Sec. 39.25.110. Exempt service.

Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;
- (2) justices, judges, magistrates, and employees of the judicial branch including employees of the judicial council;
- (3) employees of the state legislature and its agencies;
- (4) the head of each principal department in the executive branch;
- (5) officers and employees of the University of Alaska;
- (6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;
- (7) certificated teachers employed by the Department of Education as correspondence teachers, teachers in skill centers operated by the Department of Education, or in Mt. Edgecumbe School;
- (8) patients and inmates employed in state institutions;
- (9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;
- (10) members of boards, commissions, or authorities;
- (11) the officers and employees of the following boards, commissions, and authorities:
 - (A) [Repealed, Sec. 13 ch 43 SLA 1994].
 - (B) Alaska Permanent Fund Corporation;
 - (C) Alaska Industrial Development and Export Authority;
 - (D) Alaska Commercial Fisheries Entry Commission;
 - (E) Alaska Commission on Postsecondary Education;
 - (F) Alaska Aerospace Development Corporation;
- (12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;
- (13) the state medical examiner, deputy medical examiner, and assistant medical examiners appointed under AS 12.65.015 and physicians licensed to practice in this state and employed by the division of mental health and developmental disabilities in the Department of Health and Social Services or by the Department of Corrections;
- (14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical

surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) emergency fire-fighting personnel employed by the Department of Natural Resources for a fire emergency or for fire prevention and related activities conducted under AS 41.15.030;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) employees of the Citizens' Advisory Commission on Federal Areas in Alaska established under AS 41.37.010;

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs;

(23) the executive director of the Medicaid Rate Advisory Commission;

(24) students employed by the state institutions in which the students are enrolled;

(25) the executive director and staff of the Alaska Science and Technology Foundation established under AS 37.17.010;

(26) investment officers in the Department of Revenue;

(27) the executive director and other staff of the Alaska Tourism Marketing Council;

(28) persons engaged in employment or pre-employment training programs operated by the Department of Military and Veterans' Affairs;

(29) [Repealed, Sec. 9 ch 115 SLA 1989].

(30) a person employed as an actuary or assistant actuary by the division of insurance in the Department of Commerce and Economic Development;

(31) the chief administrative law judge and any other administrative law judges appointed to the office of tax appeals of the Department of Administration under AS 43.05.400 - 43.05.499;

(32) a participant in the Alaska temporary assistance program under AS 47.27 who holds a temporary position with the state in order to obtain job training or experience;

(33) a person employed as a convener under AS 44.62.730 or as a facilitator under AS 44.62.760 related to a negotiated regulation making process under AS 44.62.710 - 44.62.800.

History -

(Sec. 5 ch 144 SLA 1960; am Sec. 1 ch 48 SLA 1961; am Sec. 1 ch 133 SLA 1961; am Sec. 3 ch 93 SLA 1962; am Sec. 3 ch 24 SLA 1966; am Sec. 31 ch 46 SLA 1970; am Sec. 65 ch 69 SLA 1970; am Sec. 13 ch 113 SLA 1970; am Sec. 3 ch 78 SLA 1971; am Sec. 18 ch 78 SLA 1974; am Sec. 42 ch 127 SLA 1974; am Sec. 2 ch 32 SLA 1975; am Sec. 2 ch 79 SLA 1975; am Sec. 37 ch 124 SLA 1975; am Sec. 1 ch 157 SLA 1976; am Sec. 3 ch 90 SLA 1978; am Sec. 7 ch 18 SLA 1980; am Sec. 43 ch 106 SLA 1980; am Sec. 10 ch 131 SLA 1980; am Sec. 4 ch 148 SLA 1980; am Sec. 4 ch 106 SLA 1981; am Sec. 2, 3 ch 37 SLA 1982; am Sec. 7 ch 112 SLA 1982; am Sec. 1 ch 11 SLA 1983; am Sec. 1 ch 103 SLA 1984; am Sec. 58 ch 21 SLA 1985; am Sec. 1

ch 50 SLA 1985; am Sec. 69 ch 14 SLA 1987; am Sec. 1 ch 61 SLA 1987; am Sec. 2 ch 37 SLA 1988; am Sec. 2 ch 78 SLA 1988; am Sec. 26 ch 141 SLA 1988; am E.O. No. 72 Sec. 2 (1989) am Sec. 11 ch 95 SLA 1989; am Sec. 7, 9 ch 115 SLA 1989; am Sec. 10 ch 88 SLA 1991; am Sec. 1 ch 17 SLA 1992; am Sec. 4 ch 47 SLA 1993; am Sec. 13 ch 43 SLA 1994; am Sec. 111 ch 62 SLA 1995; am Sec. 17 ch 103 SLA 1996; am Sec. 25 ch 107 SLA 1996; am Sec. 6 ch 108 SLA 1996; am Sec. 1 ch 121 SLA 1996; am Sec. 4, 7 ch 117 SLA 1998)
Postponed Repeal Effective Date -

of paragraph (33). - Under Sec. 7, ch. 117, SLA 1998, paragraph (33) is repealed July 1, 2003.

Revisors Notes -

Former paragraph (29) was enacted as (28). Renumbered in 1989. Paragraph (32) was enacted as (31); renumbered in 1996.

Amendment Notes -

The 1991 amendment, effective July 2, 1991, in paragraph (11), redesignated former subparagraphs (D) to (F) as subparagraphs (C) to (E) and added subparagraph (F).

The 1992 amendment, effective May 16, 1992, in paragraph (13), inserted "or by the Department of Corrections" and made a stylistic change.

The 1993 amendment, effective September 1, 1993, in paragraph (13), added "the state medical examiner appointed under AS 12.65.015 and" to the beginning.

The 1994 amendment, effective May 16, 1994, repealed subparagraph (11)(A), relating to the Alaska Gas Pipeline Financing Authority.

The 1995 amendment, effective July 1, 1995, added paragraph (30).

The first 1996 amendment, effective September 23, 1996, inserted ", deputy medical examiner, and assistant medical examiners" near the beginning of paragraph (13).

The second 1996 amendment, effective July 1, 1997, added paragraph (32).

The third 1996 amendment, effective July 1, 1996, added paragraph (31).

The fourth 1996 amendment, effective September 27, 1996, in paragraph (19), substituted "emergency fire-fighting personnel" for "fire fighters" and added "or for fire prevention and related activities conducted under AS 41.15.030" at the end.

The 1998 amendment, effective June 23, 1998, added paragraph (33).

Editors Notes -

Section 41.37.010, referred to in paragraph (21), is repealed June 30, 1998.

Decisions -

The thrust of the exemptions in this chapter, - the Public Employees Retirement System, former AS 39.35.680(5)(c), and the statutory leave provisions for state employees, AS 39.20.310, is to provide for those public employees who are not susceptible to ordinary recruiting and examining procedures. *Hafling v. Inlandboatmen's Union*, 585 P.2d 870 (Alaska 1978).

No inconsistency between ferry crew exemption of this section and inclusion of such personnel with Public Employment Relations Act, AS 23.40.070 et seq. - See *Hafling v. Inlandboatmen's Union*, 585 P.2d 870 (Alaska 1978).

National Guard exempt from Personnel Act. - Because of the state's adoption of federal personnel rules and regulation regarding promotion and separation in the Alaska National Guard, it has "otherwise provided by law" that members of the National Guard are exempt from the Alaska Personnel Act. *State, Dep't of Military & Veterans Affairs v. Bowen*, 953 P.2d 888 (Alaska 1998).

Effect of being in exempt service. - The "exempt service" is a category of jobs which, for whatever reason, the Legislature wanted to exclude from the state personnel system. Not every

person in the exempt service is a confidential employee. The fact that plaintiff was in the exempt service did not mean that the Alaska Energy Center lacked the power to give him a three-year contract. *Zerbetz v. Alaska Energy Ctr.*, 708 P.2d 1270, 1276-1277 (Alaska 1985).

Cited in *State v. Haley*, 687 P.2d 305 (Alaska 1984); *McGrath v. University of Alaska*, 813 P.2d 1370 (Alaska 1991).

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 16, 1999

FURTHER REFERRALS:

Finance

Date of Committee Action: March 5, 1999

The LABOR AND COMMERCE Committee considered:

HB 94

HOUSE BILL NO. 94

ABC BD EMPLOYEES NOT EXEMPT EMPLOYEES

"An Act removing employees of the Alcoholic Beverage Control Board from the exempt service."

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) _____

fiscal note(s) _____

zero fiscal note(s) Revenue

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Alan Rokoban</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>John V. Harris</i>	✓			
<i>Brandon McCanna</i>	✓			

CHAIR'S SIGNATURE *Alan Rokoban*

3-5-99

HB

101

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 10, 1999

FURTHER REFERRALS:

Date of Committee Action: 17 Mar 1999

The LABOR AND COMMERCE Committee considered:

HB 101

HOUSE BILL NO. 101

CORPORATE PUBLIC UTILITY REINSTATEMENT

"An Act relating to the reinstatement of corporations that are public utilities; and providing for an effective date."

recommends it be replaced with the following committee substitute Cshb 101 (h+c) 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) _____ fiscal note(s) _____

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Tom Kotely</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			

CHAIR'S SIGNATURE *Tom Kotely* 3-17-99

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, AND CORPORATIONS

TONY KNOWLES, GOVERNOR

333 Willoughby Avenue, 9th Floor
P.O. BOX 110808
JUNEAU, ALASKA 99811-0808
Corporation Section (907) 465-2530
Banking & Securities (907) 465-2521

ANCHORAGE

Corporation Information (907) 269-8140
TDD: (907) 465-5437

March 23, 1999

The Honorable Norman Rokeberg
Alaska State House of Representatives
State Capitol Room. 24
Juneau, AK 99801-1182

MAR 24 1999

Dear Representative Rokeberg:

Re: CSHB 101

Let me take this opportunity to thank you for your diligent efforts to protect all corporations from involuntary dissolution. It has never been a high point of this Division to dissolve corporations. Indeed, we feel that corporations are very important to all aspects of Alaska's economy.

This division has always tried to do its best to keep corporations informed on what, when, and how often documents are required to be filed with us. However, as you've pointed out, we can do more. Getting these notices to the corporations is of utmost importance. Any actions taken to achieve this goal shall be a priority of this Department in the future.

To this end, and following the Committee's suggestion, we have contacted the Department of Revenue, Division of Income and Excise Audit. It is clear that most corporations, regardless of whether they are involuntarily dissolved by the Department of Commerce, continue to file their State Corporate Income Tax with the Department of Revenue. A preliminary discussion between the two divisions indicates that there may be a way for the Corporations Section to have access to a corporation's last known Tax Return address. Using this address, we feel, will be a final means of contacting the corporation before it becomes involuntarily dissolved by the Department.

I hope this action meets or exceeds your expectations of this Department. Please be assured that the Corporations Section will do all it can to ensure mailings concerning the impending involuntary dissolution of a corporation are effective.

Sincerely,


Franklin T. Elder
Director

FTE/dhw

Cc: Deborah Sedwick, Commissioner, DCED
Ginny Fay, Legislative Liason, DCED
Jeff Bush, Deputy Commissioner, DCED
Dawn Williams, Corporation Supervisor

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 101(L&C), Draft Version "D"

1 Page 1, line 10:

2 Delete "certified"

3 Insert "[CERTIFIED]"

4 Page 2, line 22, following "item":

5 Insert "by certified mail"

6 Page 2, line 25, following "item":

7 Insert "by first class mail"

8 Page 2, line 28, following "item":

9 Insert "by first class mail"

10 Page 2, line 31, following "item":

11 Insert "by first class mail"

12 Page 3, line 3, following "item":

13 Insert "by first class mail"

14 Page 3, line 8, following "again.":

15 Insert "If the address shown on the records of the commissioner for a mailing after
16 the initial certified mailing is not different from the address for the previous mailing, the
17 commissioner is not required to mail the item to the same address, but shall mail the item to
18 the next required addressee whose address is different from the address for the returned
19 mailing, and, if none of the mailings required after a returned mailing has an address that is

1 different from the address for the returned mailing, the commissioner is not required to mail
2 the item again."

3 Page 3, line 14:

4 Delete "certified"

5 Insert "[CERTIFIED]"

6 Page 3, line 24:

7 Delete "by certified mail"

8 Page 3, line 31:

9 Delete "by certified mail"

10 Page 4, line 6:

11 Delete "certified"

12 Insert "[CERTIFIED]"

13 Page 4, line 10:

14 Delete "certified mail"

15 Insert "[CERTIFIED] mail as required under this subsection"

16 Page 4, line 29, following "item":

17 Insert "by certified mail"

18 Page 5, line 1, following "item":

19 Insert "by first class mail"

20 Page 5, line 4, following "item":

21 Insert "by first class mail"

22 Page 5, line 10, following "again.":

23 Insert "If the address shown on the records of the commissioner for a mailing after

1 the initial certified mailing is not different from the address for the previous mailing, the
2 commissioner is not required to mail the item to the same address, but shall mail the item to
3 the next required addressee whose address is different from the address for the returned
4 mailing, and, if none of the mailings required after a returned mailing has an address that is
5 different from the address for the returned mailing, the commissioner is not required to mail
6 the item again."

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Mail Stop 3101

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

MEMORANDUM

March 16, 1999

SUBJECT: CSHB 101(L&C) (Work Order No. 21-LS0469D)

TO: Representative Normal Rokeberg, Chair
House Labor and Commerce Committee
Attn: Janet

FROM: *TB*
Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above. The draft changes the mailing requirements for certain items related to the dissolution of certain organized entities.

Although the draft limits its amendments to AS 10.06 (for-profit corporations), AS 10.20 (nonprofit corporations), AS 10.25 (electric and telephone cooperatives), AS 10.40 (religious corporations), and AS 10.50 (limited liability companies), the new mailing requirements also apply to other entities organized under AS 10. Under AS 10.15.505, the mailing provisions of AS 10.06 apply to cooperatives organized under AS 10.15. Under AS 10.30.055, the mailing provisions of AS 10.20 apply to nonprofit cemetery corporations. Under AS 10.45.240, the mailing provisions of AS 10.06 may apply to professional corporations organized under AS 10.45 if involuntary dissolution is allowed for those corporations (under AS 10.45.133, this is not clear, although it is logical for involuntary dissolution provisions to apply).

The draft does not address the business and industrial development corporation organized under AS 10.10 or BIDCOs organized under AS 10.13. There does not appear to be a provision for involuntary dissolution under AS 10.10, and there does not appear to be a provision for dissolution under AS 10.13.

The draft does not change any mailing requirements for partnerships, limited partnerships, or limited liability partnerships.

The draft does not change the mailing requirements for the revocation of certificates of authority for out-of-state organized entities to operate in the state.

If I may be of further assistance, please advise.

TLB:jdr
99-123.jdr

Enclosure

I-LS0469D
Bannister/
3/16/99

CS FOR HOUSE BILL NO. 101(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MORGAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the mailing requirements that must be followed by the
2 commissioner of commerce and economic development to involuntarily dissolve
3 certain organized entities; relating to the reinstatement of corporations that are
4 public utilities and that have been involuntarily dissolved; and providing for an
5 effective date."

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

7 * Section 1. AS 10.06.633(b) is amended to read:

8 (b) A corporation may not be dissolved under this section unless the
9 commissioner has given the corporation written notice of its delinquency, failure, or
10 noncompliance by certified mail as provided by (i) of this section [ADDRESSED TO
11 ITS REGISTERED OFFICE, REGISTERED AGENT, PRESIDENT, OR
12 SECRETARY AT THE LAST KNOWN ADDRESS AS SHOWN BY THE
13 RECORDS OF THE COMMISSIONER]. If the corporation fails, within 60 days after

1 the requirements of (i) of this section have been satisfied [NOTICE IS SENT BY
2 CERTIFIED MAIL], to contest the alleged neglect, omission, delinquency, or
3 noncompliance by a written request for a hearing before the commissioner or fails to
4 correct the asserted neglect, omission, delinquency, or noncompliance, it may be
5 dissolved under (d) of this section.

6 * Sec. 2. AS 10.06.633(d) is amended to read:

7 (d) If a corporation has given cause for involuntary dissolution and has failed
8 to correct the neglect, omission, delinquency, or noncompliance as provided in this
9 section, and there has been no order of the superior court, the commissioner shall
10 dissolve the corporation by issuing a certificate of involuntary dissolution containing
11 a statement that the corporation has been dissolved, the date, and the reason for which
12 it was dissolved. The original certificate of dissolution shall be placed in the
13 department files and a copy of it mailed to the corporation as provided by (i) of this
14 section [AT ITS REGISTERED OFFICE OR IN CARE OF ITS REGISTERED
15 AGENT, PRESIDENT, OR SECRETARY AT THE LAST KNOWN ADDRESS,
16 AS SHOWN BY THE RECORDS OF THE COMMISSIONER]. Upon the issuance
17 of the certificate of involuntary dissolution, the existence of the corporation ceases,
18 except as otherwise provided in this section, and its name shall be available to and
19 may be adopted by another corporation no less than six months after the dissolution.

20 * Sec. 3. AS 10.06.633 is amended by adding a new subsection to read:

21 (i) If the mailing of an item is required by (b) or (d) of this section, the
22 commissioner shall first mail the item to the corporation's registered office at the last
23 known address of the registered office shown on the records of the commissioner. If
24 the item mailed to the registered office is returned to the commissioner, the
25 commissioner shall mail the item to the registered agent of the corporation at the last
26 known address of the registered agent shown on the records of the commissioner. If
27 the item mailed to the registered agent is returned to the commissioner, the
28 commissioner shall mail the item to the president of the corporation at the last known
29 address for the president shown on the records of the commissioner. If the name and
30 address of the president are not shown on the records of the commissioner, the
31 commissioner shall mail the item to an officer shown on the records of the

1 commissioner at the last known address shown on the records of the commissioner.
2 If the name and address of an officer of the corporation are not shown on the records
3 of the commissioner, the commissioner shall mail the item to a member of the board
4 of directors of the corporation at the last known address shown on the records of the
5 commissioner. If the name and address of an officer or board member are not shown
6 on the records of the commissioner, the commissioner is not required to mail the item
7 again. If the item mailed to the president, other officer, or board member is returned
8 to the commissioner, the commissioner is not required to mail the item again. In this
9 subsection, "item" means the notice required by (b) of this section or the certificate of
10 involuntary dissolution under (d) of this section.

11 * Sec. 4. AS 10.20.335 is amended to read:

12 Sec. 10.20.335. Notice to corporation. When the commissioner determines
13 that a corporation has given any cause for involuntary dissolution, the commissioner
14 shall mail to the corporation, by certified mail, [AT ITS REGISTERED OFFICE] a
15 notice, setting out the grounds for involuntary dissolution, 60 days before a certificate
16 of dissolution is issued. The commissioner shall mail the notice and any
17 subsequent certificate of dissolution in the same manner as required for notices
18 and certificates of involuntary dissolution under AS 10.06.633(i).

19 * Sec. 5. AS 10.25.330(b) is amended to read:

20 (b) A cooperative that does not file its articles of dissolution within two years
21 after the date of filing the certificate mentioned in (a) of this section [,] shall be
22 involuntarily dissolved by the commissioner. Before dissolving the cooperative
23 under this subsection, the commissioner shall give the cooperative written notice
24 of the pending dissolution by mailing the notice by certified mail to the
25 cooperative. The commissioner shall mail the notice and any subsequent
26 certificate of dissolution to the cooperative in the same manner as required for
27 notices and certificates of involuntary dissolution under AS 10.06.633(i).

28 * Sec. 6. AS 10.40.150 is amended by adding a new subsection to read:

29 (b) Before dissolving a corporation under (a) of this section, the commissioner
30 shall give the cooperative written notice of the pending dissolution by mailing the
31 notice by certified mail to the corporation. The commissioner shall mail the notice and

1 any subsequent certificate of dissolution to the cooperative in the same manner as
2 required for notices and certificates of involuntary dissolution under AS 10.06.633(i).

3 * Sec. 7. AS 10.50.408(b) is amended to read:

4 (b) A limited liability company may not be dissolved under this section unless
5 the commissioner has given the company written notice of its delinquency, failure, or
6 misrepresentation by certified mail as provided by (f) of this section [ADDRESSED
7 TO ITS REGISTERED AGENT, REGISTERED OFFICE, MANAGER, OR
8 MEMBERS AT THE LAST KNOWN ADDRESS AS SHOWN BY THE RECORDS
9 OF THE COMMISSIONER]. If the company fails, within 60 days after the notice is
10 sent by certified mail, to contest the alleged delinquency, failure, or misrepresentation,
11 it may be dissolved under (d) of this section.

12 * Sec. 8. AS 10.50.408(d) is amended to read:

13 (d) If a limited liability company has given cause for involuntary dissolution
14 and has failed to correct the neglect, omission, delinquency, or noncompliance as
15 provided in this section, and there has not been a controlling order of the superior
16 court, the commissioner shall dissolve the company by issuing a certificate of
17 involuntary dissolution containing a statement that the company has been dissolved,
18 the date, and the reason for which it was dissolved. The original certificate of
19 dissolution shall be placed in the department files and a copy of it mailed to the
20 company as provided by (f) of this section [AT ITS REGISTERED OFFICE OR IN
21 CARE OF ITS REGISTERED AGENT, MANAGER, OR MEMBERS AT THE LAST
22 KNOWN ADDRESS, AS SHOWN BY THE RECORDS OF THE COMMISSIONER].
23 Upon the issuance of the certificate of involuntary dissolution, the existence of the
24 company ceases, except as otherwise provided in this chapter, and its name shall be
25 available to use and may be adopted by another company on a date that is six months
26 or later after the dissolution.

27 * Sec. 9. AS 10.50.408 is amended by adding a new subsection to read:

28 (f) If the mailing of an item is required by (b) or (d) of this section, the
29 commissioner shall first mail the item to the registered office of the limited liability
30 company at the last known address of the registered office shown on the records of the
31 commissioner. If the item mailed to the registered office is returned to the department,

1 The commissioner shall mail the item to the registered agent of the limited liability
2 company at the last known address of the registered agent shown on the records of the
3 commissioner. If the item mailed to the registered agent is returned to the department,
4 the commissioner shall mail the item to the manager or the managing member of the
5 limited liability company at the last known address for the manager or the managing
6 member shown on the records of the commissioner. If the name and address of the
7 manager or managing members are not shown on the records of the commissioner, the
8 commissioner is not required to mail the notice to the manager or managing member.
9 If the item mailed to the manager or managing member is returned to the department,
10 the commissioner is not required to mail the item again. In this subsection, "item"
11 means the notice required under (b) of this section or the certificate of involuntary
12 dissolution issued under (d) of this section.

13 * Sec. 10. REINSTATEMENT OF CERTAIN PUBLIC UTILITY CORPORATIONS.

14 Notwithstanding AS 10.06.633(e), a corporation that is a public utility, that has been
15 involuntarily dissolved by the commissioner under AS 10.06.633, and that has failed to apply
16 for reinstatement during the period established under AS 10.06.633(e) may be reinstated under
17 ~~AS 10.06.633(e)~~ on or before December 31, 1999. A reinstatement authorized under this
18 section is retroactive to the date of the involuntary dissolution, and the reinstated corporation
19 and its shareholders have all of the rights, privileges, liabilities, and obligations that would
20 have applied to them if the corporation had not been dissolved. If a corporation that is a
21 public utility elects to seek reinstatement under this section and if the corporation's previously
22 used corporate name is no longer available for use by the corporation, then, notwithstanding
23 AS 10.06.502 - 10.06.510, an amendment to the articles of incorporation changing the
24 previously used corporate name may be adopted by action of the corporation's board of
25 directors alone. In this section, "public utility" has the meaning given in AS 42.05.990.

26 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

SESSION

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MEMBER

Community & Regional Affairs Committee
Health, Education & Social Services Committee
House Resources Committee
Special Committee on Fisheries

Representative Carl M. Morgan, Jr. District 36

MEMORANDUM

To: Representative Norman Rokeberg
Chair, Labor and Commerce Committee

From: Representative Carl M. Morgan, Jr. 

Date: March 10, 1999

Re: Scheduling House Bill 101

Please accept this memorandum as a formal request that HB 101 be considered in the Labor and Commerce Committee at your earliest convenience. Attached is a sponsor statement for your information and bill file.

Thank you for your consideration. If you have any questions, please don't hesitate to contact me or my staff regarding this bill.

FISCAL NOTE

Bill Version: HB 101

(H) Publish Date: 3/10/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Commerce & Econ. Dev.
 Title Corporate Public Utility Reinstatement BRU Banking, Securities and Corporations
 Component Banking, Securities and Corporations
 Sponsor Rep. Morgan
 Requester House URS Component Serial No. 1233

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Franklin T. Elder, Director Phone 465-2521
 Division Banking, Securities and Corporations Date/Time 3/1/99 3:58 PM
 Approved by Commissioner Deborah B. Sedwick Date 3/1/99
 Agency Commerce and Economic Development

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MEMBER

Community & Regional Affairs Committee
Health, Education & Social Services Committee
House Resources Committee
Special Committee on Fisheries



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Representative Carl M. Morgan, Jr. District 36

Sponsor Statement HB 101

**"An Act relating to the reinstatement of corporations that are public utilities;
and providing for an effective date"**

This legislation is a vehicle to allow the Alaska Department of Commerce and Economic Development the discretion to reinstate, as a corporation, a local exchange (telecommunications) company that serves several communities in western Alaska.

After reviewing the facts and circumstances surrounding the issue, I hope that you will agree that this measure warrants our attention and support. The following are the facts surrounding the involuntary dissolution of Bush-Tell.

Bush-Tell is a small, rural local exchange telephone company located in Aniak, Alaska, which provides local exchange telephone service to ten small villages in Western Alaska. Bush-Tell was incorporated on November 10, 1969 and has been providing telecommunications service since 1970. Mr. Harry "Bob" Colliver, Jr., the President and sole shareholder of Bush-Tell, recently contacted the Alaska Division of Banking, Securities Corporations to find out about registering a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the division. Bush-Tell had been involuntarily dissolved in 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992. Upon investigation, it was discovered that Bush-Tell's registered agent had failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell.

Bush-Tell's designated agent was a sole practitioner in Anchorage, Alaska who also served as Bush-Tell's general counsel. In the early 1980's, Bush-Tell hired another law firm to do its legal work but continued to retain the sole practitioner as its registered agent. The forms for Bush-Tell's biennial reports were sent to the registered agent and were filed by the registered agent up to and including the period ending December 31, 1990.

Page Two
Sponsor Statement
HB 101

In 1991, the registered agent left the private practice of law, closed his office and left a forwarding address for his mail with the U.S. Postal Service. The registered agent did not inform the Alaska Division of Banking, Securities & Corporations that his address was changing or that he was resigning as Bush-Tells' registered agent. Alaska Statute 10.06.170(b) requires that, if a registered agent resigns, the registered must file a written notice with the commissioner setting out the latest address of the principal office of the corporation and the names, addresses and titles of the most recent officers of the corporation. The commission must then immediately mail a copy of the notice to the corporation at its principal office.

On July 12, 1993, the Alaska Division of Banking, Securities & Corporations sent a notice by certified mail to Bush-Tell, care of the registered agent, informing Bush-Tell that it had not filed its biennial report and/or tax for the period ending December 31, 1992 and that, if the biennial report and/or tax are not mailed by September 19, 1993, the Certificate of Involuntary Dissolution will be issued and the corporation will cease to exist as of September 20, 1993. This notice was returned to the Alaska Division Banking, Securities & Corporations because the register agent's forwarding notice had expired. On September 20, 1993, Bush-Tell was involuntarily dissolved.

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income tax.

I urge your support of HB 101.

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, AND CORPORATIONS

TONY KNOWLES, GOVERNOR

333 Willoughby Avenue, 9th Floor
P.O. BOX 110808
JUNEAU, ALASKA 99811-0808
Corporation Section (907) 465-2530
Banking & Securities (907) 465-2521

ANCHORAGE

Corporation Information (907) 269-8140
TDD: (907) 465-5437

HOUSE BILL NO. 101

REINSTATEMENT OF PUBLIC UTILITY CORPORATIONS

In reviewing HB 101, the Division of Banking, Securities and Corporations supports the language and intent of this bill. Indeed, the Division feels that it is in the best interest of the State of Alaska to continue to help keep entities active and in good standing with the State. Public utility corporations provide important public services to citizens of Alaska.

In the past, it has been the Division's policy to send statutorily required biennial reports to a corporation's, or an entity's, registered agent. Corporations complete the report and return it with any required taxes or fees to the Division. Receipt of these completed reports and fees by this Division determine the compliance of each entity. However, an episode occurred a couple of years ago in which a service company, who acts as registered agent for a large number of Alaska corporations, misplaced a large number of reports. Because of this episode, the Division changed policy and started sending these reports to the principal business address of each corporation. Unfortunately, not all corporations keep the Division apprised of their address changes. Therefore, for those reports that are returned as undeliverable by the U. S. Post Office, the Division resends the report to the registered agent. We have increased our diligence in working with corporations to avoid to the maximum extent possible inadvertent dissolving of businesses.

Alaska Telephone Association

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776

David Fauske
President

James Rowe
Executive Director

BY FACSIMILE

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, which is the reinstatement of public utility corporations. The Alaska Telephone Association supports this measure because of its importance to local telephone service provider Bush-Tell, Inc.

The current ownership and management of Bush-Tell, Inc. has been the same since its inception in 1969. Since that time the corporation has provided service, often in challenging conditions, to many small communities in western Alaska, including Aniak, Red Devil, Crooked Creek, Shageluk, Sleetmute and Stony River. This corporation has always done an outstanding job of providing reliable telecommunications services while being an integral part of the community and good corporate citizen.

Through a set of unfortunate circumstances Bush-Tell, Inc. was involuntarily dissolved in 1993. Even after learning of the involuntary dissolution last summer, Bush-Tell continued to hold Board meetings, conduct business, pay all corporate income taxes, and conduct its affairs as if it had not been dissolved.

Upon discovering that it had been involuntarily dissolved, Bush-Tell, Inc. approached the Department of Commerce and learned that it would take an act of the Legislature to obtain reinstatement.

Given this unique set of circumstances and the excellent record that Bush-Tell, Inc. has in providing telephone service in rural Alaska, I hope that the Legislature recognizes the importance of Bush-Tell to its customers and quickly passes this legislation. The members of the Alaska Telephone Association believe that Bush-Tell, Inc. has in the past and will in the future provide a very necessary public service.

Thank you for your consideration.

Sincerely,



James Rowe



BUSH-TELL, INC.

Box 109 • Aniak, Alaska 99557 • (907) 676-4311

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am President and sole shareholder of Bush-Tell, a small, rural local exchange telephone company located in Aniak, Alaska. Bush-Tell, Inc. provides local exchange telephone service to ten small villages in Western Alaska.

I moved to Alaska in 1958 and worked as a technician providing maintenance and operations services to the White Alice Communications system from 1958 to 1978. I started Bush-Tell in 1969 and worked as both the full-time manager of Bush-Tell and as a technician on the White Alice Communications and have since devoted all of my time to managing Bush-Tell. I have lived in Aniak for approximately 39 years.

This year, I contacted the Alaska Division of Corporations to find out about registering as a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the Alaska Division of Corporations. I further learned that Bush-Tell had been involuntarily dissolved in September 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992, that Bush-Tell's registered agent failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell in 1993. (The State did not send any notices to me informing me that Bush-Tell had not filed its biennial report and/or paid the biennial corporate tax for the period ending December 31, 1992 and that, if the biennial report and/or tax were not mailed by September 19, 1993, the certificate of Involuntary Dissolution would be issued and the corporation would cease to exist as of September 20, 1993.)

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income taxes.

My company performs a necessary public service, especially for residents of rural Alaska. Telecommunications services are vital for emergencies, for businesses and for a full range of human and social needs. Bush-Tell, Inc. has provided an outstanding job in providing service in rural Alaska, and its corporate dissolution took place through no fault of mine or any of my

employees. Rather, the dissolution arose out of the neglect of a registered corporate agent.

Upon learning of Bush-Tell's involuntary dissolution, I sought reinstatement from the Alaska Department of Commerce. However, the Department of Commerce advised me that it was unable to reinstate Bush-Tell because too much time had passed and that a legislative enactment would be required. I understand that the Alaska Legislature has passed similar legislation in the past. Under the circumstance, I am hopeful that the Alaska Legislature would pass H.B. 101.

Thank you for consideration of this matter, which is extremely important to my customers and to me,

Sincerely,


Harry E. Colliver, Jr.
President, Bush-Tell, Inc.



2121 Abbott Road
 Anchorage, Alaska 99507
 (907) 349-2400
 Fax (907) 349-1858

March 1, 1999

MAR 2 1999

The Honorable Bill Hudson, Chairman
 House Utility Restructuring Committee
 State Capitol, Room 108
 Juneau AK 99801

Via Facsimile: (907) 465-2273

Regarding: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, a bill to reinstate public utility corporations. I am the President and Chairman of TelAlaska, Inc. which, through some of its subsidiaries, provides local telephone service in rural America. I support H.B. 101 because of its importance to Bush-Tell, Inc., another rural telephone company.

Bush-Tell, Inc. has done an outstanding job of providing rural local exchange service. However, through an unfortunate set of circumstances that were outside the control of Bush-Tell, Bush-Tell was apparently dissolved involuntarily in 1993. My understanding is that an act of the Legislature is now required to reinstate Bush-Tell.

Since the time of dissolution, and even after discovering the involuntary dissolution, I have been advised that Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law. This includes the holding of regular board of directors meetings and paying corporate income taxes.

Bush-Tell performs critical public functions, and has unfortunately been dissolved through a unique set of circumstances. TelAlaska, Inc. strongly supports the passage of H.B. 101, and I hope the Legislature will enact it.

Thank you for your consideration of H.B. 101.

Sincerely,

Jack H. Rhyner
 President and Chairman

Attn: Walt Wilcox

Re: Corrected fees for reinstatement of Bush-Tel - HB101

A.	Pay biennial company tax for 1993-94	100.00
B.	Penalty for nonpayment of company tax 1993	25.00
C.	Penalty for nonpayment of company tax 1994	25.00
D.	Penalty for nonpayment of company tax 1995	25.00
E.	Penalty for non-filing of biennial report 1993	17.50 (10%)
F.	Pay biennial company tax for 1995-96	100.00
G.	Penalty for nonpayment of company tax 1995	25.00
H.	Penalty for nonpayment of company tax 1996	25.00
I.	Penalty for non-filing of biennial report 1995	15.00 (10%)
J.	Pay biennial company tax for 1997-1998	100.00
K.	Penalty for nonpayment of company tax 1997	25.00
L.	Penalty for nonpayment of company tax 1998	25.00
M.	Penalty for non-filing of biennial report 1997	17.50 (10%)
N.	Pay biennial company tax for 1999-2000	100.00
O.	Penalty for nonpayment of company tax 1999	25.00
P.	Penalty for non-filing of biennial report 1999	<u>12.50 (10%)</u>
	Total	662.50
	Penalty to reinstate (double fee)	<u>662.50</u>
	Total to reinstate	1325.00

The above totals are based on the following:

Company Involuntarily Dissolved on 9/28/98 (Reinstate after 1/1/00)

Pay fees totaling \$522.50:

A.	Pay biennial company tax for 1997-98	\$100.00
B.	Penalty for nonpayment of company tax 1997	\$25.00
C.	Penalty for nonpayment of company tax 1998	\$25.00
D.	Penalty for nonpayment of company tax 1999	\$25.00
E.	Penalty for non-filing of biennial report 1997	\$17.50
F.	Penalty to reinstate	\$192.50
G.	Pay biennial company tax for 1999-00	\$100.00
H.	Penalty for nonpayment of company tax 1999	\$25.00
I.	Penalty for non-filing of biennial report 1999	<u>\$12.50</u>
	TOTAL	<u>\$522.50*</u>

be a reasonable compromise between the competing considerations of providing a remedy to injured plaintiffs and providing a period of repose after which dissolved corporations may distribute remaining assets free of all claims and shareholders may receive them secure in the knowledge that they may not be reclaimed.

Directors must generally discharge or make provision for discharging all of the corporation's liabilities before distributing the remaining assets to the shareholders. See the Official Comment to section 14.06. But section 14.07 does not contemplate that liquidating distributions to shareholders will be deferred until all possible claims are barred under section 14.07. Many claims covered by this section are of a type for which provision may be made by the purchase of insurance or by the setting aside of a portion of the assets, thereby permitting prompt distributions in liquidation. Claimants, of course, may always have recourse to the remaining assets of the dissolved corporation. See section 14.07(d)(1). Further, where unexpected claims arise after distributions have been made to shareholders in liquidation, section 14.07(d)(2) authorizes recovery against the shareholders receiving the earlier distributions. The recovery, however, is limited to the smaller of the recipient shareholder's pro rata share of the claim or the total amount of assets received as liquidating distributions by the shareholder from the corporation. The provision ensures that claimants seeking to recover distributions from shareholders will try to recover from the entire class of shareholders rather than concentrating only on the larger shareholders and protects the limited liability of shareholders.

Subchapter B.

ADMINISTRATIVE DISSOLUTION

§ 14.20. GROUNDS FOR ADMINISTRATIVE DISSOLUTION

The secretary of state may commence a proceeding under section 14.21 to administratively dissolve a corporation if:

- (1) the corporation does not pay within 60 days after they are due any franchise taxes or penalties imposed by this Act or other law;
- (2) the corporation does not deliver its annual report to the secretary of state within 60 days after it is due;

- (3) the corporation is without a registered agent or registered office in this state for 60 days or more;
- (4) the corporation does not notify the secretary of state within 60 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or
- (5) the corporation's period of duration stated in its articles of incorporation expires.

CROSS-REFERENCES

Annual report, see § 16.22.
 Appeal from administrative dissolution, see § 14.23.
 "Deliver" includes mail, see § 1.40.
 Duration of corporation, see § 3.02.
 Judicial dissolution, see §§ 14.30—14.33.
 Registered office and agent, see ch 5.
 Reinstatement following administrative dissolution, see § 14.22.
 Voluntary dissolution, see §§ 14.01 & 14.02.

OFFICIAL COMMENT

Involuntary dissolution in earlier versions of the Model Act required judicial order upon suit filed by the state attorney general. In the comment to section 95 of the 1969 Model Act, this decision was explained on the basis that the Model Act "provides for judicial review in protection of rights that might otherwise be lost." This position, however, was not generally accepted—in 1982 only three jurisdictions limited involuntary dissolution to judicial action—with all other jurisdictions permitting administrative dissolution for a variety of reasons, usually including a failure to pay franchise taxes and often including failure to file annual reports or otherwise comply with similar requirements of the corporation statutes. Some of these administrative dissolution statutes appear in the tax statutes rather than the corporation statutes of the states.

The experience in most states has been that administrative dissolution, or the threat thereof, is an effective enforcement mechanism for a variety of statutory obligations. Judicial dissolution is inappropriate for many of these violations because of its cost and the diversion of limited legal resources, particularly since most violations reflect the abandonment of the corporation by its owners.

The advantages of administrative dissolution in these circumstances are compelling: it not only reduces the number of records maintained by the secretary of state, but also avoids further wasteful attempts to compel compliance by the abandoned corporations and returns the corporate name promptly to the status of available names. Therefore, the revised Model Act includes, in sections 14.20 through 14.23, a model provision for the administrative dissolution of corporations in certain limited circumstances. These circumstances are set forth in section 14.20 and closely parallel provisions found in most state statutes on this subject.

§ 14.21. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION

- (a) If the secretary of state determines that one or more grounds exist under section 14.20 for dissolving a corporation, he shall serve the corporation with written notice of his determination under section 5.04.
- (b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after service of the notice is perfected under section 5.04, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under section 5.04.
- (c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 14.05 and notify claimants under sections 14.06 and 14.07.
- (d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

CROSS-REFERENCES

Appeal from denial of reinstatement, see § 14.23.
 Claims, see §§ 14.06 & 14.07.
 Deposit with state treasurer, see § 14.33.
 Effective date of service, see § 5.04.
 Reinstatement following administrative dissolution, see § 14.22.
 Winding up, see § 14.05.

OFFICIAL COMMENT

Many failures to comply with statutory requirements that may give rise to administrative dissolution under section 14.20 occur because of oversight or inadvertence by responsible corporate officers of corporations that are continuing in business. Such failures are usually corrected promptly when brought to the corporation's attention. Sections 14.21(a) and (b) therefore provide a mandatory notice by the secretary of state to each corporation subject to administrative dissolution and a 60-day grace period following the notice before the certificate of administrative dissolution may be filed.

In most instances, the issue whether the corporation is subject to administrative dissolution will not be controverted. If a corporation is administratively dissolved, it may petition the secretary of state for reinstatement under section 14.22 and, if this is denied, it may appeal to the courts under section 14.23.

§ 14.22. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION

- (a) A corporation administratively dissolved under section 14.21 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must:
 - (1) recite the name of the corporation and the effective date of its administrative dissolution;
 - (2) state that the ground or grounds for dissolution either did not exist or have been eliminated;
 - (3) state that the corporation's name satisfies the requirements of section 4.01; and
 - (4) contain a certificate from the [taxing authority] reciting that all taxes owed by the corporation have been paid.
- (b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, he shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under section 5.04.
- (c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the

corporation resumes carrying on its business as if the administrative dissolution had never occurred.

CROSS-REFERENCES

Appeal from denial of reinstatement, see § 14.23.
Corporate name generally, see ch. 4.
Effective date of administrative dissolution, see § 14.21.
Filing fees, see § 1.22.
Filing requirements, see § 1.20.
Grounds for administrative dissolution, see § 14.20.

OFFICIAL COMMENT

Section 14.22 provides a two-year period during which a corporation may seek reinstatement following administrative dissolution. This section may apply when a corporation through inadvertence or a failure to maintain a registered agent fails to receive or respond to the predissolution notice of default required by section 14.21. A corporation that is reinstated pursuant to this section resumes carrying on its business as before dissolution.

In order to be eligible for reinstatement, a corporation must comply with all statutory requirements at the time it seeks reinstatement. It must establish, for example, that all taxes have been paid and that its name is available when it files the application for reinstatement.

§ 14.23. APPEAL FROM DENIAL OF REINSTATEMENT

- (a) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation under section 5.04 with a written notice that explains the reason or reasons for denial.
- (b) The corporation may appeal the denial of reinstatement to the [name or describe] court within 30 days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

if evidence is required. The award of the appraisers or of a majority of the appraisers, when confirmed by the court, is final and conclusive upon all parties. The court shall enter a decree that provides in the alternative for winding up and dissolution of the corporation unless payment is made for the shares within the time specified by the decree. If the purchasing parties do not make payment for the shares within the time specified, judgment shall be entered against the purchasing parties and the surety or sureties on the bond for the amount of the expenses, including attorney fees, of the moving parties. A shareholder aggrieved by the action of the court may appeal.

(d) If the purchasing parties desire to prevent the winding up and dissolution, they shall pay to the moving parties the value of their shares as provided under this section less an allowance for the costs of the appraisal as the court shall determine. In the case of an appeal, the purchasing parties shall pay to the moving parties the value of the shares and costs of appraisal as fixed on appeal. On receiving payment or the tender of payment as determined by the court, the moving parties shall transfer their shares to the purchasing parties.

(e) For the purposes of this section, "shareholder" includes a beneficial owner of shares who has entered into an agreement under AS 10.06.425(a).

Sec. 10.06.633. Involuntary dissolution by the commissioner: grounds, procedure, reinstatement.

(a) A corporation may be dissolved involuntarily by the commissioner if

(1) the corporation is delinquent six months in filing its biennial report or in paying its biennial corporation tax or a penalty;

(2) the corporation has failed for 30 days to appoint and maintain a registered agent in the state;

(3) the corporation has failed for 30 days after change of its registered office or registered agent to file in the office of the commissioner a statement of the change;

(4) the corporation has failed for two years to complete dissolution under a certificate of election under AS 10.06.608 to dissolve;

(5) a vacancy on the board of the corporation is not filled within six months or the next annual meeting, whichever occurs first;

(6) a misrepresentation of material facts has been made in the application, report, affidavit, or other document submitted under this chapter; or

(7) the corporation is 90 days delinquent in filing notice of change of an officer, director, alien affiliate, or five percent shareholder, as required by this chapter.

(b) A corporation may not be dissolved under this section unless the commissioner has given the corporation written notice of its delinquency, failure, or noncompliance by certified mail addressed to its registered office, registered agent, president, or secretary at the last known address as shown by the records of the commissioner. If the corporation fails, within 60 days after the notice is sent by certified mail, to contest the alleged neglect, omission, delinquency, or noncompliance by a written request for a hearing before the commissioner or fails to correct the asserted neglect, omission, delinquency, or noncompliance it may be dissolved under (d) of this section.

(c) If, following a hearing, the commissioner determines the presence of neglect, omission, delinquency, or noncompliance providing grounds for involuntary dissolution under this section, the corporation may appeal to the superior court by filing with the clerk of the court a notice of appeal setting out a copy of the notice given by the commissioner under (b) of this section together with a copy of a timely demand for a hearing by the corporation, and a copy of an affirmation by the commissioner of an intention to dissolve under (d) of this section. The matter shall be tried de novo by the superior court, and the court shall either sustain the commissioner or direct the commissioner to take action the court considers proper.

(d) If a corporation has given cause for involuntary dissolution and has failed to correct the neglect, omission, delinquency, or noncompliance as provided in this section, and there has been no order of the superior court, the commissioner shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved, the date, and the reason for

which it was dissolved. The original certificate of dissolution shall be placed in the department files and a copy of it mailed to the corporation at its registered office or in care of its registered agent, president, or secretary at the last known address, as shown by the records of the commissioner. Upon the issuance of the certificate of involuntary dissolution the existence of the corporation ceases, except as otherwise provided in this section, and its name shall be available to and may be adopted by another corporation no less than six months after the dissolution.

(e) A corporation dissolved under this section may be reinstated within two years from the date of the certificate of involuntary dissolution if it is established to the satisfaction of the commissioner that in fact there was no cause for the dissolution, or if the neglect, omission, delinquency, or noncompliance resulting in dissolution has been corrected and payment made of double the amount delinquent along with the amount the corporation would have paid had it not been dissolved during the two-year period. Reinstatement may not be authorized if the same or a deceptively similar corporate, reserved, or registered name is currently on file with the commissioner, unless the corporation being reinstated amends its articles of incorporation to change its name to conform with the provisions of this chapter.

(f) Nothing in this section relieves a corporation reinstated under this section from penalty or forfeiture of its powers in a case of failure to pay subsequently accruing licenses and taxes imposed by a law of the state.

(g) An action arising out of a contract assigned by a corporation dissolved under this section may be brought in the name of the assignee. The fact of assignment and of purchase by the plaintiff shall be set out in the complaint or other process. The defense may avail itself of any defense the defense might have availed itself of in a suit upon the claim by the corporation had it not been dissolved under this section.

(h) Service of process on a corporation dissolved under this section shall be made in the same manner prescribed by law as if the corporation had not been dissolved.

Sec. 10.06.635. Commissioner's authority to bring action for involuntary dissolution; grounds; relief. (a) In addition to other remedies provided by law, a corporation may be dissolved involuntarily by a decree of the superior court in an action filed by the commissioner when it is established that the corporation has

- (1) procured its certificate of incorporation through fraud;
- (2) continued to exceed or abuse the authority conferred upon it by law;
- (3) seriously violated a statute regulating corporations; or
- (4) violated a provision of law by an act or default that under the law is a ground for forfeiture of corporate existence.

(b) The court may order dissolution or other or partial relief as it considers just and expedient. The court also may appoint a receiver under AS 10.06.643 for winding up the affairs of the corporation or may order that the corporation be wound up by its board subject to the supervision of the court.

Sec. 10.06.638. Jurisdiction and process for commissioner's action. (a) An action for the involuntary dissolution of a corporation under AS 10.06.635 shall be commenced by the commissioner in the superior court.

(b) Summons shall issue and be served as in civil actions. If no registered agent or office is found to serve, the commissioner shall publish notice as in civil cases in a newspaper published in the judicial district where the registered office of the corporation is situated, containing a notice of the pendency of the action, the title of the court, the title of the action, and the date on or after which default may be entered. The commissioner may include in one notice the names of any number of corporations against which actions are pending in the same court.

(c) The commissioner shall mail a copy of the notice to an office of the corporation, if one is known, within 10 days after the first publication of the notice.

(d) Notice shall be published at least once each week for two successive weeks, and the first publication

Sec. 10.06.670. Distribution in money or in kind; installments. Distribution of assets may be made in money, in property, or in securities and either in installments or as a whole, if the distribution is done fairly and ratably and in conformity with the articles of incorporation and the rights of the shareholders, and shall be made as soon as reasonably consistent with the beneficial liquidation of the corporate assets.

Sec. 10.06.673. Plan of distribution; adoption; binding effect; notice; payment to dissenting shareholders; abandonment. (a) If a corporation in the process of winding up has both preferred and common shares outstanding, a plan of distribution of the shares, obligations, or securities of another corporation, or of the assets of the corporation, other than money, that is not in accordance with the liquidation rights of the preferred shares as specified in the articles of incorporation may be adopted if approved by the board and by approval of the outstanding shares of each class. The plan may provide that the distribution is in complete or partial satisfaction of the rights of the preferred shareholders upon distribution and liquidation of the assets.

(b) A plan of distribution approved under (a) of this section is binding upon the shareholders except as provided in (c) of this section. The board shall mail notice of the adoption of the plan within 20 days after its adoption to all holders of shares having a liquidation preference.

(c) Shareholders having a liquidation preference who dissent from the plan of distribution are entitled to be paid the amount of their liquidation preference in cash if they file written demand for payment with the corporation within 30 days after the date of mailing of the notice of the adoption of the plan of distribution unless the plan of distribution is abandoned. The demand shall state the number and class of the shares held of record by the shareholder for which the shareholder claims payment.

(d) If a demand for cash payment is filed under (c) of this section, the board in its discretion may abandon the plan without further approval by the outstanding shares and the shareholders shall be entitled to distribution according to their rights and liquidation preferences in the process of winding up.

Sec. 10.06.675. Recovery of amounts improperly distributed. (a) If a distribution of assets has been made in the process of winding up a corporation without a court order and without prior payment or adequate provision for payment of the debts and liabilities of the corporation, the amount improperly distributed to a shareholder may be recovered by the corporation. Shareholders who received an improper distribution may be joined as a party in the same action.

(b) Suit may be brought in the name of the corporation to enforce the liability under (a) of this section against a shareholder receiving an improper distribution by a creditor of the corporation, whether or not the creditor has reduced the claim of the creditor to judgment.

(c) A shareholder who satisfies a liability under this section has the right of ratable contribution from other distributees who are similarly liable. A shareholder who has been compelled to return to the corporation more than the shareholder's ratable share of the amount needed to pay the debts and liabilities of the corporation may require that the corporation recover from any or all of the other distributees the proportion of the amounts received by them by the improper distribution necessary to give contribution to shareholders held liable under this section and to make the distribution of the assets fair and ratable, according to the respective rights and preferences of the shares, after payment or adequate provision for payment of all the debts and liabilities of the corporation.

(d) In this section, "process of winding up" includes proceedings under AS 10.06.605 - 10.06.678 and other distributions of assets to shareholders made in contemplation of termination or abandonment of the corporate business.

Sec. 10.06.678. Continued existence of dissolved corporations; purposes; abatement of actions; distribution of omitted assets. (a) A corporation that is dissolved voluntarily or involuntarily continues to exist for the purpose of winding up its affairs, defending actions against it, and enabling it to collect and discharge obligations, dispose of and convey its property, and collect and divide its assets. A dissolved corporation does not continue to exist for the purpose of continuing business except so far as necessary for winding up the business.

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(b) An action or proceeding to which a corporation is a party does not abate by the dissolution of the corporation or by reason of proceedings for winding up and dissolution of the corporation. A corporation that is dissolved voluntarily or involuntarily may not commence a court action, except for a court action under AS 10.06.675.

(c) Assets inadvertently or otherwise omitted from the winding up continue as assets of the dissolved corporation for the benefit of persons entitled to the assets upon dissolution of the corporation and on realization the assets shall be distributed to the persons entitled.

(d) The directors of the corporation on the date of its dissolution or as determined under AS 10.06.663 shall exercise and enjoy the powers necessary to act under the terms of this section.

Article 10. Foreign Corporations.

Section

- 705. Admission of foreign corporation
- 710. Liability for transacting business without certificate of authority
- 713. Transacting business without certificate of authority as a bar to right to sue
- 715. Transacting business without certificate of authority not affecting contracts and right to defend action
- 718. Activities not constituting transacting business in this state
- 720. Corporate name of foreign corporation
- 723. Assumed corporate name
- 725. Change of name by foreign corporation
- 728. Application for certificate of authority
- 730. Contents of application
- 733. Execution and filing of application for certificate of authority
- 735. Effect of certificate of authority
- 738. Amended certificate of authority
- 740. Powers of foreign corporation
- 743. Revocation of certificate of authority
- 745. Limitation on revocation of certificate of authority
- 748. Issuance of certificate of revocation
- 750. Effect of certificate of revocation
- 753. Registered office and registered agent of foreign corporation
- 758. Change of registered office or registered agent of foreign corporation
- 760. Filing of statement of change
- 763. Service of process on foreign corporation
- 765. Service on commissioner
- 768. Records kept by commissioner
- 770. Procedure not exclusive
- 775. Organic change of foreign corporation
- 778. Withdrawal of foreign corporation
- 780. Contents of application for withdrawal
- 783. Form of application for withdrawal
- 785. Filing of application for withdrawal
- 788. Effect of certificate of withdrawal

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for

Sec. 10.06.705. Admission of foreign corporation. A foreign corporation may not transact business in this state until it has been issued a certificate of authority by the commissioner. A foreign corporation may not be issued a certificate of authority to transact business in this state that a corporation organized under this chapter is not permitted to transact. A foreign corporation may not be denied a certificate of authority because the laws of the state or country under which it is organized governing its organization and internal affairs differ from the laws of this state.

HB

105

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 19, 1999

FURTHER REFERRALS:

Finance

Date of Committee Action: 21 Jan 2000

The LABOR AND COMMERCE Committee considered:

HB 105

HOUSE BILL NO. 105

LICENSING SPEECH PATHOLOGY/AUDIOLOGY

"An Act providing for the licensing of speech-language pathologists; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HR (L+E) 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) DEED 1/19/00

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			✓	
<i>Robert Harris</i>	✓			
<i>[Signature]</i>			✓	
<i>Nancy Kofely</i>	✓			

CHAIR'S SIGNATURE *Nancy Kofely* 1-21-00

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

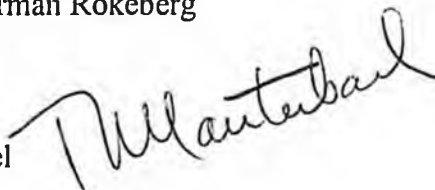
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FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 24, 2000

SUBJECT: CSHB 105(L&C) (Speech-language pathologists))
TO: Representative Norman Rokeberg
Attn: Janet Seitz
FROM: Terri Lauterbach
Legislative Counsel



Enclosed is the CS you requested for HB 105.

Conceptual Amendment #1 is located in sec. 11 of the CS. Conceptual Amendment #3 is located in secs. 21 and 23 of the CS.

Please let me know if you need further assistance on this matter.

TML:jdr
00-027.jdr

Enclosure

ALASKA STATE LEGISLATURE

HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Andrew Halcro, Vice-Chairman
Representative John Harris
Representative Lisa Murkowski
Representative Jerry Sanders
Representative Tom Brice
Representative Sharon Cissna



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
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MEMORANDUM

TO: Terri Lauterbach, Legislative Counsel

FROM: Janet S. Seitz, Committee Assistant *Janet*
House Labor & Commerce Committee

DATE: January 21, 2000

RE: HB 105

Working from LS0340\H, Lauterbach, 1/20/00, please prepare a committee substitute, in final, as follows:

Conceptual Amendment #1 adopted by the Committee: Loss of Certificate of Clinical Competence is mandatory revocation of Alaska license. There was some discussion of inserting this in Sec. 9, page 5, by making the current language an (a) subsection and this language a (b) or vice versa. The desire was not to list this with the 12 stated causes for disciplinary sanctions.

Amendment #2: Page 9, line 31, delete "July" insert "October"

Conceptual Amendment #3: Insert boiler plate language giving authority to adopt regulations necessary to implement the bill before the effective date of the bill. In other words, let them proceed with regulatory process before the effective date of the bill.

Amendment #4: Page 7, line 7, after "pathology"

DELETE: "consistent with the accepted standards and code of ethics of the individual's profession"

Thank you for your assistance.



Alaska State Legislature

Please enter into the record my testimony to the HL+C
committee name

committee on HB 105, dated 1-21-00
bill/subject

(Amend) I'm in favor of legislation for state licensure for speech pathologist. I feel that once a speech pathologist has passed the National Board Exam & has done clinical fellowship year (CFY) Our licensure should not be based on membership with the American Speech & Hearing Association. OTs + PTs are not required to join their national association for Ak. state licensure. Am. Speech & hearing Association only maintains that we have our CCC (Certificate of clinical competence) - if we are a member of their association - it appears - to me money would be better spent taking courses to upgrade therapy techniques.

Signed: Cathy Teich
Testifier

Representing (Optional)
P.O. Box 155 Talkeetna, Ak. 99676

Address
733-2155 PLEASE CALL
Phone No.

RECEIVED
JAN 28 2000

Alaska State Legislature

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REPRESENTATIVE CON BUNDE District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

MEMORANDUM

DATE: January 21, 2000

TO: Representative Norman Rokeberg
Chairman, House Labor & Commerce Committee

FROM: Representative Con Bunde
Vice-Chairman, House Finance Committee

RE: HB 105 version 1-LS0340\H

Members of the Alaska Speech-Language Hearing Association requested a few last minute changes to HB 105. The Committee Substitute attached to this memo contains the changes and an overview of them.

If you have any questions please call Patti at ext. 6824.

CC: All Labor & Commerce Committee members

Changes included in HB 105 version 1-LS0340\H

Page 2 line 28 after (a) delete: On receipt of the completed application,

Page 2 line 29 after the word department change "shall" to "may".

Page 3 line 1 after the word license add: and appropriate fees

Page 3 delete lines 15 through 19 [(3) a resident of nonresident who is in the process of completing the year of supervised clinical experience required for a Certificate of Clinical Competence in speech-language pathology from the American Speech-Language-Hearing Association; a temporary license issued under this paragraph is limited to one year except that it may be renewed once for an additional year.]

Page 6 after line 6 add: (8) engaged in unprofessional conduct, in sexual misconduct, or in lewd or immoral conduct in connection with the delivery of professional services to patients.

Page 7 delete lines 23 through 25 [(b) An individual who is not licensed as a speech-language pathologist but who is exempt under (a) of this section may not use a title or description stating or implying that the person is a speech-language pathologist,]

Sub section (b) now reads: An individual who is not licensed as a speech-language pathologist but who is exempt under (a)(1) or (3) of this section may not use a title or description starting or implying that the person is a speech-language pathologist.

This exemption allows speech-language pathologist to use the title of speech-language pathologist if they are practicing speech-language pathology consistent with the accepted standards and code of ethics of the individual's profession as part of their duties as an employee of a school district.

CS FOR HOUSE BILL NO. 105()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE BUNDE

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for the licensing of speech-language pathologists; and providing
2 for an effective date."

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

4 * Section 1. AS 08.01.010(5) is amended to read:

5 (5) regulation of audiologists and speech-language pathologists under
6 AS 08.11;

7 * Sec. 2. AS 08.02.010(a) is amended to read:

8 (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-
9 language pathologist licensed under AS 08.11, a person licensed in the state as a
10 chiropractor under AS 08.20, a professional counselor licensed under AS 08.29, a
11 dentist under AS 08.36, a dietitian or nutritionist licensed under AS 08.38, a marital
12 and family therapist licensed under AS 08.63, a medical practitioner or osteopath under
13 AS 08.64, a direct-entry midwife certified under AS 08.65, a registered nurse under
14 AS 08.68, an optometrist under AS 08.72, a licensed pharmacist under AS 08.80, a

1 physical therapist or occupational therapist licensed under AS 08.84, a psychologist
2 under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use as
3 professional identification appropriate letters or a title after that person's name that
4 represents the person's specific field of practice. The letters or title shall appear on all
5 signs, stationery, or other advertising in which the person offers or displays personal
6 professional services to the public. In addition, a person engaged in the practice of
7 medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any
8 manner in the healing arts who diagnoses, treats, tests, or counsels other persons in
9 relation to human health or disease and uses the letters "M.D." or the title "doctor" or
10 "physician" or another title that tends to show that the person is willing or qualified
11 to diagnose, treat, test, or counsel another person, shall clarify the letters or title by
12 adding the appropriate specialist designation, if any, such as "dermatologist",
13 "radiologist", "audiologist", "naturopath", or the like.

14 * Sec. 3. AS 08.11 is amended by adding a new section to read:

15 **Sec. 08.11.015. Qualifications for speech-language pathologist license.** The
16 department shall issue a license to practice speech-language pathology to an individual
17 who

18 (1) is 18 years of age or older;

19 (2) applies on a form provided by the department;

20 (3) pays the fee required under AS 08.11.050;

21 (4) has not engaged in conduct that is a ground for imposing
22 disciplinary sanctions under AS 08.11.085; and

23 (5) furnishes evidence satisfactory to the department that the person
24 holds a Certificate of Clinical Competence in speech-language pathology from the
25 American Speech-Language-Hearing Association or the equivalent of the certificate.

26 * Sec. 4. AS 08.11 is amended by adding a new section to read:

27 **Sec. 08.11.025. Temporary license to practice speech-language pathology**
28 **as a speech-language pathologist.** (a) The department may issue a temporary license
29 for the practice of speech-language pathology as a speech-language pathologist to an
30 individual who is licensed to practice speech-language pathology in another state and
31 has submitted to the department an application for a license and appropriate fees under

1 AS 08.11.015.

2 (b) Subject to (c) and (d) of this section, the department may issue a temporary
3 license to the following:

4 (1) a nonresident for the practice of speech-language pathology as a
5 speech-language pathologist in the state for 60 days or less in a calendar year, if the
6 individual is licensed to practice speech-language pathology in another state, territory
7 of the United States, foreign country, or province that has requirements for a license
8 to practice speech-language pathology that are substantially equivalent to or higher
9 than the requirements of AS 08.11.015;

10 (2) a nonresident for the practice of speech-language pathology as a
11 speech-language pathologist in the state for 60 days or less in a calendar year, if the
12 individual meets the qualifications and requirements for a license under AS 08.11.015,
13 and resides in a state or territory of the United States or a foreign country or province
14 that does not license individuals to practice speech-language pathology.

15 (c) The department shall deny a temporary license to an applicant under (b)
16 of this section if the board finds that the applicant has committed an act that is grounds
17 for a disciplinary sanction under AS 08.11.085.

18 (d) The department may impose by regulation additional limitations that it
19 determines appropriate on a temporary license issued under this section.

20 * Sec. 5. AS 08.11.030(d) is amended to read:

21 (d) A suspended license is subject to expiration and must be renewed as
22 provided in AS 08.01.100, but the renewal does not entitle the individual while the
23 license remains suspended to practice audiology or speech-language pathology or to
24 engage in other activity or conduct that violates the order or judgment that suspended
25 the license.

26 * Sec. 6. AS 08.11.040 is amended to read:

27 Sec. 08.11.040. Display of license. (a) An individual licensed to practice
28 audiology as an audiologist or licensed to practice speech-language pathology as a
29 speech-language pathologist in the state shall display the license in a prominent place
30 at each place of business of the individual.

31 (b) If an audiologist or speech-language pathologist has more than one place

1 of business, the department shall, on request and payment of a fee, issue a duplicate
2 license for each place of business of the individual.

3 * Sec. 7. AS 08.11.050 is amended to read:

4 Sec. 08.11.050. Fees. The department shall set fees under AS 08.01.065 for
5 each of the following:

- 6 (1) application;
- 7 (2) credential review;
- 8 (3) audiologist license and speech-language pathologist license;
- 9 (4) temporary license;
- 10 (5) renewal of license;
- 11 (6) delinquency;
- 12 (7) reinstatement;
- 13 (8) duplicate license.

14 * Sec. 8. AS 08.11.080 is amended to read:

15 Sec. 08.11.080. Grounds for imposition of disciplinary sanctions on an
16 audiologist. After a hearing, the department may impose a disciplinary sanction on
17 an audiologist when the department finds that the licensee

- 18 (1) secured a license through deceit, fraud, or intentional
19 misrepresentation;
- 20 (2) engaged in deceit, fraud, or intentional misrepresentation in the
21 course of practicing audiology;
- 22 (3) advertised professional services in a false or misleading manner;
- 23 (4) has been convicted of a felony or other crime that affects the
24 person's ability to continue to practice competently and safely;
- 25 (5) continued to practice audiology after becoming unfit due to
 - 26 (A) professional incompetence;
 - 27 (B) use of drugs or alcohol in a manner that affects the person's
28 ability to practice audiology competently and safely;
 - 29 (C) physical or mental disability;
- 30 (6) permitted another person to use the licensee's license;
- 31 (7) employed a person who does not have a valid current license to

1 practice audiology to perform work as an audiologist covered by this chapter;

2 (8) failed to comply with a provision of this chapter or a regulation
3 adopted under this chapter, or an order of the department.

4 * Sec. 9. AS 08.11 is amended by adding a new section to read:

5 **Sec. 08.11.085. Grounds for imposition of disciplinary sanctions on a**
6 **speech-language pathologist.** After a hearing, the department may impose a
7 disciplinary sanction on a speech-language pathologist when the department finds that
8 the licensee

9 (1) secured a license or temporary license through deceit, fraud, or
10 intentional misrepresentation;

11 (2) fraudulently or deceptively used a license or temporary license;

12 (3) altered a license or temporary license;

13 (4) sold, bartered, or offered to sell or barter a license or temporary
14 license;

15 (5) engaged in deceit, fraud, or intentional misrepresentation in the
16 course of practicing speech-language pathology;

17 (6) advertised professional services in a false or misleading manner;

18 (7) has been convicted of a felony or other crime that affects the
19 person's ability to continue to practice competently and safely;

20 (8) engaged in unprofessional conduct, in sexual misconduct, or in lewd
21 or immoral behavior in connection with the delivery of professional services to clients;

22 (9) continued to practice speech-language pathology after becoming
23 unfit due to

24 (A) professional incompetence;

25 (B) use of drugs or alcohol in a manner that affects the person's
26 ability to practice speech-language pathology competently and safely;

27 (C) a physical or mental disability;

28 (10) permitted another person to use the licensee's license or temporary
29 license;

30 (11) employed a person who does not have a valid current license or
31 temporary license to practice speech-language pathology to perform work as a speech-

1 language pathologist covered by this chapter;

2 (12) failed to comply with a provision of this chapter or a regulation
3 adopted under this chapter, or an order of the department.

4 * Sec. 10. AS 08.11.090(a) is amended to read:

5 (a) When it finds that an audiologist has committed an act listed in
6 AS 08.11.080 or that a speech-language pathologist has committed an act listed
7 in AS 08.11.085, the department may impose the following sanctions singly or in
8 combination:

9 (1) permanently revoke a license to practice;

10 (2) suspend a license for a determinate period of time;

11 (3) censure a licensee;

12 (4) issue a letter of reprimand;

13 (5) place a licensee on probationary status and require the licensee to

14 (A) report regularly to the department on matters involving the
15 basis of probation;

16 (B) limit practice to those areas prescribed;

17 (C) continue professional education until a satisfactory degree
18 of skill has been attained in those areas determined by the department to need
19 improvement;

20 (6) impose limitations or conditions on the practice of a licensee.

21 * Sec. 11. AS 08.11.100 is amended to read:

22 **Sec. 08.11.100. Prohibited acts.** Unless a person is licensed as an
23 audiologist under this chapter, the person may not

24 (1) practice audiology;

25 (2) use a title indicating or representing that the person practices as an
26 audiologist;

27 (3) advertise that the person practices audiology.

28 * Sec. 12. AS 08.11.100 is amended by adding a new subsection to read:

29 (b) Unless a person is licensed as a speech-language pathologist under this
30 chapter, the person may not

31 (1) practice speech-language pathology;

1 (2) use a title indicating or representing that the person practices as a
2 speech-language pathologist;

3 (3) advertise that the person practices speech-language pathology.

4 * Sec. 13. AS 08.11 is amended by adding a new section to read:

5 Sec. 08.11.125. Exemptions. (a) Except as otherwise specifically provided
6 in this section, this chapter does not apply to an individual who practices speech-
7 language pathology consistent with the accepted standards and code of ethics of the
8 individual's profession as part of the individual's duties as

9 (1) a physician licensed under AS 08.64;

10 (2) an employee of a school district while practicing speech-language
11 pathology under the provisions of certification issued by the Department of Education
12 and Early Development;

13 (3) a student, intern, or resident pursuing a course of study in speech-
14 language pathology at an accredited college or a clinical training facility approved by
15 the department if the activities of the student, intern, or resident constitute part of a
16 supervised course of study and the student, intern, or resident is designated as a
17 "speech-language pathology intern," "speech-language pathology trainee," or other title
18 approved by the department that clearly indicates that the person is training to be a
19 speech-language pathologist.

20 (b) An individual who is not licensed as a speech-language pathologist but
21 who is exempt under (a)(1) or (3) of this section may not use a title or description
22 stating or implying that the person is a speech-language pathologist.

23 (c) An individual who is not licensed under this chapter but who teaches the
24 practice of speech-language pathology in a speech-language pathology training program
25 at a college or university may use the title "speech-language pathologist" but may not
26 practice speech-language pathology.

27 * Sec. 14. AS 08.11.200 is amended by adding new paragraphs to read:

28 (6) "practice of speech-language pathology" means the application of
29 principles, methods, and procedures related to the development and disorders of human
30 communication, including but not limited to

31 (A) screening, identifying, assessing and interpreting,

1 diagnosing, rehabilitating, and preventing disorders of speech, such as
2 articulation, fluency, voice, and language;

3 (B) screening, identifying, assessing and interpreting,
4 diagnosing, and rehabilitating disorders of oral-pharyngeal function or
5 dysphagia or related disorders;

6 (C) screening, identifying, assessing and interpreting,
7 diagnosing, and rehabilitating cognitive and communication disorders;

8 (D) assessing, selecting, and developing augmentative and
9 alternative communication systems and providing training in their use;

10 (E) providing aural rehabilitation and related counseling services
11 to hearing impaired individuals and their families;

12 (F) enhancing speech-language proficiency and communication
13 effectiveness, such as accent reduction; and

14 (G) screening of hearing and other factors for the purpose of
15 speech-language evaluation or the initial identification of individuals with other
16 communication disorders, provided that judgments and descriptive statements
17 about the results of the screening are limited to pass-fail determinations;

18 (7) "speech-language pathologist" means an individual who is licensed
19 under AS 08.11.015 to practice speech-language pathology in the state.

20 * Sec. 15. AS 08.55.150(a) is amended to read:

21 (a) Unless a person is licensed under this chapter or is licensed as an
22 audiologist under AS 08.11, the person may not

23 (1) deal in hearing aids;

24 (2) use a title indicating or representing that the person deals in hearing
25 aids or is licensed to deal in hearing aids;

26 (3) advertise that the person deals in hearing aids.

27 * Sec. 16. AS 09.55.560(1) is amended to read:

28 (1) "health care provider" means an acupuncturist licensed under
29 AS 08.06; an audiologist or speech-language pathologist licensed under AS 08.11;
30 a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32;
31 a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing

1 optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an
2 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical
3 therapist or occupational therapist licensed under AS 08.84; a physician licensed under
4 AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under
5 AS 08.86; a hospital as defined in AS 18.20.130, including a governmentally owned
6 or operated hospital; an employee of a health care provider acting within the course
7 and scope of employment; an ambulatory surgical facility and other organizations
8 whose primary purpose is the delivery of health care, including a health maintenance
9 organization, individual practice association, integrated delivery system, preferred
10 provider organization or arrangement, and a physical hospital organization;

11 * Sec. 17. AS 42.05.296(b) is amended to read:

12 (b) A telephone subscriber is eligible for the service required by (a) of this
13 section if the subscriber is certified as deaf, hard of hearing, or speech impaired by a
14 licensed physician, a speech-language pathologist licensed under AS 08.11, an
15 audiologist, or the Department of Health and Social Services or if the subscriber is an
16 organization representing the deaf, hard of hearing, or speech impaired as determined
17 by the commission.

18 * Sec. 18. AS 44.62.330(a)(53) is amended to read:

19 (53) Department of Community and Economic Development concerning
20 the licensing and regulation of audiologists and speech-language pathologists under
21 AS 08.11;

22 * Sec. 19. AS 47.17.290(13) is amended to read:

23 (13) "practitioner of the healing arts" includes chiropractors, mental
24 health counselors, social workers, dental hygienists, dentists, health aides, nurses, nurse
25 practitioners, certified nurse aides, occupational therapists, occupational therapy
26 assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy
27 assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological
28 associates, audiologists and speech-language pathologists licensed under AS 08.11,
29 hearing aid dealers licensed under AS 08.55, marital and family therapists licensed
30 under AS 08.63, religious healing practitioners, acupuncturists, and surgeons;

31 * Sec. 20. This Act takes effect July 1, 2000.

Alaska State Legislature

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REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

MEMORANDUM

DATE: January 10, 2000

TO: Representative Norman Rokeberg
Chairman, House Labor and Commerce Committee

FROM: Representative Con Bunde

RE: HB 105, "An Act providing for the licensing of speech-pathologist; and providing for an effective date."

The purpose of this memo is to request a House Labor and Commerce Committee hearing for HB 105.

A packet of information is attached to this memo for the information of you and your committee. If you have any questions please call Patti at extension 6824. Thank you for your cooperation with this matter.

JAN 12 2000

Alaska State Legislature

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REPRESENTATIVE CON BUNDE

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MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

Sponsor Statement

HB 105

“An Act providing for the licensing of speech-language pathologists; and providing for an effective date.”

Alaska is one of only six states that does not require Speech-Language Pathologists (SLP) to have a license. HB 105 sets out requirements for licensure of SLP's that will keep the quality of services provided by these practitioners consistently high.

Currently, the American Speech-Language Hearing Association sets out ethical and clinical competency standards. However, compliance with these standards is voluntary and does not guarantee a high standard of service delivery.

HB 105 will protect consumers from fraudulent practitioners who could emotionally and financially harm a client due to improper service delivery. Additionally, this legislation will help SLP's to obtain reimbursement from insurance companies that refuse to pay practitioners without a license.

The American Speech-Language Hearing Association and the Alaska Speech-Language Hearing Association support this legislation. I urge the committee to help these practitioners keep the standard of care in Alaska consistently high by passing this legislation.

JAN 12 2000