

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86 / 2

10628 SENATE LABOR & COMMERCE

973

**SB**

**263**

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## Senator Loren Leman

### Sponsor Statement SB 263: Real Property Conveyances

This legislation would cure an otherwise obscure common law rule that has created a problem for Alaska landowners, including Alaska Native Claims Settlement Act (ANCSA) corporations.

Under the ANCSA, village corporations own the surface estate to lands conveyed under that law. Regional corporations own the subsurface estate. Some village corporations have conveyed some of their lands to shareholders. Those shareholders currently have no right to use or disturb the subsurface, and some may be technically trespassing on regional corporation property.

Regional Corporations would like to solve this problem by granting the residents a limited easement to disturb the subsurface for (in most cases) residential use.

The old common law rule allows this automatic pass through from the regional corporation to the village corporation to the shareholder to happen only if the village had originally conveyed the land to the shareholders by *warranty* deed. Unfortunately, the village corporations used *quit claim* deeds. There is no practical reason to treat these two types of deeds differently for this purpose, and so the enclosed legislation solves the problem by allowing this automatic pass-through of so-called "after acquired rights" to occur regardless of which kind of deed is employed.



## Senator Loren Leman

### FREQUENTLY ASKED QUESTIONS ABOUT SB 263: REAL PROPERTY CONVEYANCES

- 1) ***What is the meaning of the phrase "in fee or in fee simple" in the proposed legislation?*** As Alaska law describes it, a quitclaim deed conveys "fee" title. (AS 34.15.040(b) while a warranty deed conveys "fee simple" title (AS 34.15.030(b). Thus, by saying that after-acquired property rights will automatically pass to the grantee whenever the prior conveyance was "fee or fee simple" title, the bill is saying that either a quitclaim or warranty deed will serve to pass after-acquired interests.
- 2) ***What is the difference between a quitclaim deed and a warranty deed?*** A quitclaim deed only passes whatever title (if any) that the grantor might possess, while the latter actually warrants that the grantor has fee simple title to the property.
- 3) ***How would this legislation solve the Native conveyance issue to which it is addressed?*** Under ANCSA, while village corporations own the surface estate to lands conveyed under that law, regional corporations own the subsurface estate. Because these village/shareholder conveyances were almost always done by quitclaim deed, an easement granted now to the village corporation would not automatically pass to the individual shareholder grantees, unless the law were changed in the manner provided in the legislation.
- 4) ***How does Section 2 affect the legislation?*** Section 2 provides that the bill applies only to title or interest that is acquired after the legislation is enacted. The "title or interest" to which the section refers is the after-acquired interest or subsurface easement to be granted to the village corporations. That easement would be granted only after the bill is enacted, and therefore the bill would serve to pass that easement on to the shareholders.
- 5) ***What is the significance of the North Star Terminal and Stevedoring Company v. State of Alaska case?*** The Alaska Supreme Court has held that rights in land acquired by the original grantor (here the village corporation) after the original grant (here, to the shareholders) will pass automatically to the grantee (the shareholders) if the original conveyance (from the village corporation to the shareholders) had been by warranty deed – but not if the original conveyance had been by quitclaim deed.

**Document 1 of 1****Source:**

Alaska Primary Law/Alaska Judicial Decisions/SUPREME COURT OF ALASKA/1993/857 P.2d 335 NORTH STAR TERM. & STEVEDORE CO. V. STATE (S. Ct. 1993) 1993 Alas. Lexis 77

**857 P.2d 335 NORTH STAR TERM. & STEVEDORE CO. V. STATE (S. Ct. 1993) 1993 Alas. Lexis 77**

**NORTH STAR TERMINAL AND STEVEDORE COMPANY, INC., an Alaska Corporation, Appellant,**

**vs.**

**STATE OF ALASKA and THE ALASKA RAILROAD CORPORATION, a statutory public corporation, Appellees.**

No. 3986, Supreme Court No. S-4770

SUPREME COURT OF ALASKA

857 P.2d 335, 1993 Alas. LEXIS 77

July 30, 1993, Decided

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Trial Court No. 3AN-88-12350 Civil. J. Justin Ripley, Judge.

**COUNSEL**

Thomas E. Meacham, Burr, Pease & Kurtz, Anchorage, for Appellant.

Elizabeth J. Barry, Assistant Attorney General, Anchorage, Charles E. Cole, Attorney General, Juneau, for Appellee State of Alaska. Phyllis C. Johnson, Office of the General Counsel for Alaska Railroad Corporation, Anchorage, for Appellee Alaska Railroad Corporation.

**JUDGES**

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton and Moore, Justices.

**AUTHOR: MATTHEWS**

**OPINION**

MATTHEWS, Justice.

**I. INTRODUCTION**

This appeal concerns the ownership of tidelands at the Port of Anchorage. North Star Terminal and Stevedore Company, Inc., (North Star) sued the State and the Alaska Railroad Corporation to quiet title in favor of North Star. The trial court ruled that North Star possessed no ownership interest in the disputed tidelands. North Star appeals.

**II. FACTS**

The tidelands which are the subject of this appeal were previously subject to a quiet title action. **United States v. City of Anchorage**, 437 F.2d 1081 (9th Cir. 1971). The tidelands were originally owned by the United States. *Id.* at 1082. However, upon its admission to the Union in 1959, the State of Alaska claimed the tidelands under the Submerged Lands Act of 1953, 43 U.S.C. §§ 1301-1356, and sections 6(k) and (m) of the Alaska Statehood Act, 48 U.S.C. *note prec.* § 21. *Id.* at 1083. In 1961 the State purported to convey the tidelands to the City of Anchorage via State Tidelands Patent No. 10. *Id.* In 1965 the City purported to convey the tidelands via quitclaim deeds to various tideland occupants, including North Star's predecessor in interest, Cook Inlet Tug & Barge Co. (Cook Inlet). At that time, the United States sued to quiet title to the tidelands, claiming that no transfer of ownership to the State had taken place. *Id.* The District Court ruled against the United States. The Ninth Circuit reversed, holding that the United States had by implication reserved the tidelands for use by the federally owned Alaska Railroad in 1915 and that title to the lands remained in the United States after the admission of Alaska into the Union. The Ninth Circuit remanded to the District Court to determine the exact boundaries of the tidelands and to quiet title to them in favor of the United States. *Id.* at 1085.

Rather than have the District Court determine the location of the boundaries, on remand the parties entered into a settlement agreement which the District Court incorporated in its final judgment. Although not a party to the lawsuit, North Star signed the settlement agreement as successor in interest to Cook Inlet. In the agreement, North Star explicitly acknowledged that the Alaska Railroad owned the tidelands at issue in fee simple. In addition, the District Court's final judgment explicitly nullified the City of Anchorage's quitclaim deed to Cook Inlet: "all deeds, leases and other instruments of title heretofore issued by the City of Anchorage for [the tidelands] are declared to be of no effect, and completely null and void."

In 1983 Congress authorized the transfer of the land and other assets of the Alaska Railroad to the State or a State-designated entity. The State created the Alaska Railroad Corporation to receive the railroad's assets and operate the railroad. Pursuant to these acts the tidelands were conveyed by the United States to the Alaska Railroad Corporation in 1985. North Star then brought the present suit to quiet title. All parties moved for summary judgment. The trial court granted summary judgment in favor of the state and the Alaska Railroad Corporation. North Star appeals.

### III. DISCUSSION

Essentially, North Star presents three independent arguments.<sup>1</sup> It argues that it owns the tidelands; that even if the Alaska Railroad Corporation would otherwise own the tidelands, the doctrine of estoppel by deed requires the Alaska Railroad Corporation to transfer ownership to North Star; and that AS 38.05.820 provides it with property rights to the tidelands.

#### A. North Star's ownership claim is barred by *res judicata*.

North Star's ownership claim is based on the premise that Alaska acquired ownership of the tidelands at Statehood.<sup>2</sup> This assertion is contrary to the holding in **City of Anchorage**. The Ninth Circuit specifically held that title to the tidelands did not pass to Alaska upon its admission to the Union. **City of Anchorage**, 437 F.2d at 1085. On remand, pursuant to the agreement of the parties, the District Court's final judgment specifically provided that the United States owned the tidelands in fee simple. The effect of this final judgment is that no other entity had any interest in the tidelands.

**Black's Law Dictionary** 615 (6th ed. 1990) ("A fee simple . . . is an estate . . . without limitation or condition.").

The doctrine of res judicata precludes North Star from relitigating this issue. The Restatement (Second) of Judgments provides, in relevant part: "A judgment [between parties in a former adjudication] . . . is conclusive in a subsequent action between [the parties] on the same or a different claim, with respect to any issue actually litigated and determined if its determination was essential to that judgment." Restatement (Second) of Judgments § 17 (1982). Although neither North Star nor the Alaska Railroad were parties to **City of Anchorage**, they are both successors in interest to parties involved in **City of Anchorage**. Thus, section 17 applies to them. Restatement (Second) of Judgments § 43 (1982) ("A judgment in an action that determines interests in real . . . property . . . has preclusive effects upon a person who succeeds to the interest of a party to the same extent as upon the party himself."); see also *id.* § 43 reporter's note at cmt. a ("In the matter adjudicated concerns title to property . . . there is no question that the determination defines a property interest and is carried over upon succession.").

North Star argues that res judicata nonetheless does not apply to the present case for two independent reasons. First, it claims that the issue in the present case is different than the issue in **City of Anchorage**. Second, it claims that a recent United States Supreme Court decision, **Utah Division of State Lands v. United States**, 482 U.S. 193, 96 L. Ed. 2d 162, 107 S. Ct. 2318 (1987), changed the controlling law and warrants a new determination of its claim to the tidelands. Both arguments lack merit.

North Star maintains that the issue involved in the present case is "what sovereign rights and equities the State had in fact acquired in these tidelands at statehood." It argues that the scope of these rights and whether these rights were subsequently conveyed to others was "simply not litigated" in **City of Anchorage**.

We disagree. The Ninth Circuit ruled that title to the tidelands did not pass "to Alaska upon its admission to the Union." **City of Anchorage**, 437 F.2d at 1085. It remanded the case to the District Court with instructions to enter "judgment quieting title in the United States to the tidelands." *Id.* on remand, the District Court incorporated the settlement agreement and expressly ruled that the United States owned the tidelands at issue in this case in fee simple.<sup>3</sup> The court did not reserve any interest in North Star's predecessor. Instead, it declared the instruments purporting to transfer any interest to North Star's predecessor "completely null and void." Thus, the effect of the District Court's ruling is that the State neither acquired nor transferred any rights in the tidelands. See also **Nevada v. United States**, 463 U.S. 110, 129-30, 77 L. Ed. 2d 509, 103 S. Ct. 2906 (1983) ("a final judgment . . . 'is a finality . . . not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose.'" (quoting **Cromwell v. County of Sac**, 94 U.S. 351, 352, 24 L. Ed. 195 (1877))).

As for its second argument, North Star relies on section 28(2)(b) of the Restatement (Second) of Judgments. Section 28(2)(b) recognizes an exception to res judicata when the issue to be relitigated "is one of law and . . . a new determination is warranted in order to take account of an intervening change in the applicable legal context or otherwise to avoid inequitable administration of the laws." Restatement (Second) of Judgments § 28(2)(b) (1982).

North Star claims that **Utah Division of State Lands** has changed the controlling law, and cites to four cases in support of its claim that section 28(2)(b) permits relitigation of past determinations

under such circumstances: **Staten Island Rapid Transit Operating Authority v. Interstate Commerce Commission**, 718 F.2d 533 (2d Cir. 1983); **Cole v. Greyhound Lines, Inc.**, 220 Mont. 503, 716 P.2d 611 (Mont. 1986); **Hodes v. Axelrod**, 70 N.Y.2d 364, 515 N.E.2d 612, 520 N.Y.S.2d 933 (N.Y. 1987); **John P. v. Whalen**, 54 N.Y.2d 89, 429 N.E.2d 117, 444 N.Y.S.2d 598 (N.Y. 1981). None of these cases support North Star's thesis.<sup>4</sup>

In addition, we question whether **Utah Division of State Lands** changed controlling law. The law applied in **Utah Division of State Lands** is summarized in the following passage:

In **Shively v. Baubee**, 152 U.S. at 49-50, 14 S. Ct. at 566-567] and [**United States v. Holt State Bank**, [270 U.S. at 55, 46 S. Ct. at 199] this Court observed that Congress "early adopted and constantly has adhered" to a policy of holding land under navigable waters "for the ultimate benefit of future States." Congress, therefore, will defeat a future State's entitlement to land under navigable waters only "in exceptional instances," and in light of this policy, whether faced with a reservation or a conveyance, we simply cannot infer that Congress intended to defeat a future State's title to land under navigable waters "unless the intention was definitely declared or otherwise made very plain."

**Utah Division of State Lands**, 482 U.S. at 201-02 (citations omitted). The Supreme Court of the United States did not overrule any of its prior cases in deciding **Utah Division of State Lands**. The Ninth Circuit in **City of Anchorage** relied on **Holt State Bank** and **Shively**, among other decisions. It concluded that the intention of Congress to reserve the tidelands was "obvious," 437 F.2d at 1084, that "establishment of the Alaska Railroad was one of those 'exceptional instances' falling within the exception to the general rule stated in" **Holt State Bank** and **Shively**, **City of Anchorage** at 1085, and that "beyond question, the establishment of the railroad was a 'public exigency', as that phrase was used in those cases." *Id.* Thus in deciding **City of Anchorage** the Ninth Circuit employed the same legal standards endorsed in the **Utah Division of State Lands** opinion.

Moreover, assuming that **Utah Division of State Lands** did change controlling law, we hold that section 28(2)(b) is inapplicable to North Star's claim. North Star is ultimately seeking not merely a redetermination of the law, but a redetermination of whether in fact title to the tidelands passed to Alaska in 1959. We decline to apply section 28(2)(b) in such circumstances. Section 28(2)(b) is paradigmatically intended to prevent the rigid application of superseded rules of law "to claims arising after the first proceeding has been concluded." Restatement (Second) of Judgments § 28 cmt. b (emphasis added). It is not intended to allow a disgruntled party to challenge "his adverse result based upon the new holding." **Cole**, 716 P.2d at 613.

Indeed, to allow such challenges in this setting would be to subvert the very purpose of res judicata. We agree with the Washington Supreme Court that change of decisional law does not justify relief from a quiet title decree. **Columbia Rentals, Inc. v. State**, 89 Wash. 2d 819, 576 P.2d 62, 65 (Wash. 1978). In **Columbia Rentals**, plaintiffs owned beach front property. They or their predecessors in interest sued to determine their ocean front boundaries. The last of those actions was resolved in 1961. Judgment in nearly all of the cases was entered by agreement of the parties. The judgments determined that the ocean front boundary was the mean high tide line as of November 11, 1889. Subsequently, in an unrelated action, the United States Supreme Court held that owners of ocean front property were entitled to accretions which had formed along their land. **Hughes v. Washington**, 389 U.S. 290, 292-93, 19 L. Ed. 2d 530, 88 S. Ct. 438 (1967). Plaintiffs then sued to quiet title in the accreted lands.

The trial court granted summary judgment to the plaintiffs. The Supreme Court of Washington reversed, holding that res judicata precluded the plaintiffs from relitigating the boundaries of their land. **Columbia Rentals**, 576 P.2d at 65. The court reasoned that "if prior judgments could be modified to conform with subsequent changes in judicial interpretations, we might never see the end of litigation. . . . Should Hughes be overruled, another suit to again change judgments would be in order. That is precisely what the doctrine of res judicata precludes." **Id.**

We find this reasoning of the Washington Supreme Court particularly compelling in the present setting. As the United States Supreme Court explained over a century ago, "where questions arise which affect titles to land it is of great importance to the public that when they are once decided they should no longer be considered open." **Minnesota Co. v. National Co.**, 70 U.S. (3 Wall.) 332, 334, 18 L. Ed. 42 (1866). Consequently, "the policies advanced by the doctrines of res judicata perhaps are at their zenith in cases concerning real property, land and water." **Nevada v. United States**, 463 U.S. 110, 129 n.10, 77 L. Ed. 2d 509, 103 S. Ct. 2906 (1983).

In sum, North Star's claim that the State received title to the tidelands in 1959 was decided in **City of Anchorage**. It is doubtful whether there has been a change in controlling law. Assuming a change, the change would not provide a proper basis for relitigating this issue. Thus, res judicata precludes North Star's claim.<sup>5</sup>

#### B. Estoppel by deed does not apply to the present case.

Alternatively North Star argues that the doctrine of estoppel by deed estops the State from denying North Star's rights to the tidelands and requires ownership to pass to North Star. We disagree.

The doctrine of estoppel by deed generally applies when one later becomes the owner of property he or she previously purported to convey. 6A Richard R. Powell & Patrick J. Rohan, **Powell on Real Property**, P901[2] at 81A-159 (1993). When the grantor later acquires title, "the after acquired title inures automatically to . . . the grantee or his or her successors." **Id.** However estoppel by deed does not apply when the conveyance is made by a quitclaim deed. **Id.** at 81A-160.<sup>6</sup>

In the present case, the State issued Tidelands Patent No. 10 to the City of Anchorage in 1961.<sup>7</sup> A patent operates as a deed of the government. "As a deed, its operation is that of a quitclaim . . . . It passes only the title the government has . . . on the date of the patent." 63A Am. Jur. 2d, **Public Lands** § 77, at 575 (1984). It follows as a general rule that government patents are "without any covenants of warranty whatever; and it is clear also that the doctrine of estoppel does not apply thereto so as to pass an after-acquired title." **Id.**

As we have noted in connection with a patent by the United States, the patent's effect is the same as though the United States had executed a quitclaim deed. **City of Anchorage v. Nesbett**, 530 P.2d 1324, 1329 (Alaska 1975) (quoting and relying on **Wilson Cypress Co. v. del Pozo y Marcos**, 236 U.S. 635, 647-48 (1915)). State patents are subject to the same analysis. **William H. McCeney, Jr., Inc. v. Thibadeau**, 215 Md. 77, 137 A.2d 206, 207 (Md. 1957) ("the legal effect of a patent is to transfer to the party in whose name it issues all the right which the State possessed in the land that it describes, and no more."). Tidelands Patent No. 10 therefore functioned as a quitclaim deed. Thus,

estoppel by deed does not apply in this case.<sup>8</sup>

**C. AS 38.05.820 does not provide North Star with any rights to the tidelands.**

North Star argues that AS 38.05.820 provides it with property rights to the tidelands. Alaska Statute 38.05.820(a) "allows preference rights for the acquisition of tide and submerged land" from the State. However, the act that created the Alaska Railroad corporation specifically provides that AS 38.05.820 does not apply to the operations of the Alaska Railroad Corporation. AS. 42.40.920(b)(11). Since the United States conveyed the tidelands to the Alaska Railroad corporation, AS 38.05.820 does not provide North Star with any rights to the tidelands.

**IV. CONCLUSION**

North Star's ownership claim to the tidelands is barred by res judicata. Estoppel by deed is inapplicable because North Star's predecessor in interest received a quitclaim deed. Alaska Statute 38.05.820 does not provide North Star with any rights to the tidelands because the Alaska Railroad corporation is exempt from that statute. The trial court was correct in granting summary judgment to the State and the Alaska Railroad Corporation. **AFFIRMED.**

**OPINION FOOTNOTES**

1 The parties agree that this appeal involves only legal questions and that there are no disputed issues of material fact. This court decides legal questions *de novo*, adopting the rule of law which "is most persuasive in light of precedent, reason and policy." *Langdon v. Champion*, 745 P.2d 1371, 1372 n. 2 (Alaska 1987) (citations omitted).

2 Specifically, North Star suggests that the United States only retained a right of occupancy, and not a fee simple, in the tidelands. North Star claims that Cook Inlet therefore acquired an ownership interest in the tidelands via the conveyances from the State and the City of Anchorage. North Star argues that when the United States relinquished its right of occupancy in 1985, North Star acquired unencumbered fee title.

3 As noted earlier, "[a] fee simple . . . is an estate . . . without limitation or condition." *Black's Law Dictionary* 615 (6th ed. 1990).

4 In *Cole*, the Montana Supreme court held that in spite of subsequent change in the law, "res judicata bars the reopening of claimant's original case." *Cole*, 716 P.2d at 613. Thus, *Cole* specifically holds against North Star's position. *Staten Island* involved a redetermination of the law but did not involve an attempt to set aside an earlier judgment. *Staten Island*, 718 F.2d at 537. *Hodes* and *Whalen* allowed relitigation based on past events, but on the grounds that different legal rights were involved, not on the strength of § 28(2)(b). *Hodes*, 515 N.E.2d at 617 ("the statutory rights of the parties were [so] altered between the first and second proceeding" that "the two proceedings . . . lack the requisite identity for application of res judicata.").

5 The Alaska Railroad Corporation also argues that North Star contractually released any ownership claims to the tidelands when it signed the final settlement agreement in *City of Anchorage*. Since we hold that res judicata bars North Star's claim, we do not reach this issue.

6 This is because estoppel by deed "arises only where a party [assures] the conveyance being made." *Powell*, *supra*, at 81A-160. In the case of a quitclaim deed, "the grantor merely purports to convey such . . . interest as he or she may have, if any. If the grantor does not have title to the property, the grantee cannot claim to have been assured to the contrary." *Id.* at 81A-160 to 161.

7 In 1965, the City in turn issued a quitclaim deed for the tidelands at issue to North Star's predecessor in interest.

8 The appellees also argue that estoppel by deed does not apply to the present case because the Alaska Railroad was not a privy or party to the earlier conveyance; because the Federal District Court in **City of Anchorage** voided the conveyance; and because estoppel by deed does not apply against the government. In light of our decision, we do not reach these issues.

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**SB**

**265**

# Alaska State Legislature



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### SPONSOR STATEMENT

#### SB 265, Physician Assistants.

I introduced SB 265 at the request of the Alaska Academy of Physician Assistants. Their desire is for the profession of physician assistant to be specifically included in lists of health care providers defined for sections of law pertaining to medical liability and to unfair trade practices in the insurance and health care business.

Section 1 amends AS 09.55.560(1) to add "physician assistant" to the definitional clause for medical liability statutes. Section 2 similarly amends AS 21.36.090(d) to include "physician assistant" as a provider that may not be unfairly discriminated against by a health insurance company, health maintenance organization, or other health delivery organization.

Section 3 responds to a third request of the academy. It is to allow physicians assistants to provide proof of eligibility for a special, disabled veterans license plate and for issuance of a parking permit for a handicapped or disabled person. Eligibility is currently provided by only physicians and advanced nurse practitioners.



## alaska academy of physician assistants

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### RESOLUTION

#### TO AMEND AS 09.55.560 TO INCLUDE PHYSICIAN ASSISTANTS IN MEDICAL LIABILITY STATUTE

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WHEREAS, a physician assistant is licensed to practice medicine under AS 08.64.107, AS 08.64.170, and 12 AAC 40.400 through 12 AAC 40.490.

WHEREAS, there are approximately 250 physician assistant licensees in the state of Alaska. Physician assistants have been practicing medicine in Alaska for more than 20 years.

WHEREAS, physician assistants care for over 50,000 Alaskans every month, in a wide variety of institutions. Physician assistants are critical for the provision of medical care in remote areas and villages of Alaska.

WHEREAS, in 1976 the legislature codified the law with regard to medical liability. AS 09.55.530 – AS 09.55.560. The purpose of the statutes was to codify the law of medical malpractice in order to establish that the law in Alaska in this regard is the same as elsewhere. AS 09.55.530.

WHEREAS, the medical liability statutes apply only to "health care providers", as specifically defined by AS 09.55.560. The definition of "health care provider" includes acupuncturists, audiologists, speech-language pathologists, chiropractors, dental hygienists, dentists, nurses, opticians, naturopaths, optometrists, pharmacists, physical therapists, occupational therapists, physicians, podiatrists, psychologists and psychological associates. AS 09.55.560.

WHEREAS, due to a legislative oversight, physician assistants were not included in the definition of "health care provider" under AS 09.55.560. As a result, physician assistants are not covered by the medical liability statutes.

WHEREAS, the law of medical liability should apply uniformly to all health care providers licensed to practice medicine in the state of Alaska, including physician assistants.

Therefore be it resolved that the Alaska Academy of Physician Assistants wishes to amend AS 09.55.560(1) to include the words "physician assistant licensed under AS 08.64" in the definition of health care provider.

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The purpose of this Academy is to render loyal and honest service to the medical profession and to the public, to develop and enforce continuing educational programs for the Physician Assistant and the Academy membership, to promote the Physician Assistant concept through education of professional and lay people, and to promote similar interest in the student societies.



## alaska academy of physician assistants

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### RESOLUTION

#### TO AMEND AS 21.36.090 (d) TO PROTECT PHYSICIAN ASSISTANTS FROM UNFAIR DISCRIMINATION

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WHEREAS, a physician assistant is licensed to practice medicine under AS 08.64.107, AS 08.64.170, and 12 AAC 40.400 through 12 AAC 40.490. A physician assistant practices medicine under a "plan of collaboration" with a collaborating physician. The physician assistant has the same scope of practice as the collaborating physician. AS 08.64.170; 12 AAC 40.430.

WHEREAS, there are 250 physician assistant licensees in the state of Alaska. Physician assistants have been providing medical care in Alaska for over twenty years.

WHEREAS, physician assistants care for over 50,000 Alaskans every month, in a wide variety of institutions. Physician assistants are critical for the provision of medical care in remote areas and villages.

WHEREAS, AS 21.36.090(d) prohibits insurance companies and health maintenance organizations from discriminating against a medical care "provider" for payment of medical services, if the service is within the scope of the provider's occupational license.

WHEREAS, AS 21.36.090(d) defines "provider" to mean a licensed physician, dentist, osteopath, optometrist, chiropractor, nurse-midwife, advanced nurse practitioner, naturopath, physical therapist, occupational therapist, marital and family therapist, psychologist, psychological associate, licensed clinical social worker, and certified direct-entry midwife.

WHEREAS, due to a legislative oversight, physician assistant was omitted from the definition of "provider" in AS 21.36.090(d). The current statute does not protect physician assistants from unfair discrimination.

WHEREAS, physician assistants are crucial to the provision of quality medical care in Alaska. Physician assistants are entitled to protection from unfair discrimination.

THEREFORE, BE IT RESOLVED that the Alaska Academy of Physician Assistants wishes to amend AS 21.36.090(d) to include "physician assistant".

*VISIT OUR WEBSITE @ [akapa.org](http://akapa.org)*

The purpose of this Academy is to render loyal and honest service to the medical profession and to the public, to develop and enforce continuing educational programs for the Physician Assistant and the Academy membership, to promote the Physician Assistant concept through education of professional and lay people,

January 22, 2002

To: Senator Donald Olson and Mr. Dave Gray

Re: Addendum for Consideration

From: Ed Hall PA-C  
Alaska Academy of Physician Assistants  
(907) 222-7612 wk  
(907) 345-9365 hm

222 6976  
PA-C

Dear Senator Olson and Mr. Gray:

I am sending you a copy of the current Alaska statutes that address, who is eligible to provide proof of disability for issuance of handicapped parking permits. Once again it appears that we as Physician Assistants have been excluded as providers of medical services equivalent to those of Nurse Practitioners. It could be the same problem in that the law was written before PA's became viable providers of medical care in Alaska. Since this is similar to our other resolutions, would it be possible to include this all on the same bill?

We appreciate your help and support in these matters.

Regards



# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSSB 265 (TRA)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title An Act relating to Physician Assistants & BRU: Occupational Licensing (117)  
Nurse Practitioners Component Occupational Licensing  
 Sponsor Senator Olson  
 Requester Senate Labor & Commerce Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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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--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division Occupational Licensing Date/Time 3/13/02 3:38 PM  
 Approved by: Deborah B. Sedwick, Commissioner Date 3/13/2002  
 Agency Department of Community & Economic Development

**SB**

**266**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 1/30/02

FURTHER: Resources  
 Finance

Date of 5-Day Notice: 2/7/02  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered

SENATE BILL NO. 266

*SB 266 FISHERY ENHANCEMENT LOANS*

"An Act authorizing the commissioner of community and economic development to refinance and extend the term of a fishery enhancement loan."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 266 (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	.FN#
DCEID	2/8/02			

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>Beth Davis</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 266  
 () Publish Date: \_\_\_\_\_  
 Dept. Affected: DCEI  
 BRU: Investments (122)  
 Component: Investments  
 Component No. 383

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Fishery Enhancement Loans  
 Sponsor: Senator Stevens  
 Requester: (S) Labor and Commerce

**Expenditures/Revenues** (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008

<b>CHANGE IN REVENUES (21615)</b>	<b>(1,714.9)</b>	<b>(1,632.7)</b>	<b>(1,543.0)</b>	<b>(1,443.8)</b>	<b>(1,334.3)</b>	<b>(1,213.2)</b>
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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—Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 The reduction in revenues to the loan fund was based on an average portfolio interest rate of 9%, compared to a current rate of 6% that would be available under a refinancing program as provided for in SB 266. The impact also assumes that all loan payments would be made as scheduled. If loan payments are reduced because of payoffs or for other reasons the impact to the fund would be reduced.

Prepared by: Greg Winegar, Director Phone 465-2510  
 Division: Investments Date/Time 2/8/02 10:11 AM  
 Approved by: Deborah B. Sedwick, Commissioner Date 2/8/2002  
 Agency: Department of Community & Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_

Bill Version: SB 266

( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED

Title Fishery Enhancement Loans BRU Investments (122)

Component Investments

Sponsor Senator Stevens

Requester (S) Labor and Commerce Component No. 383

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 21615 )</b>	<b>(1,714.9)</b>	<b>(1,632.7)</b>	<b>(1,543.0)</b>	<b>(1,443.8)</b>	<b>(1,334.3)</b>	<b>(1,213.2)</b>
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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-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The reduction in revenues to the loan fund was based on an average portfolio interest rate of 9%, compared to a current rate of 6% that would be available under a refinancing program as provided for in SB 266. The impact also assumes that all loan payments would be made as scheduled. If loan payments are reduced because of payoffs or for other reasons the impact to the fund would be reduced.

Prepared by: Greg Winegar, Director

Division: Investments

Approved by: Deborah B. Sedwick, Commissioner

Agency: Department of Community & Economic Development

Phone 465-2510

Date/Time 2/8/02 10:11 AM

Date 2/8/2002

22-LS1216\B  
Utermohle  
2/11/02

**CS FOR SENATE BILL NO. 266( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

BY

Offered:  
Referred:

Sponsor(s): SENATORS STEVENS, Lincoln, Elton, Austerman, Taylor

**A BILL**  
**FOR AN ACT ENTITLED**

1 "An Act authorizing the commissioner of community and economic development to  
2 refinance and extend the term of a fishery enhancement loan."

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

4 \* Section 1. AS 16.10.510 is amended to read:

5 **Sec. 16.10.510. Powers and duties of the commissioner.** The commissioner  
6 may

7 (1) make loans to permit holders, under AS 16.10.400 - 16.10.470,  
8 including those holders issued permits before June 24, 1977, for the planning,  
9 construction, and operation of hatchery facilities;

10 (2) make loans to qualified regional associations that have formed a  
11 nonprofit corporation or a local nonprofit corporation approved by a qualified regional  
12 association, for preconstruction activities necessary to obtain a permit;

13 (3) designate agents and delegate powers to them as necessary;

14 (4) adopt regulations necessary to carry out the provisions of

1 AS 16.10.500 - 16.10.560, including regulations to establish reasonable fees for  
2 services provided;

3 (5) establish amortization plans for repayment of loans, not to exceed  
4 30 years unless the commissioner has extended the term of the loan beyond 30  
5 years under (11) of this section;

6 (6) establish the rate of interest for loans not to exceed nine and one-  
7 half percent a year;

8 (7) establish regional and local offices and advisory groups to carry  
9 out, or assist in carrying out, the duties and authority of the commissioner;

10 (8) [REPEALED

11 (9)] make grants for organizational and planning purposes to qualified  
12 regional associations that have formed a nonprofit corporation, in amounts not  
13 exceeding \$100,000 per region and up to an additional \$100,000 on a 50/50 cash  
14 matching basis with the regional associations that have an authorized royalty  
15 assessment under AS 16.10.540; the state portion of the matching share shall be  
16 available when a final vote for assessments is made under AS 16.10.540; this  
17 provision also applies to qualified regional associations that have formed a nonprofit  
18 corporation before June 24, 1977;

19 (9) [(10)] make loans to qualified regional associations that have  
20 formed a nonprofit corporation or to local nonprofit corporations approved by  
21 qualified regional associations for planning and implementation of fisheries  
22 enhancement and rehabilitation activities including, but not limited to, lake  
23 fertilization and habitat improvement;

24 (10) refinance a debt obligation incurred by a borrower under this  
25 section if the borrower otherwise qualifies for a loan under AS 16.10.500 -  
26 16.10.560; the interest rate for a loan to refinance a debt obligation incurred  
27 under this section may not exceed the interest rate that is in effect for new loans  
28 under this section at the time that the loan commitment for the refinancing loan  
29 is made; a loan made under this paragraph is not subject to AS 16.10.525;

30 (11) extend the term of a loan made under this section if the  
31 commissioner finds that extension of the term of the loan would alleviate an

1

undue financial hardship on the borrower;

2

(12) charge and collect the fees established under this section.

# Alaska State Legislature

SENATOR  
BEN STEVENS  
716 WEST 4TH AVENUE  
ANCHORAGE, AK  
99501-2133  
(907) 269-0200  
FAX (907) 269-0204



Session:  
STATE CAPITOL  
JUNEAU, AK  
99801-1182  
(907) 465-4993  
FAX (907) 465-3872

## Senate District J Sponsor Statement

**SB 266 - "An act authorizing the commissioner of community and economic development to refinance and extend the term of a fishery enhancement loan."**

SB 266 authorizes the Commissioner of the Department of Community and Economic Development to refinance loans made by the Fisheries Enhancement Revolving Loan Fund. It also gives the Commissioner the ability to extend the term of the loan when justified.

The construction and operational funding provided by the Fisheries Enhancement Revolving Loan program have helped to create an extremely successful statewide salmon rehabilitation program. The hatchery system was established in 1974 to enhance and stabilize Alaska's Regional salmon stocks. Now, approximately 40% of the entire salmon harvest in Alaska is enhanced fish.

A majority of the loans made under this program carry the maximum allowable interest rate of 9.5%. Alaska Statutes allow for interest rates of 1% over prime, not to exceed 9.5%. New loans, if received today, would be at 6%. Hatcheries would like to take advantage of the lower interest rates to bring down their debt service, just as other business and homeowners are currently doing throughout Alaska and the Nation. Financially sound hatcheries are better able to continue producing salmon for the fishing community, and smaller loan payments make it easier for them to pay back their obligations to the State.

The last Legislative Audit of private nonprofit hatcheries, published in 1997, recommended that the Division of Investments in the Department of Community and Economic Development seek the authority to restructure hatchery loans. This legislation does just that. The Department is sufficiently staffed to accommodate the few applications necessary to refinance these loans. There is no forgiveness of principal or interest allowed under this legislation, and all payments are made directly to the loan fund.

Senate Bill 266 recognizes the public trust nature of these non-profit entities. This legislation protects the State's financial interest by guaranteeing sustained production of salmon for the commercial, sport, and personal use fisheries, and assuring continued payments of outstanding debts to the state.

## SB 266

### Debt Restructuring for Statewide Hatchery System

- Those effected are: Armstrong-Keta (**Port Alexander**); Burro Creek Farms (**Skagway**); Cook Inlet Aquaculture Association (**Kenai**); Douglas Island Pink & Chum (DIPAC-**Juneau**); Kake Nonprofit Fisheries Corp. (KNFC-**Kake**); **Port Graham** Hatchery Corp.; **Prince of Wales** Hatchery Assoc.; Prince William Sound Aquaculture Corp. (PWSAC-**Cordova**); Sheldon Jackson College (**Sitka**); Southern Southeast Regional Aquaculture Association (SSRAA-**Ketchikan**); and Valdez Fisheries Development Association (VFDA-**Valdez**). Northern Southeast Regional Aquaculture Association (NSRAA-**Sitka**) and Kodiak Regional Aquaculture Association (KRAA-**Kodiak**) have also indicated support even though they have no debt at this time.
- A majority of hatchery loans are currently at the maximum permissible rate of 9.5% interest. Alaska Statutes allow for interest rates of 1% over prime, not to exceed 9.5%. New loans, if received today, would be at 6%. Hatcheries would like to take advantage of the lower interests rates to bring down their debt service, just as other business and homeowners are currently doing throughout Alaska and the Lower 48.
- The nearly one billion dollars of salmon created by these state financed private nonprofit hatcheries, have been invaluable to the economy of the many coastal communities so dependent on salmon for their survival, as well as to urban Alaskans working within the industry.
- Currently, the Department of Community and Economic Development (DCED) is unable to refinance loans from the Fisheries Enhancement Revolving Loan Fund for the hatchery system. Similarly, prior to 1993, loans from the other fund, the Commercial Fisheries Revolving Loan Fund, could not be refinanced. Legislation allowing that change for fishermen was enacted, and the hatcheries are now asking for comparable changes for their industry.
- DCED acknowledges the proposed change would not jeopardize the health of the revolving loan fund, which has a current balance of approximately \$8 million.
- Lower payments would help to insure financial stability for the hatcheries and allow them to take less cost recovery fish to make their loan payments. This would result in more fish to commercial and sports fishermen.
- Currently, approximately 40% of Alaska's entire salmon harvest is enhanced fish. Salmon are also produced that are taken by resident and non-resident sports fishermen and utilized in the personal use fisheries.
- Alaska's salmon enhancement industry is not unlike a public utility. They are operated for the common good and are non-profit corporations. From that perspective, favorable financing rates would be a normal business practice.
- The Department has indicated their workload would be small, as very few applicants would be involved. So, current DCED employees can handle the changes brought about by this legislation.

# CITY OF CORDOVA



February 4, 2002

Senator Ben Stevens  
State Capitol  
Juneau, AK 99801-1182

RE: SB 266/Refinancing of hatchery loans

Dear Senator Stevens:

The City of Cordova would like to thank you for your support of the Alaskan fishing industry by the introduction of SB 266. As you know, Cordova is a community built around fishing, and we see SB 266 as a logical financial solution that will help strengthen the hatchery segment of our industry.

This legislation would allow our regional aquaculture association, the Prince William Sound Aquaculture Corporation (PWSAC), to refinance their current loans, lower their debt burden and decrease payment size. PWSAC is a major economic engine in our community of 2500 Alaskans. In 2000, Cordova resident permit holders harvested over \$8 million in hatchery produced salmon, which added an estimated economic output in our city of over \$9.8 million. Seventy people from our area work for the corporation, from office staff to remote site biologists, and they have a local annual payroll of more than \$2.6 million.

SB 266 will have a very positive impact on a large segment of our community, as well as on the other areas of the state that depend, as we do, on hatchery produced salmon for their livelihood. The best of luck with this legislation, and please let me know if the City of Cordova can assist you in any way.

Sincerely,

Mayor Margy Johnson  
City of Cordova

# Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska  
P.O. Box 939 Cordova, Alaska 99574 / phone (907) 424-3447 / fax (907) 424-3430 /  
e-mail [cdfu@otialaska.net](mailto:cdfu@otialaska.net)

February 9, 2002

Senate Labor & Commerce Committee  
Alaska State Legislature  
State Capitol (MS 3101)  
Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3872

RE: SB 266 - An Act to Refinance Fishery Enhancement Loans

Dear Members,

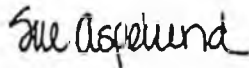
Cordova District Fishermen United represents the fishing fleets of Area E—Prince William Sound and the Copper River. CDFU fully supports SB 266, legislation to provide for hatchery debt restructuring.

The communities of Prince William Sound have benefited economically and socially from the hatchery production of the Valdez Fisheries Development Association and Prince William Sound Aquaculture Corporation. Both have provided important economic development opportunities for both sport and commercial fisheries in our region, as well as a valuable resource for subsistence and personal use harvesters. We are supportive of legislation which provides them the ability to take advantage of existing low interest rates—an opportunity enjoyed by most businesses and homeowners—especially given that present low ex-vessel values for salmon create the need to take a higher percentage of production as cost recovery in order to make loan payments. This legislation will allow a greater percentage of production to be available to subsistence, personal use, sport and commercial common property harvesters, as well as providing for a modicum of financial stability during this volatile time in the seafood industry.

Given that Alaska's salmon enhancement programs are non-profit and provide a valuable resource for the common good, we encourage your support for legislation that provides parity with the commercial fisheries' revolving loan fund (which was amended in 1993 to allow refinancing). Enhancement programs have provided direct dollars into the economies of many coastal Alaska communities, and require this statutory change in order to continue to provide the benefits described.

Thank you for your careful consideration of this important legislation.

Sincerely,



Sue Aspelund  
Executive Director



**Douglas Island Pink and Chum, Inc.**

2697 Channel Dr. • Juneau, Alaska 99801

Telephone: (907) 463-5114 • Fax: (907) 463-3213

February 13, 2002

Senator Ben Stevens  
Chair  
Senate Labor & Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Stevens:

Re: SB 266 Fishery Enhancement Loans

On behalf of the DIPAC Board of Directors and the many supporters of the Douglas Island Pink & Chum hatcheries I would like to urge passage of SB 266.

The refinancing of existing high interest debt is definitely in the State's best interest and sound public policy. The enhancement program is unusual in that it is a public trust being run by private industry. This bill would enable hatcheries to take advantage of current low interest rates. Lowering the cost of debt service improves both the financial viability of the corporations and their ability to provide more fish to the common property users. The fact this can be done without financial impact to the State's General Fund definitely makes it a win-win situation.

The many Alaskans benefiting from hatchery produced fish (approximately 40% of the catch) both in commercial and sport harvest, thank you for your support. Once again, I would like to thank you for your sponsorship of SB 266 and offer any assistance you or your office might need in the passage of this bill.

Respectfully,

A handwritten signature in cursive script that reads "Jon Carter".

Jon Carter  
Director



prince william sound  
**ECONOMIC  
DEVELOPMENT  
COUNCIL**

February 8, 2002

Sen. Ben Stevens  
State Capitol  
Juneau, AK 99686

Dear Senator Stevens:

On behalf of Prince William Sound Economic Development District, I would like to strongly encourage your support of Senate Bill 266. It is of vital importance for the economic stability of the fishing industry in our region.

Thank you for your support in this matter.

Sincerely,

Sue Cogswell  
Executive Director

***Community of Kake***

City of Kake  
Kake Nonprofit Fisheries Corporation

Honorable Senator Stevens  
State Capital Building  
Juneau, Alaska 99801

February 12, 2002

We fully support Senate Bill 266 as it acknowledges the changing economic realities that we are dealing with. Gunnuk Creek Hatchery is the cornerstone of our fisheries economy. Years ago our community understood that we needed to diversify our economic base, as logging would not support us indefinitely. We believed so strongly in the potential of Gunnuk Creek Hatchery that we leveraged our community building to collateralize our initial loans.

Gunnuk Creek Hatchery is biologically successful and operationally sound. We are just beginning to realize increased run sizes from the expansion of our facility although it will take some time yet to annually generate revenue sufficient to support our operating needs while servicing our debt at the same time. Senate Bill 266 will enable us to restructure our debt while we continue supporting the common property fisheries and our local economy as well.

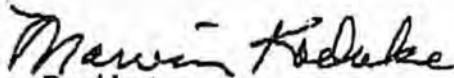
Gunnuk Creek Hatchery is invaluable to our community and is a significant contributor to thirty percent of our local workforce. The entire fisheries economy has changed since the establishment of hatchery program. This senate bill will give us valuable relief from immediate and insurmountable obligations while at the same time allowing us to fully acknowledge our debt to the State of Alaska.

Many Private Non-Profit Hatcheries are similarly positioned. They are major contributors to the state's fishing economy and benefit Alaska's fishermen. The cost recovery demands and debt repayment schedules threaten their viability, yet they are important to the state's fishing industry. This legislation will give us time to address these realities.

Thank you for sponsoring this legislation. You may certainly count on our support. Gunnuk Creek Hatchery is an excellent example of a hatchery that is a complete success, is a valuable asset to the State of Alaska and to a local community, but is buried in financial obligations that may be impossible to meet in the short term.

Sincerely,

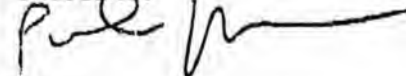
Marvin Kadake



President

Kake Nonprofit Fisheries Corporation

Paul Reese



Mayor

City of Kake



February 11, 2002

Senator Ben Stevens  
State Capitol  
Juneau, AK 99801-1182

RE: SB 266 – Hatchery Debt Restructuring for Alaska's Nonprofit Hatcheries

Dear Senator Stevens:

The Board of Directors of the Prince William Sound Aquaculture Corporation (PWSAC) fully supports the enactment of SB 266, and conveys our genuine appreciation for your part in sponsoring this legislation.

The passage of SB 266 would benefit eleven private nonprofit hatcheries over a broad area of coastal communities. PWSAC was one of the first private nonprofit hatcheries to begin production after the enactment of the hatchery system in 1974, and has been among the leaders in this field.

PWSAC is one of the five "regional" private nonprofit hatcheries. This means that although it produces salmon for all user groups, the regional hatcheries are also supported financially by the commercial fishermen of our region (Area E) who voted in 1985 to voluntarily contribute 2% of their ex-vessel catch value to support PWSAC's operational costs.

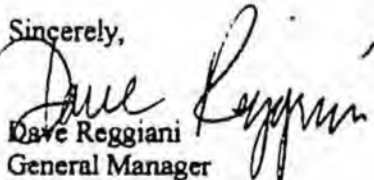
Our fisheries enhancement program benefits all the communities of Prince William Sound, and processing interests in Kenai, Cook Inlet and Kodiak as well. Our interior hatchery near Paxson, on the Gulkana River, brings sockeye salmon into an area heavily utilized by subsistence and personal use fisheries. Though the bulk of PWSAC's production benefits the commercial fisheries, a growing number of sport fishing interests come in from all over our state to fish salmon in Prince William Sound.

The Department of Community and Economic Development oversees the Fisheries Enhancement Revolving Loan fund from which PWSAC carries a number of long-term loans, mostly at the 9.5% rates, dating from the early 1980's. If SB 266 is adopted, it will allow PWSAC, and the other ten private nonprofit hatcheries, to refinance their loans at today's lower rates. This would bring our loan obligations into the current financing realm and more on a par with other Alaska businesses that are able to finance at rates in the 6% range.

For PWSAC, this would mean the "benefit" derived from lower interest rates would incur to all our constituents. Of course, the primary benefit would be to the commercial fisheries and processors, but by availing more enhanced salmon to the fleet to catch, benefits would impact the state's general funds and our economy in many positive ways.

Thank you once again for your steadfast support in sponsoring SB 266. Its passage would lower interest "income" to the Fisheries Enhancement Revolving Loan Fund, but it's widespread benefits to the communities and Alaska's people would return more to the state overall.

Sincerely,

  
Dave Reggiani  
General Manager

PRINCE WILLIAM SOUND AQUACULTURE CORPORATION

Corporate Office • P. O. Box 1110, Cordova, AK 99574

Office: 907/424-7511 • Fax: 907/424-7514

Website: [www.ctcak.net/~pwsac](http://www.ctcak.net/~pwsac) • Email: [pwsac@ctcak.net](mailto:pwsac@ctcak.net)



Post Office Box 20761 • Juneau, Alaska 99802

Telephone: (907) 463-3830 • Fax: (907) 586-6020

Senator Ben Stevens, Chair  
Senate Labor & Commerce Committee  
Alaska State Legislature  
State Capital Bldg. (MS3100)  
Juneau, Alaska 99801-1182  
FAX: (907)465-3872

February 13, 2002

Dear Senator Phillips:

Re: SB 266 – Fishery Enhancement Loans

The Territorial Sportsmen support passage of this bill allowing hatcheries to refinance their state loans at more favorable interest rates.

Fish produced by these enhancement programs are important to sportsmen across the State. Strengthening their financial position through refinancing not only improves their ability to survive and continue making fish for us all, but it also improves their ability to repay the State. This seems to be a win – win situation.

With nearly one third of the King and Coho Salmon caught during The Golden North Salmon Derby being produced by our local hatchery, we certainly support responsible opportunities to improve their viability.

If you have any questions concerning our position or if you need additional information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mal Linthwaite", written over a horizontal line.

Mal Linthwaite  
President



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
(907) 586-2820  
(907) 463-2545 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

February 7, 2002

Senator Ben Stevens  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Senator Stevens,

Re: SB 266 Fishery Enhancement Loans

United Fishermen of Alaska supports passage of this bill to allow hatcheries to refinance their state loans at current interest rates. Thanks for being the sponsor.

Allowing DCED to refinance these hatchery loans (from the old rate of 9.5% to approximately 6%) makes good business sense, as it allows hatcheries to decrease their operating costs, which in turn allows fishermen to catch more fish in the common property harvest. Hatcheries enhanced fish account for 40% of Alaska's commercial salmon harvest, and also benefit sport and personal use fisheries throughout the state. Allowing the hatcheries to reduce interest rates, just as other businesses are doing during these financially volatile times, will not jeopardize the health of the fund, and will still allow for additional loans to be made as needed for future requests.

The twenty-nine member groups of UFA would appreciate your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

Thomas M. Gemmell  
Executive Director

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Al-sea Processors Association • Bristol Bay Reserve  
Chignik Regional Aquaculture Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association  
Copper River Salmon Producers Association • Cordova District Fishermen United • Douglas Island Pink and Chum  
Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association  
Northern Southeast Regional Aquaculture Association • Old Harbor Fisherman's Association • Petersburg Vessel Owners Association  
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative  
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters

**VALDEZ FISHERIES  
DEVELOPMENT ASSOCIATION INC.**

P.O. Box 125  
Valdez, Alaska 99686  
Phone 835-4874 Fax 835-4831



The Honorable Ben Stevens  
Senate  
Capital Office Building  
Room 119  
Juneau, Alaska 99801-1182

Dear Senator Stevens;

On behalf of Valdez Fisheries Development Association, I would like to thank you for your sponsorship of SB 266, the "The Refinancing of Fishery Enhancement Loans" The refinancing of hatchery loans is a much needed tool for the survival of the hatchery program in Alaska. Being able to take advantage of lower interest rates puts all of us on a more level playing field as we struggle to make ends meet each year. One of the biggest beneficiaries of this bill will be the commercial fisherman. The need for the hatcheries to take a large share of the returning adult salmon for cost recovery will be diminished and the commercial fisherman will be the beneficiary of more available fish.

The annual loan payments that Valdez Fisheries makes to the State of Alaska often exceed \$800,000, of which 50% or more is interest payments. Your bill will help the hatchery programs in the state meet our financial obligations and still be able to produce the much-needed salmon for the common property fisheries of this state. Many of the hatcheries in the state are economic catalysts for the local coastal communities they are located in. The hatcheries provide jobs and support the local communities through the generation of raw fish taxes and other taxes that support the functions of the local government. Tourism dollars are generated both through the fishing that is available but also through being a tourist attraction such as the DIPAC hatchery located in Juneau. I believe very strongly that the hatchery system has met the obligations that were formulated in the organizational beginning of this system and will continue to do so long into the future.

Once again, I would like to thank you for your sponsorship of SB 266 and offer the assistance of Valdez Fisheries Development Association in the successful passage of this bill. If you need any further information please call me at (907) 835-4874.

Respectfully

*David C. Cobb*  
David C. Cobb

**DEDICATED TO THE UTILIZATION, CONSERVATION,  
AND REHABILITATION OF ALASKA'S FISHERY RESOURCE  
WITHIN THE 200-MILE LIMIT**



# THE CITY OF WHITTIER

Gateway to the Western Prince William Sound

P. O. Box 608 • Whittier, Alaska 99693 • (907) 472-2327 • Fax (907) 472-2404

February 7, 2002

Senator Ben Stevens  
State Capital  
Juneau, Alaska 99801-1182

RE: SB 266-Refinancing of hatchery loans

Dear Senator Stevens:

The City of Whittier would like to voice its support for HB 368, your legislation that will allow hatcheries to refinance their state loans.

Residents of Whittier have been benefiting from the salmon produced by the state hatchery system for many years. Since 1992, the Prince William Sound Aquaculture Corporation (PWSAC) has released 100,000 coho smolts annually near our community for the sportfishing enjoyment of the locals, as well as for our neighbors from Anchorage and other landlocked communities who travel to Whittier for boating and fishing opportunities.

Thank you for your support of the fishing community in Alaska by introduction of this legislation. Please let me know if the City of Whittier can help in any way with its passage.

Sincerely,

A handwritten signature in cursive script that reads "Ben Butler".

Ben Butler, Mayor  
City of Whittier

SENATE BILL NO. 266

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATORS STEVENS, Lincoln, Elton

Introduced: 1/30/02

Referred: Labor and Commerce, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing the commissioner of community and economic development to  
2 refinance and extend the term of a fishery enhancement loan."

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

4 \* Section 1. AS 16.10.510 is amended to read:

5           **Sec. 16.10.510. Powers and duties of the commissioner.** The commissioner  
6           may

7                       (1) make loans to permit holders, under AS 16.10.400 - 16.10.470,  
8           including those holders issued permits before June 24, 1977, for the planning,  
9           construction, and operation of hatchery facilities;

10                      (2) make loans to qualified regional associations that have formed a  
11           nonprofit corporation or a local nonprofit corporation approved by a qualified regional  
12           association, for preconstruction activities necessary to obtain a permit;

13                      (3) designate agents and delegate powers to them as necessary;

14                      (4) adopt regulations necessary to carry out the provisions of

1 AS 16.10.500 - 16.10.560, including regulations to establish reasonable fees for  
2 services provided;

3 (5) establish amortization plans for repayment of loans, not to exceed  
4 30 years;

5 (6) establish the rate of interest for loans not to exceed nine and one-  
6 half percent a year;

7 (7) establish regional and local offices and advisory groups to carry  
8 out, or assist in carrying out, the duties and authority of the commissioner;

9 (8) [REPEALED

10 (9)] make grants for organizational and planning purposes to qualified  
11 regional associations that have formed a nonprofit corporation, in amounts not  
12 exceeding \$100,000 per region and up to an additional \$100,000 on a 50/50 cash  
13 matching basis with the regional associations that have an authorized royalty  
14 assessment under AS 16.10.540; the state portion of the matching share shall be  
15 available when a final vote for assessments is made under AS 16.10.540; this  
16 provision also applies to qualified regional associations that have formed a nonprofit  
17 corporation before June 24, 1977;

18 (9) [(10)] make loans to qualified regional associations that have  
19 formed a nonprofit corporation or to local nonprofit corporations approved by  
20 qualified regional associations for planning and implementation of fisheries  
21 enhancement and rehabilitation activities including, but not limited to, lake  
22 fertilization and habitat improvement;

23 (10) refinance a debt obligation incurred by a borrower under this  
24 section if the borrower otherwise qualifies for a loan under AS 16.10.500 -  
25 16.10.560; the interest rate for a loan to refinance a debt obligation incurred  
26 under this section may not exceed the interest rate that is in effect for new loans  
27 under this section at the time that the loan commitment for the refinancing loan  
28 is made; a loan made under this paragraph is not subject to AS 16.10.525;

29 (11) extend the term of a loan made under this section if the  
30 commissioner finds that extension of the term of the loan would alleviate an  
31 undue financial hardship on the borrower;

1

(12) charge and collect the fees established under this section.

**SB**

**267**

# SENATE COMMITTEE REPORT

DATE: 2/13/02

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 2/21/02

Labor and Commerce Committee considered **SENATE BILL NO. 267**

**SB 267 ALASKA VETERANS' MEMORIAL ENDOWMENT FUND**

"An Act establishing the Alaska veterans' memorial endowment fund and providing for credits against certain taxes for contributions to that fund; relating to other tax credits for certain contributions; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DMVA	12/07/01	✓		1
Revenue	4/19/01	*		2
DCED	10/3/01	*		3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Loren D. Simon</i>	✓			
<i>Bettye Davis</i>	✓			
CHAIR: <i>Ben Stevens</i>	✓			

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 267  
( S ) Publish Date: 2/01/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DMVA  
Title Veterans Memorial Endowment BRU Veterans Services  
Component Veterans Services  
Sponsor Rules  
Requester Governor Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	125.0					
<b>TOTAL OPERATING</b>	<b>125.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	125.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>125.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The proposed bill sets up an endowment fund to maintain and develop veterans or military memorials. It also provides an opportunity for private entities to contribute to the fund and receive a tax credit against their state taxes. The amount in the fiscal note is the initial contribution to the fund. Earnings from the fund will be available to expend, contingent on appropriations, for projects approved by the department in consultation with veteran groups.

Prepared by: Carol Carroll Phone 465-4730  
Division Administrative Services Date/Time 12/7/01 3:15 PM  
Approved by: Carol Carroll Date 12/07/2001  
Agency Department of Military and Veterans Affairs

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
Bill Version: SB 267  
( S ) Publish Date: 2/01/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title Veterans Memorial Endowment BRU Revenue Operations  
and Tax Credit Component Tax Division  
Sponsor Rules Committee  
Requester Governor Component No. 2476

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	**	**	**	**	**	**
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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--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

\*\* Although we do not believe there are a sufficient facts for estimating the potential revenue loss under this bill, the best source for revenue loss information is the Education Tax Credit data. The reason why Education Tax Credit data is useful is that the structure of the proposed Alaska Veterans Memorial Endowment Tax Credit mirrors the structure of the existing Education Tax Credit. Additionally, because taxpayers are limited to a maximum of \$150,000 in credit, they may choose to substitute Alaska Veterans Memorial Tax Credits for Education Tax Credits. The revenue loss would then only be any additional credits beyond those that would have been used as education credits. In FY 2001, 37 taxpayers used approximately \$2.1 million in Education Tax Credits. About 97 percent of those credits were used by 16 of the 37 taxpayers.

Prepared by: Brett Fried Phone 465-3682  
Division Tax Division Date/Time 11/10/01 2:18 PM  
Approved by: Larry Persily, Deputy Commissioner Date 11/10/2001  
Agency Department of Revenue

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: SB 267  
 ( S ) Publish Date: 2/01/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Alaska Veterans Memorial BRU Community Assistance&Econ Dev  
Endowment Fund Component Community & Business  
 Sponsor Rules By Request Development  
 Requester Governor Component No. 2486

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	*	*	*	*	*	*
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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--Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 The impact of this bill on revenues and expenditures is indeterminate due to the difficulty in anticipating the extent to which tax credits will be appropriated to the endowment funds.

Prepared by: Ginny Fay, Deputy Director Phone 907-465-5472  
 Division Community & Business Development Date/Time 10/3/01 4:21 PM  
 Approved by: Deborah B. Sedwick, Commissioner Date 10/3/2001  
 Agency Department of Community & Economic Development

**SB**

**270**

First Committee of Referral

DATE: 2/1/02

FURTHER FINANCE

Date of 5-Day Notice: 2/7/02  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered SENATE BILL NO. 270

SB 270 BOARD OF DISPENSING OPTICIANS

"An Act extending the termination date of the Board of Dispensing Opticians; relating to the regulation of dispensing opticians; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS SB 270 ( L&C )

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # \_\_\_\_\_

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DCED	2/1/02	X		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Allen Custer</i>			<input checked="" type="checkbox"/>	
<i>Betty Davis</i>	<input checked="" type="checkbox"/>			
<i>J. Jayson</i>	<input checked="" type="checkbox"/>			
CHAIR: <i>Ben Finner</i>	<input checked="" type="checkbox"/>			

# Audit Report

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DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
BOARD OF DISPENSING OPTICIANS  
SUNSET REVIEW

September 20, 2001

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Audit Control Number:

08-20010-02

Division of Legislative Audit

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

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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## DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

### BUDGET AND AUDIT COMMITTEE

Senator Gene Therriault, Chair  
Senator Dave Donley  
Senator Lyman Hoffman  
Senator Randy Phillips  
Senator Jerry Ward  
Senator Gary Wilken (alternate)

Representative Hugh Fate, Vice Chair  
Representative John Harris  
Representative Reggie Joule  
Representative Ken Lancaster  
Representative Eldon Mulder  
Representative Bill Williams (alternate)  
Representative John Davies (alternate)

### DIVISION OF LEGISLATIVE AUDIT

Pat Davidson, CPA  
Legislative Auditor

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

(907)465-3830, Juneau  
(907)561-1445, Anchorage  
(907)465-2347, Juneau Fax  
(907)561-1452 Anchorage Fax

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
Internet e-mail address:  
legaudit@legis.state.ak.us

October 1, 2001

Members of the Legislative Budget  
and Audit Committee:

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

DEPARTMENT OF COMMUNITY  
AND ECONOMIC DEVELOPMENT  
BOARD OF DISPENSING OPTICIANS  
SUNSET REVIEW

September 20, 2001

Audit Control Number

08-20010-02

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(9), the Board of Dispensing Opticians is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Dispensing Opticians should be extended. The regulation and licensure of opticians contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Dispensing Opticians to June 30, 2005.

This sunset review was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA  
Legislative Auditor

## TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology.....	1
Organization and Function .....	3
Report Conclusions.....	5
Findings and Recommendations .....	7
Auditor Comments.....	9
Analysis of Public Need .....	11
Agency Response:	
Board of Dispensing Opticians.....	15
Department of Community and Economic Development.....	19

## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Dispensing Opticians. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 44.66.010(9) states that the board will terminate on June 30, 2002, and will have one year from that date to conclude its operations.

### Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed opticians.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

### Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

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

1. Applicable statutes and regulations.
2. Compliance with statutes and regulations related to the licensing of Dispensing Opticians and the registration of optician apprentices.
3. Files and documentation of individuals licensed as opticians and those who are applying to be licensed as opticians.
4. Files related to investigations carried out by the Division of Occupational Licensing involving allegations of violations of statutes and regulations related to opticians.

5. Information related to the requirements of other states related to individuals being licensed as dispensing opticians.
6. Minutes of board meetings and division correspondence files.
7. Annual reports issued by the board.

In addition, we conducted interviews with Division of Occupational Licensing staff.

## ORGANIZATION AND FUNCTION

Alaska Statute 08.71.010 establishes the Board of Dispensing Opticians. The board consists of five members appointed by the governor and is subject to legislative confirmation. Four members must be dispensing opticians while the fifth member is of the general public with no financial interest in opticianry.

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

1. Registering dispensing optician apprentices.
2. Licensing opticians through examination or credentials.
3. Establishing, amending, or eliminating regulations affecting the standards of professional opticianry practice.
4. Instilling disciplinary actions in accordance with the Administrative Procedures Act when a person has violated statutes or regulations related to the practice opticianry.

**Board of Dispensing Opticians  
(As of June 30, 2001)**

James Rothmeyer – Optician, Chair  
Ann M. Bezona – Optician  
Larry Harper - Optician  
Cynde Oleck - Optician  
Roberta Rawcliffe - Public Member

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

Opticians provide services to the public that also can be provided by individuals associated with and supervised by optometrists and ophthalmologists. Some opticians work independently while others are employed by, or in some other way affiliated with, optometrists and ophthalmologists.

### Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Dispensing Opticians. Administrative assistance includes budgetary services and functions such as

collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

## REPORT CONCLUSIONS

In our opinion, the Board of Dispensing Opticians is operating in manner to promote the practice of opticianry in the state consistent with the interest of public protection. Although we have some reservations about the operations of the board, as reflected in the Findings and Recommendations section of this report, we believe the board is serving the public interest by promoting competence and integrity of individuals holding themselves out to the public as opticians.

The Board of Dispensing Opticians serves a public purpose by promoting the competent and safe practice of opticianry. The board does this through establishing standards for licensed professionals and monitoring the manner in which they practice. The board has carried out these responsibilities in a satisfactory manner. We do have concerns about the criteria used and the process followed by the board in licensing individuals applying to become opticians.

Alaska Statute 08.03.010(c)(9) requires that the Board of Dispensing Opticians be terminated on June 30, 2002. Under AS 08.01.020 the board has a one-year period to administratively conclude its operations. While the standard extension time period for boards suggested in statute is four years, we recommend that the board's termination date be limited to three years (June 30, 2005) in order to provide the legislature an expedited opportunity to consider the actions taken by the board to address the concerns presented in this report.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board of Dispensing Opticians should evaluate the reasonableness of the apprenticeship period required for individuals seeking to be licensed.

To become licensed as an optician in the State of Alaska, an individual must pass an examination that is offered at least once a year by the board. To be eligible to sit for this examination, an individual must have graduated from high school and accumulated at least 6,000 hours of training as a registered optician apprentice. This apprenticeship requirement is reduced to 2,000 hours for individuals that have graduated from an associate degree program in opticianry. Most of the individuals licensed by examination in Alaska do so under the 6,000 hour apprenticeship requirement.

Currently, 22 states regulate opticians through the use of a licensing board. The remaining states either utilize a registration system or do not regulate opticians. All of these states provide for a process by which an individual can become licensed through an apprenticeship process.<sup>1</sup> Alaska's apprenticeship requirements are typical of those followed by other states that utilize a board to regulate opticians; however, other states have apprenticeship requirements as low as 2,000 or 3,000 hours.

Over the last three fiscal years, the board has licensed eight people under the experience and examination requirements.<sup>2</sup> By comparison, the board has registered 94 new apprentices over the same period. While there may be commercial reasons for this large difference between the number of individuals seeking licensure as opticians compared to apprentices, the disparity also suggests that the 6,000 hour requirement may unduly prohibit people from getting licensed as an optician.

We suggest the board reconsider the necessity of the 6,000 hour requirement. The board should survey registered apprentices and assess the extent that apprentices aspire to become licensed opticians. If a significant number of apprentices would be interested in becoming opticians if the 6,000 hour requirement was lowered, the board should then reconsider the necessity of requiring what is in essence a three year apprenticeship.

Given that professional competence is promoted by requiring individuals pass national examinations – the question the board should address is: How much more public protection is provided by requiring individuals to apprentice for three years compared to two years, or even one year? In the context of the two-tiered examination process, the additional requirement that an individual serve a three year apprenticeship may be unreasonably restrictive, and not in the overall interests of the public.

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<sup>1</sup> To be licensed through an apprenticeship process, the applicant typically is required to have graduated from high school or attain a graduate equivalent diploma.

<sup>2</sup> While ten opticians have been licensed over the past three fiscal years, two received their license under the credentials procedure rather than through the experience and examination process.

## Recommendation No. 2

The board should reconsider whether to continue requiring applicants pass a state administered practical examination. If it elects to continue requiring a practical examination, the board should take steps to improve the objectivity and consistency with which the examination is scored.

*How many how tested*

The board requires applicants for licensure to pass a national written examination and a practical examination to demonstrate sufficient ability to dispense optical products. The practical examination is over two hours long and is related to the "mechanics" of the profession – proper use of various devices to measure individuals for fit and comfort of eyewear and contact lenses.

This is a prior audit recommendation. In our 1995 sunset review<sup>3</sup>, we recommended the board improve the objectivity and consistency of the state's practical opticianry examination. We noted at that time that the results of the examination had been challenged five times, and in two instances test scores were changed – once resulting in an applicant moving from failing to a passing score.

The board has administered over 20 examinations in the past three fiscal years. We selected 11 of these practical examinations and reviewed the scores calculated by the board. We found five errors in the calculation of the scores. Since FY 98, four individuals who initially received failing scores in their practical examination protested the procedures and scoring. Upon review, two were licensed by the board.

At this point, we suggest the board give serious consideration to discontinuing the practical examination and require applicants only to pass the nationally recognized examinations offered by the American Board of Opticianry (the National Opticianry Competency Examination) and the National Contact Lens Examiners (the Contact Lens Registry Examination) for licensure within the State. Alternatively, the board could possibly explore efforts being made by other state licensing agencies to develop a regionally-recognized, if not nationally endorsed, practical examination.

We continue to be concerned about the apparent subjectivity or error-prone nature of the current examination. This continuing problem, coupled with what may be unduly high apprenticeship hour requirements discussed in Recommendation No. 1, may be artificially limiting the number of individuals seeking licensure as opticians and contributing to the disparity between the number of registered apprentices and number of applicants.

<sup>3</sup> Department of Commerce and Economic Development, Board of Dispensing Opticians, September 29, 1995 (Audit Control Number 08-1435-96)

## AUDITOR COMMENTS

Under AS 44.66.050(d)(4) part of a sunset review is to provide "*an assessment of alternative methods of achieving the purposes of the program.*" In this context, we considered the merits of regulating opticians through the use of a titlement law. Such a law would certify qualified practitioners of a given profession utilizing a state registration process without administrative oversight from a licensing board.

### Registering opticians under a titlement statute is a reasonable public policy alternative

Currently, 22 states license opticians through the use of licensing board. The other jurisdictions regulate opticians through the use of a registration program under a titlement law, or have no minimum established requirements related to the practice of opticianry.

This variety in how opticians are regulated involves a concept referred to as "scope of practice." What licensed professions are allowed to do, and conversely, prohibited from doing, by state law and regulation, constitutes what is termed a profession's scope of practice.

The scope of practice for opticians, to a large extent if not completely, falls within the purview and scope of practice of optometrists and ophthalmologists.<sup>4</sup> Given such circumstances, jurisdictions in which opticians are registered under a titlement law, or not licensed at all, the public still receive opticianry services typically from optometrists or opticians who are often affiliated with, or supervised by, optometrists.

Given the nature of the profession's scope of practice, coupled with the limited potential for real adverse harm to the public health and welfare, a registration program for opticians has merit. Such a program administered by the Division of Occupational Licensing could provide for the registration of individuals holding themselves as opticians. If an individual could demonstrate they had passed recognized national examinations and had worked the required apprenticeship, they could be registered as an optician. Such a system could provide adequate, if not optimum, protection to the public.

### Due to current concerns, maintaining a board is the preferable policy alternative at this time

Registration of opticians under a titlement law, rather than licensure through the use of an oversight board of professionals would essentially set in place the status quo. As reflected in the Findings and Recommendations section, there are concerns regarding the reasonableness of the hours required of apprentice opticians prior to being eligible for licensure as opticians.

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<sup>4</sup> This situation is explicitly recognized in state law at AS 08.71.230(1) which states no part of the optician licensing statute is to be construed as limiting or restricting "*a licensed physician or optometrist from the practices enumerated in [the opticianry statutes], and each licensed physician and optometrist has all the rights and privileges which may accrue under [the statutes] to dispensing opticians....*"

As discussed in Recommendation No. 1, the disparity between the number of individuals licensed as opticians compared to the number registered as apprentices in part suggests that perhaps the 6,000 hour work requirement may be unreasonably onerous. The Division of Occupational Licensing would not likely be inclined to evaluate and possibly adjust the apprenticeship time requirements discussed in Recommendation No. 1.

The other concern, as discussed in Recommendation No. 2, is that consistency and applicability of the state practical examination would likely be made irrelevant since registration would involve licensure based only on an applicant passing the nationally recognized examinations. However, we believe the board should continue to work on this issue, possibly investigating the potential for joining other states who are attempting to establish a practical examination, acceptable to a group of participating states, if not on a national level.

Essentially, the board is acting in the interests of the public at large. As required by AS 08.91.065(c), licensing fees charged to opticians are established at a level intended to equal all regulatory costs. Accordingly, the public is benefiting from the board at no expense to the state's general fund.

The public would be better served by having a group of informed, engaged, and practicing professionals involved in resolving the current concerns involved in the licensing of dispensing opticians. Accordingly, our recommendation to extend the board's termination date, as set out in the Report Conclusions section, reflects our judgment of the regulatory alternatives involved. Given the current issues related to the licensure of opticians in Alaska, the board should be continued in order to best address these concerns. During the subsequent sunset review, we believe progress in these areas should be assessed, and licensing alternatives to the current board oversight structure should be given further consideration.

## ANALYSIS OF PUBLIC NEED

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

***Determine the extent to which the board, commission, or agency has operated in the public interest.***

To the extent there were applicants for licensure, the board has licensed 10 opticians over the past three fiscal years. Through licensure, the individuals are designated to offer eyeglass fitting and contact lens dispensing services to the public that is in accordance with established professional standards.

***Determine the extent to which the operations of the board has been impeded or enhanced by existing statutes, procedures, and practices, which it has adopted, and any other matter, including budgetary, resource, and personnel matters.***

The limited number of licensed opticians, compared to high number of registered apprentices, suggests that the requirement that apprentices work 6,000 hours prior to being qualified for licensure may be excessive. The number of individuals seeking licensure as opticians may be artificially restrained by this apprenticeship requirement, requiring an individual work three years as a registered apprentice before being eligible to sit for the necessary opticianry examinations.

The board has not resolved the prior sunset audit recommendation related to the state practical examination. The objectivity and consistency of the state practical examination did not improve over the current sunset review period, resulting in successful challenges by applicants who originally were determined to have failed the test.

***Determine the extent to which the board has recommended statutory changes that are generally of benefit to the public interest.***

Since the past sunset audit, the board has reviewed proposed statutes and regulations at each meeting. These changes were in conjunction with the prior sunset audit that made recommendations concerning AS 08.71.150 (which dealt with reciprocity, a process the board was no longer utilizing for licensure) and AS 08.71.145 (which dealt with licensure by credentials). The 1996 legislature passed a measure repealing AS 08.71.150, while the credentials licensing process remains in statute.

*Determine the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of services, economy of service, and availability of services that it has provided.*

The location, date, and time of upcoming meetings and exams were advertised in Alaskan newspapers, as well as on the Board of Dispensing Opticians web page, with adequate time for interested individuals to attend or to submit written comment for review. The board's meeting agenda sets aside suitable time for the board to receive public comment. Minutes from the meetings of the board reflect public participation at various meetings.

*Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.*

Public notice was given for all proposed regulations in major Alaskan newspapers. The board meeting minutes document that time was allotted for the scheduled public comment period. All proposed regulation changes are submitted to the public participation process.

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

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01), the Division of Occupational Licensing opened three cases related to dispensing opticians. One was generated by a public complaint regarding the authority of an individual to write prescriptions for eyeglasses. The complaint, received in May 2001, was still in investigative status during August 2001, although it did appear the division had already determined that the individual was acting beyond the scope of their authority.

The two other cases were generated by shop visits conducted by occupational licensing investigators. In one instance, an optician was found to be practicing without a license. The individual had previously been licensed by the state, but had not submitted documentation that he had met the continuing education requirements. This resulted in his unlicensed status. He was fined \$300. The other case involved an individual, working for an optometrist, who was working as an optician without appropriate supervision.

We have reviewed the nature and extent of complaints filed involving dispensing opticians. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

***Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.***

New Licenses Issued	FY 99	FY 00	FY 01	Total	Current Licenses
Dispensing Optician	5	2	3	10	105
Apprentice	24	39	31	94	158

During the past three years, the Board of Dispensing Opticians has issued two licenses by credentials. Licensure by credentials requires "licensing requirements substantially equivalent to or higher than those of this state." The state of Alaska requirements are among the strictest in the nation, requiring both a state practical exam and 6,000 hours of apprenticeship hours or equivalent experience.

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

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

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

The board should reevaluate the requirement that individuals work at least 6,000 hours as a registered optician's apprentice before being eligible to take the examination for licensure. See discussion in Recommendation No. 1.

The board should either eliminate the state practical examination or develop a more objective test that can be consistently administered to prospective applicants for licensure. See discussion in Recommendation No. 2.

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DEC 26 2001

LEGISLATIVE AUDIT

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Audit  
P. O. Box 113300  
Juneau, Ak 99811-3300

Fax: (907)465-2347

E-mail [legaudit@legis.state.ak.us](mailto:legaudit@legis.state.ak.us)

Re: Audit Control #08-20010-02  
Board of Dispensing Opticians

In regards to the December 6, 2001 "CONFIDENTIAL" preliminary audit report, I would like to respond to the Audit Committee's findings and recommendations.

#### Recommendation No 1

The Board has evaluated and reconsidered the 6,000 hour training requirement for apprentices. The minutes of the board's November 21, 2001 teleconference meeting reflects this in it's motion that it be "Resolved that the opticianry statutes be amended so that in order to qualify for a spectacles opticianry license, an individual must have either an associates degree from a C.O.A. - accredited school and pass the national and state exams, or have 3,000 hours of experience, pass the Career Progression Program, and pass the national and state exams, and furthermore, in order to register and work as an apprentice, a person must be enrolled in the Career progression Program."

This should accomplish several objectives regarding apprentice requirements. The 6,000 hour training requirement has been reduced by half. The adoption of the National Academy of Opticianry's Career Progression Program home study course will give all apprentices an equal opportunity to develop and share a common knowledge base, that will make them much more qualified and successful test candidates.

#### Recommendation No 2

The Board is committed to the long overdue overhaul of the State Licensing Examination.

#### Solution No 1

Dr. R. Ferguson's practical test. This test is currently used by the state of North Carolina. It is to my knowledge the only practical exam currently available and qualified to meet our state licensing exam requirements. The Board want's very much to procure this test and use it at the soonest possible date. The challenge is to convince the state's procurement office that this Board is short of both time and money . We see merit in

allowing a one time procurement exemption, so that the Board has a more suitable and objective test for the April 19, 2002 State Licensing Exam. The test and related materials are readily available and could be sent to the State at least a month before the exam, the cost is nominal at \$100.00 per applicant. See attachment 1.

#### Solution No 2

Start the "Request for Proposals" process. The time and cost to complete this process is not known at this time. It is known that it would not be done in time for the April 2002 exam, it is also known it will be expensive. Before proceeding with this the Board will make an enquiry, as to just how much the cost would be. While this may be the best long term solution and will in all likelihood be the course chosen by the Board, it does not address the dilemma of the current test being susceptible to challenge and replacing it in the limited time available.

#### Solution #3

Have the Board rewrite/revise the current exam. While not impossible, it will be difficult to meet the April 29, 2002 test date and have all Board members agree on the new test content. This would not in my opinion offer a long term solution of having a badly needed completely objective. test.

#### Conclusion

As stated the Board has already addressed the 6000 hour requirement for apprentices. The Board has resolved to amend the statues to 3000 hour training for apprentices with a more well defined education and training requirement. This Board believes that the national written examination alone does not demonstrate the applicants ability to perform common tasks needed to insure the proper safe and accurate dispensing of ophthalmic prescription devices. A suitable practical test can be procured that will eliminate the concerns about objectivity. The recommendation to extend the termination date for the Board of Dispensing Opticians to June 30, 2005 is acceptable, however given the Boards positive action in resolving concerns regarding apprentice training hours, the Board would like to request the full 4 year standard extension time to June 30 2006 in order to address and resolve the concerns regarding the State practical exam.

**TO:** State of Alaska, Division of Occupational Licensing  
Attn: Nan Lathrop, Licensing Examiner, Board of Dispensing Opticians

**FROM:** Roy R. Ferguson, Ph.D. (DBA The Learning Curve)  
120 East Bruce Street  
Sevierville, Tennessee 37862

**DATE:** November 9, 2001

**SUBJECT:** Practical Examination Development and Administration Services

This bid pertains to examination development and administrative services to the State of Alaska, Division of Occupational Licensing, Board of Dispensing Opticians. The term of the contract is from Spring 2002 to Spring 2007 with a three-year renewal period at the option of the Division. Barring any unforeseen circumstances, the first examination may be scheduled Spring 2002. The Learning Curve must receive all test applications at least one month prior to test administration.

#### DESCRIPTION OF PRACTICAL EXAMINATION

The proposed Opticianry Practical Examination (*supplied by The Learning Curve*) is a forty (40) question, multiple-choice text which objectively measures the applicants ability to perform some of the most common tasks relating to ophthalmic dispensing.

Three different lens types are contained in four identical metal frame styles. All test sets are fabricated and verified as to accuracy by Colts Laboratories, 21915 U.S. Highway 19 North, Clearwater, Florida 33765, which is an A2LA accredited laboratory, then validated using second-year opticianry students. Approximately fourteen questions concern progressive lenses: eleven with standard bifocals, four with single vision, non-prism lenses, and five with single vision lenses containing prism. All remaining questions cover decentration, add power, bi-centric grinding, and knowledge of proper frame alignment and ability to use conventional frame adjustment tools. The test is designed to be completed in a fifty minute period.

The equipment (*supplied by the Board of Dispensing Opticians*) required to administer this examination includes a manual lensmeter, lens measure, flexible millimeter ruler, thickness gauge, fine-tip, water soluble felt tip marker, Optical Laboratories Association Progressive Identifier, and scratch paper. Applicants are required to supply their own lens measure, thickness gauge, scientific calculator (if desired), flexible millimeter ruler, and may supply their own non-automatic lensmeter if they wish. All other equipment will be supplied at the test site. A calibrating gauge such as a "Gaugemaster" will be available for applicants to insure the accuracy of their instruments. Two test proctors should be available: one to confirm applicant identification, sign in test applicants, and provide calibration devices; a second can administer as many as eight (8) examinations per test session.

This practical examination is based on the following reference material.

- Brooks, C.W. *Understanding Lens Surfacing*. Butterworth-Heinemann, Boston, 1992.
- Brooks, C.W. *Essentials for Ophthalmic Lens Work*. Butterworth-Heinemann, 1983.
- Brooks, C.W., and Borish, I.M. *System for Ophthalmic Dispensing*.  
Butterworth-Heinemann, Boston, 1996.
- Z-80.1-1995 American. *American National Standard for Ophthalmics - Prescription Ophthalmic Lenses - Requirements*. New York: American National Standards Institute, 1995.
- Optical Laboratories Association, *Progressive Identifier*.

This practical examination may include but will not be limited to:

- Finding single-vision and multi-focal lens powers using a Crossed-Line-Target Lensmeter;
- Reading lens prescriptions in both plus cylinder and minus cylinder form;
- Determining add power;
- Measuring lens center thickness with lens calipers;
- Checking for horizontal and vertical prism;
- Calculating prismatic effect and bicentric grinding corrections;
- Measuring base curves and seg width;
- Measuring distance between centers, and determining "distance PD," and "near PD" using fabricated eyeglasses;
- Quote and apply ANSI Z80-1995, standards;
- Identify and calculate inset, seg inset, and total inset;
- Measure seg height and determine seg drop;
- Knowledge of proper frame alignment and conventional frame adjustment tools;
- Identify lenses by both product name and manufacturer;
- Progressive addition lenses areas include monocular decentration, distance reference point, prism reference point, fitting cross, near reference point, manufacturer's hidden identifying logo, hidden reference points, hidden add power engraving, recommended minimum height, and prism thinning.

#### QUALIFICATIONS OF CONTRACTOR

Roy R. Ferguson, Ph.D.

##### Education:

- Walden University, Ph.D., Administration/Management
- Tusculum College, Master of Arts, Management
- Tusculum College, Bachelors of Science, Business Management

##### Licensure Application Review Experience:

- Tennessee State Board of Dispensing Opticians (Licensing Board), 1988 – 1991
- Testing Contractor, North Carolina State Board of Opticians:
  - Theory of Light;
  - Rx Interpretation;
  - Ophthalmic Lenses Examination;
  - Measurements of the Face;
  - Ophthalmic Lens Surfacing, Finishing;
  - Practical Anatomy of the Face;
  - Eyeglasses Practical Examination.

##### Examination Experience

- Opticianry Program Director, Roane State Community College, 1989 – 1996
- Approved 3 Semester Hour College-Level Courses
  - Charter Oak State College, New Britain, Connecticut
    - Introduction to the Optical Business
    - Organizational Behavior for the Ophthalmic Professional
    - Assessment of the Visual System
    - Introduction to Ophthalmic Optics
- College-Level Courses Submitted for Approval
  - Charter Oak State College, New Britain, Connecticut
    - Business Ethics – 3 Semester Hours
    - Consumer Behavior – 3 Semester Hours
    - Growing and Managing an Entrepreneurial Business – 3 Semester Hours

*Alaska*

**Department of Community  
and Economic Development**

**Division of Occupational Licensing**

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: [license@dced.state.ak.us](mailto:license@dced.state.ak.us) • Website: [www.dced.state.ak.us/occ/](http://www.dced.state.ak.us/occ/)

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JAN 16 2002

LEGISLATIVE AUDIT

January 16, 2002

Pat Davidson, Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Dispensing Opticians preliminary audit.

The chair of the Board of Dispensing Opticians submitted an audit response describing the Board's support for a reduction in apprenticeship hours and for contracting for an improved practical exam for spectacles.

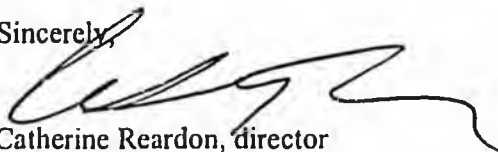
Since the requirements for licensure as an optician are set in statute, the law must be amended to implement the board's recommendations. The board advocates reducing by half the number of apprenticeship hours and replacing those hours with correspondence education. Individuals with an associate degree in opticianry would not be required to serve any apprenticeship and could be licensed after passing the exams. Individuals without opticianry degrees would be required to enroll in a correspondence course called the Career Progression Program at the beginning of their 3,000-hour apprenticeship. They would have to complete the correspondence course and pass the exams to qualify for licensure.

It is my understanding the Career Progression Program costs each student approximately \$800, but it would improve public health and safety as well as prepare apprentices for the exams. Under the current system, there is no guarantee that apprentices receive comprehensive training during their three to six year apprenticeships.

If education is added to the license qualifications, consideration should be given to the licensure by credentials statute to ensure that experienced opticians who received their training exclusively through apprenticeship in other states are not unintentionally barred from Alaska licensure.

Thank you for considering my comments on the preliminary audit.

Sincerely,



Catherine Reardon, director

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 270  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title An Act extending the termination date of the BRU: Occupational Licensing (117)  
Board of Dispensing Opticians Component Occupational Licensing  
 Sponsor Rules by Request  
 Requester Senate Labor & Commerce Component No. 2360

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	14.2	14.2	14.2	14.2		
Travel	3.5	3.5	3.5	3.5		
Contractual	2.9	2.9	2.9	2.9		
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>20.6</b>	<b>20.6</b>	<b>20.6</b>	<b>20.6</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>20.6</b>	<b>20.6</b>	<b>20.6</b>	<b>20.6</b>	<b>0.0</b>	<b>0.0</b>
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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 1156-Receipt Supported Services	20.6	20.6	20.6	20.6		
<b>TOTAL</b>	<b>20.6</b>	<b>20.6</b>	<b>20.6</b>	<b>20.6</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The bill extends the Board of Dispensing Opticians to June 30, 2005, and amends statutes relating to the licensing examination. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. New funds are not required to implement changes to the examination statutes.

Prepared by: Jennifer Strickler, Administrative Manager  
 Division: Occupational Licensing  
 Approved by: Deborah B. Sedick, Commissioner  
 Agency: Department of Community & Economic Development

Phone (907) 465-2144  
 Date/Time 2/11/02 5:00 PM  
 Date 2/11/2002

# Alaska State Legislature

SENATOR  
GENE THERRIAULT  
Chair



SESSION ADDRESS  
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(907) 465-4797  
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## Legislative Budget and Audit Committee

Senate Bill 270

**"An Act extending the termination date of the Board of Dispensing Opticians."**

Sponsor:

**Senate Rules Committee by Request of the  
Legislative Budget and Audit Committee**

### Sponsor Statement

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Alaska Statute 08.71.010 established the State Board of Dispensing Opticians in 1973 to regulate and control the practice of opticians in Alaska. The Board promotes the competent and safe practice of opticianry. The Board currently oversees 99 licensed opticians and approximately 158 apprentices.

The Board consists of four licensed Opticians and one public member appointed by the governor. It regulates the practice of opticianry in the state by setting education, training, and work experience standards necessary for an individual to be licensed. Such standards provide reasonable assurance that persons licensed as opticians are qualified.

An audit was conducted and released by the Legislative Budget and Audit Committee on January 24, 2002. The audit expressed several concerns with the Board, mainly in regards to the Board's examination process and the amount of apprenticeship hours required for licensure. SB 270 reduces the number of hours required and removes the Board's state examination replacing it with successful completion of the national exams. It also allows a candidate who has earned an Associate degree from a school of optometry to become licensed in Alaska after passing the national exams, but removes the mandate that the candidate also complete 2,000 hours of apprenticeship.

Under AS 08.03.010, Termination of State Boards and Commissions, the State Board of Dispensing Opticians is set to expire June 30, 2002. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 270 will extend the Board for another four years and makes changes to its licensure requirements.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide

### INTERIM ADDRESS

119 N. Cushman Suite 101, Fairbanks, Alaska 99701 • (907) 488-0857 • Fax: (907) 488-4271

SENATE BILL NO. 270

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Introduced: 2/1/02

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the termination date of the Board of Dispensing Opticians; relating  
2 to the regulation of dispensing opticians; and providing for an effective date."

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

4 \* Section 1. AS 08.03.010(c)(9) is amended to read:

5 (9) Board of Dispensing Opticians (AS 08.71.010) -- June 30, 2005  
6 [2002];

7 \* Sec. 2. AS 08.71.090 is amended to read:

8 Sec. 08.71.090. Content of examination. To be licensed as a dispensing  
9 optician, a person, unless eligible for licensing without examination under  
10 AS 08.71.145, shall pass an examination given by the board. A person applying for  
11 a license to dispense contact lenses shall pass the contact lens registry  
12 examination offered by the National Contact Lens Examiners. A person applying  
13 for a license to dispense other lenses, eyeglasses, spectacles, artificial eyes, and  
14 their appurtenances shall pass the national opticianry competency examination

1 offered by the American Board of Opticianry. An applicant for licensure in both  
 2 areas shall pass both examinations [AT THE DISCRETION OF THE BOARD,  
 3 THE EXAMINATION MAY TEST ORALLY, IN WRITING, OR OTHERWISE,  
 4 KNOWLEDGE AND SKILLS IN ANY OR ALL OF THE FOLLOWING  
 5 SUBJECTS: OPTICS, ANATOMY, LABORATORY TECHNOLOGY,  
 6 OPHTHALMIC DISPENSING, CONTACT LENS TECHNOLOGY, TECHNICAL  
 7 MATHEMATICS AND PHYSICS, AND BUSINESS CONCEPTS OF OPTICAL  
 8 DISPENSING].

9 \* **Sec. 3.** AS 08.71.110 is amended to read:

10 **Sec. 08.71.110. Qualifications of applicants for examination.** (a) A person  
 11 is entitled to take an [THE] examination who

12 (1) has had education equivalent to four years attendance at a high  
 13 school;

14 (2) has either

15 (A) completed at least 3,000 [6,000] hours of training as an  
 16 apprentice after registering with the department as an apprentice; or

17 (B) been engaged for at least 3,000 [6,000] hours as a  
 18 practicing optician in good standing in a state, territory, district, or possession  
 19 of the United States; and

20 (3) has paid the required examination fee.

21 (b) Graduation from an associate degree program in a recognized school or  
 22 college of opticianry may be substituted for 2,000 [4,000] of the 3,000 [6,000] hours  
 23 of experience required by (a)(2) of this section.

24 \* **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).

**SB**

**274**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 2/1/02

FURTHER: \_\_\_\_\_

Date of 5-Day Notice: 2/7/02  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered

SENATE BILL NO. 274

*SB 274 PHYSICIANS' LOCUM TENENS PERMITS*

"An Act relating to issuance of a locum tenens permit for a physician or osteopath; and providing for an effective date."

and recommends:

- be replaced with CS Senate Bill 274 (LIC)
- adopt previous CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DCEO	2/1/02		X	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<b>CHAIR:</b> <i>[Signature]</i>	✓			

Alaska State Legislature



Out of Session:  
PO Box 531  
Golovin, Alaska 99762  
(907) 443-5599

In Session:  
State Capitol, Suite 510  
Juneau, Alaska 99801-1182  
(800) 597-3707  
(907) 465-3707  
(907) 465-4821 Fax

SENATOR  
DONALD C. OLSON

DISTRICTS

Alakanuk  
Ambler  
Anaktuvuk Pass  
Atkasuk  
Barrow  
Brevig Mission  
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Chevak  
Deering  
Diomedes  
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Kobuk  
Kotlik  
Kolzebue  
Koyuk  
Mekoryuk  
Mountain Village  
Newtok  
Nightmute  
Noatak  
Nome  
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Pitka's Point  
Point Hope  
Point Lay  
Savoonga  
Scammon Bay  
Selawik  
Shaktolik  
Shishmaref  
Shungnak  
St. Mary's  
St. Michael  
Stebbins  
Teller  
Toksook Bay  
Tununak  
Unalakleet  
Wainwright  
Wales  
White Mountain

ANALYSIS

CS SB 274 ( ), version F

Physicians' Locum Tenens Permits

Section 1. A member of the State Medical Board or designee may grant a temporary permit to practice medicine to a visiting physician or osteopath for two new situations. Subsection (a)(2) allows for the temporary hire of a physician or osteopath by a licensed doctor for the purpose of valuation for permanent employment. Subsection (a)(3) allows a hospital or mental health facility to temporarily fill staff vacancy through a locum tenens permit while seeking a permanent employment of a licensed physician or osteopath.

*consensus*  
Section 2. The initial duration of the permit is changed from the current 60 days to 90 consecutive days. It can be extended for an additional 60 days if the permittee completes an application for licensure and pays the associated fee. An individual's exercise of locum tenens permits is limited in the aggregate to 240 days in any 24 consecutive month period.

Section 3. The board is allowed to further extend a permit if it determines that there is a medical necessity to protect public health and safety.

CS FOR SENATE BILL NO. 274( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR OLSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to issuance of a locum tenens permit for a physician or osteopath; and  
2 providing for an effective date."

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

4 \* Section 1. AS 08.64.275(a) is amended to read:

5 (a) A member of the board or its executive secretary may grant a temporary  
6 permit to a physician or osteopath for the purpose of

7 (1) substituting for another physician or osteopath licensed in this  
8 state;

9 (2) being temporarily employed by a physician or osteopath  
10 licensed in this state while that physician or osteopath evaluates the permittee for  
11 permanent employment; or

12 (3) being temporarily employed by a hospital or community  
13 mental health center while the facility attempts to fill a vacant permanent  
14 physician or osteopath staff position with a physician or osteopath licensed in this

1        state [. THE PERMIT IS VALID FOR 60 CONSECUTIVE DAYS. IF  
2        CIRCUMSTANCES WARRANT, AN EXTENSION OF THE PERMIT MAY BE  
3        GRANTED BY THE BOARD OR ITS DESIGNEE].

4        \* Sec. 2. AS 08.64.275(e) is amended to read:

5                (e) A permit issued under this section is initially valid for 90 consecutive  
6                calendar days. A permit issued under this section shall be extended for 60  
7                calendar days by the board, or its designee if, before the expiration of the initial  
8                90-day permit, the permittee submits to the department a completed application  
9                form and the fee required for licensure under this chapter. Permits and extensions  
10              of permits issued to an individual under this section [TO AN INDIVIDUAL] are not  
11              valid for more than 240 calendar days during any consecutive 24 months.

12        \* Sec. 3. AS 08.64.275 is amended by adding a new subsection to read:

13                (f) Notwithstanding (e) of this section, a permit issued under this section may  
14                be extended for a time period that exceeds the limit established in (e) of this section if  
15                the board or its designee determines that the extension is necessary in order to provide  
16                essential medical services for the protection of public health and safety.

17        \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

AS OF 2/21/02 SIX MEMBERS HAVE RESPONDED TO MAIL VOTE  
THE TOTAL VOTES ARE INDICATED BELOW

STATE MEDICAL BOARD MAIL VOTE REGARDING SB 274

As a member of the State Medical Board, I have reviewed the summary of issues concerning SB 274. My position is reflected below:

Do you support SB 274 as written? \_\_\_\_\_ Yes \_\_\_\_\_ 6 No

Do you support the issuance of locum permits for temporary employment by a physician while that physician evaluates the permittee for permanent employment:

1. If the permit is limited to 60 days and cannot be extended, and a permittee can only receive one permit in a twelve month period? \_\_\_\_\_ 3 Yes \_\_\_\_\_ 3 No
2. If the permit can be extended for no longer than 240 days during 24 months? \_\_\_\_\_ Yes \_\_\_\_\_ 6 No
3. With the possibility of extension beyond 240 days? \_\_\_\_\_ Yes \_\_\_\_\_ 6 No

Do you support the issuance of locum permits to fill vacancies at hospitals, nursing homes and health centers:

1. If the permit can be extended for no longer than 240 days during 24 months? \_\_\_\_\_ Yes \_\_\_\_\_ 6 No
2. With the possibility of extension beyond 240 days? \_\_\_\_\_ Yes \_\_\_\_\_ 6 No
3. If no more than one permit can be issued for the same vacancy and the permit is limited to 240 days? \_\_\_\_\_ 1 Yes \_\_\_\_\_ 5 No

Would you like to participate in a teleconference meeting of the State Medical Board to discuss this legislation? If yes, can you participate at 8:00 AM on Tuesday, February 26? \_\_\_\_\_ 4 Yes \_\_\_\_\_ 2 No

If you have comments or questions concerning this matter please identify below:

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**IMPORTANT NOTICE:** Board action on the matter noted above is being taken via mail vote in accordance with AS 44.62.600. Due to open meeting requirements in this state, members are reminded not to discuss the matter with one another. If a member feels there are questions or concerns that warrant discussion by the board prior to voting, the licensing examiner should be contacted.

\_\_\_\_\_  
Board Member Signature

\_\_\_\_\_  
Date

PLEASE E-MAIL OR FAX YOUR RESPONSE TO:

Sher\_Zinn@dced.state.ak.us

# Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

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February 8, 2002

Honorable Ben Stevens  
Alaska State Senate  
Chair, Senate Labor & Commerce  
State Capitol Room 119  
Juneau, AK 99801-1182

**DRAFT**

RE: SB 274

Dear Senator Stevens:

The Alaska State Medical Association (ASMA) represents Alaska's patients and the physicians who care for them. Thank-you for the opportunity to provide testimony on SB 274.

ASMA's interest in the support of SB 274 stems primarily from a concern pertaining to Alaska's physician workforce. Our physician workforce is characterized by insufficient numbers of physicians who are rapidly aging. We have a recruiting challenge.

SB 274 would allow the use of locum tenens to enable observation and evaluation of a candidate for permanent employment by an employing, licensed physician or osteopath. ASMA views this as another tool necessary for recruiting physicians.

Additionally, ASMA supports the concept of allowing for a locum tenens permit to be extended beyond 240 days for the purpose of substituting for a physician of a specific specialty that is otherwise unavailable in a particular location. This issue stems from a situation when the only radiologist in a small community retired and was unable to be replaced in a timely manner due to the nationwide shortage of radiologists.

ASMA urges you to support SB 274.

Sincerely,



John Troxel, MD, President

cc: Sen. Donny Olson, MD

22-LS1393\C  
Lauterbach  
2/8/02

**CS FOR SENATE BILL NO. 274( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR OLSON**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to issuance of a locum tenens permit for a physician or osteopath; and**  
2 **providing for an effective date."**

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

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5 (a) A member of the board or its executive secretary may grant a temporary  
6 permit to a physician or osteopath for the purpose of

7 (1) substituting for another physician or osteopath licensed in this  
8 state; or

9 (2) being temporarily employed by a physician or osteopath  
10 licensed in this state while that physician or osteopath evaluates the permittee for  
11 permanent employment [. THE PERMIT IS VALID FOR 60 CONSECUTIVE  
12 DAYS. IF CIRCUMSTANCES WARRANT, AN EXTENSION OF THE PERMIT  
13 MAY BE GRANTED BY THE BOARD OR ITS DESIGNEE].

14 **\* Sec. 2. AS 08.64.275(e) is amended to read:**

1           (e) A permit issued under this section is initially valid for 60 consecutive  
2 calendar days. A permit issued under (a)(1) of this section may be extended by  
3 the board or its designee, but, except as provided in (f) of this section, permits  
4 [PERMITS] and extensions of permits issued to an individual under (a)(1) of this  
5 section [TO AN INDIVIDUAL] are not valid for more than 240 calendar days during  
6 any consecutive 24 months. A permit issued under (a)(2) of this section may not be  
7 extended and not more than one permit may be issued to an individual under  
8 (a)(2) of this section during any consecutive 12-month period.

9 \* Sec. 3. AS 08.64.275 is amended by adding a new subsection to read:

10           (f) Notwithstanding (e) of this section, a permit issued under (a)(1) of this  
11 section may be extended for a time period that exceeds the limit established in (e) of  
12 this section if the board or its designee determines that the extension is necessary in  
13 order to provide essential medical services for the protection of public health and  
14 safety. Notwithstanding (e) of this section, the board or its designee shall also grant a  
15 reasonable extension of a permit issued under (a)(1) of this section if the permit holder

16                   (1) will be practicing in a health professional shortage area, as  
17 designated by the United States Department of Health and Human Services under 42  
18 U.S.C. 254e; or

19                   (2) is the only physician or osteopath with a particular type of medical  
20 training or experience who will be practicing in the census area covered by the  
21 practice for which the permit is issued.

22 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).