

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2

10629 SENATE LABOR & COMMERCE

479

SECTIONAL ANALYSIS

CS SB 274 (), C version, Physicians' Locum Tenens Permits.

By Senator Olson's Office

Section 1. AS 08.64.275(a) is amended to add a second class of physicians that may be temporarily permitted to practice medicine in the state; those that are being evaluated for permanent employment. The time limits of the permits are deleted and reestablished in section 2.

Section 2 The initial 60 day time limit of the permit that exists in current law applies to both locum tenens permittees, the substituting physician and the physician under evaluation. The board's ability to extend a permit to 240 days in 24 months is preserved for the first class but prohibited for the new class of permittees. In addition, evaluation permittees are limited to one permit per 12-month period.

Section 3. A new subsection (f) is added to 08.64.275 that allows further extension of the permit for substituting physicians past the 240-day limit in section (e). The further extension may be granted when it is necessary essential services and the protection of public health. A reasonable extension shall be granted for situations where there is a health professional shortage in the area or the permittee is the sole specialist in a census area.

Section 4 Effective date section.

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

DISTRICT S

SPONSOR STATEMENT

Alakanuk
Ambler
Anaktuvuk Pass
Atkasuk
Barrow
Brevig Mission
Browerville
Buckland
Chevak
Deering
Diomede
Elim
Emmonak
Gambell
Golovin
Hooper Bay
Kaktovik
Kiana
Kivalina
Kobuk
Kotlik
Kotzebue
Koyuk
Mekoryuk
Mountain Village
Newtok
Nightmute
Noatak
Nome
Noorvik
Nuiqsut
Nunam Iqua
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

SB 274, Physicians' Locum Tenens Permits.

I introduced SB 274 at the request of the Alaska State Medical Association. The bill allows the Alaska State Medical Board to issue a locum tenens permit to a physician or osteopath for purposes of employment evaluation. The association believes that use of the locum tenens permits in this way will enhance the recruitment of qualified doctors to permanent positions within the state.

The issue of recruitment is a matter of increasing concern for the medical association because of both the aging population of Alaskan practitioners and the small number of Alaskans that graduate from med. school each year. Over 50% of the Alaska's nearly one thousand medical doctors are passed the age of 50 years. Typically, the WWAMI medical program produces 8 new doctors per year. Replacement of retiring physicians and osteopaths will increasingly depend on recruitment success. Statistics indicate that the Alaska physician workforce is already under represented in comparison with other western states (see attached).

SB 274 temporarily permits an invited physician to practice medicine for 60 days for employment evaluation. The bill also allows the medical board to further extend a 240 day time limit in a situation where a locum tenens doctor, who is substituting for an Alaskan physician, is providing critical and essential service.

PACIFIC RIM CAUCUS
Physician Workforce

State	MD #	MD/ 100k	Med Std #	Std/ 100k	Res #	Res/ 100k
AK	1,036	171	40	7	8	1
CA	89,153	282	4,367	14	8,431	27
HI	3,399	286	230	19	432	36
WA	14,759	271	514	10	1,458	27
OR	8,333	265	419	13	626	20
US Avg.		282*		25		36

*Average ratio (MDs/100,000 population) used in managed care programs is between 112-180

Prepared by: Sam Cullison, MD
(Pacific Rim Caucus - AMA)
December 2000

Alaska State Medical Association

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

February 8, 2002

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

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.

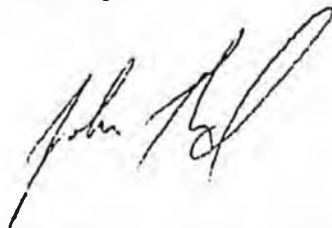
ASMA's interest in the support of SB 274 stems primarily from a concern pertaining to Alaska's physician workforce. Our physician workforce is characterized by insufficient numbers of physicians who are rapidly aging. We have a recruiting challenge.

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. Denny Olson, MD

SB

276



Alaska State Legislature

*Representative Peggy Wilson
Putting Alaska's Families First*

SPONSOR STATEMENT - HB 276

HB 276 is essentially a "clean up bill" which brings nursing statutes up to date with current nursing practice in three areas: (1) gives licensed nurses the authority to delegate nursing duties to other personnel and gives the Board of Nursing authority to promulgate regulations outlining safe delegation practices to ensure safety of the consumer; (2) the bill increases the length of time available for a temporary nursing license from 4 to 6 months to allow for the extra time it may take to get back results of criminal justice background checks required in new regulation; (3) changes the wording placement regarding licensure by endorsement that brings the wording in the statute into compliance with what is already being done in the Division.

Delegation by licensed nurses of specific nursing tasks to unlicensed assistive personnel (UAPs) such as aides and technicians has always been a part of nursing practice. The health care delivery system that includes public health, Indian Health, hospitals, clinics and community nursing facilities will continue to use UAPs. These changes allow specific statutory authority for nurses to delegate essential care to the delivery of safe and effective health care to the citizens of Alaska. I urge you to support HB 276.

12/21/01

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 276 (L&C)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title An Act relating to temporary permits and BRU Occupational Licensing (117)
licenses by endorsement issued by the Board of Nursing Component Occupational Licensing
Sponsor Representative Wilson
Requester House Health & Social Services 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

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 the charges of this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone 907-465-2144
Division Occupational Licensing Date/Time 2/26/02 1:00 PM
Approved by: Deborah B. Sedwick, Commissioner Date 2/26/2002
Agency Department of Community & Economic Development

Subject: House Passes Rep. Wilson's Nursing Bill

Date: Tue, 05 Mar 2002 11:12:58 -0900

From: Dan Saddler <Dan_Saddler@legis.state.ak.us>

Organization: House Majority

Summary

Alaska State Legislature
House of Representatives
Representative Peggy Wilson

FOR IMMEDIATE RELEASE: March 5, 2002
CONTACT: Rep. Peggy Wilson (907) 465-3824

House Passes Rep. Wilson's Nursing Bill

HB 276 Revises, Updates Statutes to Match Practices

(JUNEAU) – The House passed legislation Monday to bring state law regulating professional nursing practices into line with common standards regarding delegation of authority for certain nursing duties to unlicensed personnel.

“The changes in HB 276 will allow specific statutory authority for nurses to delegate the delivery of safe and effective health care to the citizens of Alaska,” said Rep. Peggy Wilson (R-Wrangell), who is a registered nurse with almost 30 years’ experience in the health care industry.

HB 276 brings nursing statutes up to date with current nursing practice in three areas. First, it would give licensed or practical nurses the authority to delegate nursing duties to unlicensed aides or technicians, and give the Board of Nursing authority to promulgate regulations outlining safe delegation practices to ensure safety of the patients.

“Delegation by licensed nurses of specific nursing tasks to unlicensed assistive personnel (UAPs) has always been a part of nursing practice,” Wilson said. “The health care deliver system that includes public health, Indian Health, hospitals, clinics and community nursing facilities will continue to use UAPs. This bill will make sure it is done safely and according to clear standards.”

Second, HB 276 would extend the term of a temporary nursing license from four months to six months, to allow sufficient time for the criminal background checks required under new regulations before a nurse licensed in one state may earn a license by endorsement in Alaska.

Finally, the bill would make technical changes in the state law defining how Alaska will issue nursing licenses by endorsement to nurses who have been practicing in other states for the last five years.

HB 276 passed the House unanimously, and moves next to the Senate for consideration.

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Alaska State Hospital & Nursing Home Association

We're helping people care for people!

February 15, 2002

Representative Peggy Wilson
Alaska State Legislature
State Capitol, Room 409
Juneau AK 99801-1182

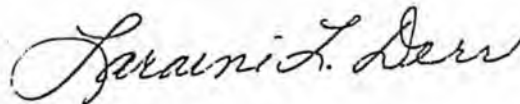
Dear Rep Wilson:

The House Labor and Commerce Committee will be hearing HB 276 on February 20, 2002. As the president of the Alaska State Hospital and Nursing Home Association (ASHNHA), I am writing a letter of support for the CS for House Bill No. 276, "An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties."

This bill will put into law what has always been a part of nursing practice. The bill gives licensed nurses the authority to delegate nursing duties to other personnel and give the Board of Nursing authority to set out regulations to outline safe delegation of their duties. Because there is such a severe shortage in the nursing profession, extending the temporary nursing license from 4 to 6 months will allow extra time. Any help in this area will be greatly appreciated.

ASHNHA is an organization of 34 healthcare providers around the state of Alaska. We believe that passage of this legislation will allow for better health care delivery to our citizens.

Sincerely yours,



Laraine L. Derr
President/CEO

426 Main Street, Juneau, Alaska 99801

Phone: 907-586-1790 • Fax: 907-463-3573 • Web: ashnha.com



Elizabeth Engle, RN BSN
ASNA President

To: Representative Peggy Wilson

Thank you for introducing HB 276. Nursing is a complex and often poorly understood profession, and in our efforts to meet the health needs of Alaska, we often encounter difficult and frustrating situations. This bill will help to clarify some of those issues, and give some authority in decision making to those who understand the ramifications of those decisions the best.

The Alaska School Nurse Association supports this bill.

Elizabeth Engle, RN, BSN
President, ASNA

A handwritten signature in cursive script, appearing to read "Elizabeth Engle", written in black ink.



t/ 907-274-0827
f/ 907-272-0292

2207 East Tudor Rd, Suite 34
Anchorage, AK 99507-1069
www.aknurse.org
aknurse@aknurse.org

February 14, 2002

Honorable Peggy Wilson
State Capitol, Room 409
Juneau, Alaska 99801-1121

Dear Representative Wilson:

We are writing this letter in support of the CS for HB 276, "An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties." This bill brings the nursing statutes up to date with current nursing practice in the areas of delegation of nursing duties and the issuance of temporary licenses and licenses by endorsement.

Over the last ten years there has been an increase in the number and type of ancillary unlicensed health care workers that RNs and LPNs are required to delegate nursing duties to and have oversight of the work they perform. The Attorney General's office recently ruled that the existing statutes do not give the Board of Nursing the authority to promulgate regulations covering delegation of nursing duties to persons other than nursing assistants.

It is imperative that RNs and LPNs have regulations from the Board of Nursing covering delegation of nursing tasks. Nurses rarely hire or train the unlicensed personnel they are required to work with, yet their employers require nurses to make sure these persons perform the tasks delegated to them in a safe and accurate manner. Because these individuals are unlicensed, there is no regulatory body overseeing their training and competency. Nurses need the backing of the regulations promulgated by the Board of Nursing so that they can delegate in a manner that maintains the health and safety of their patients.

The sections of CS for HB 276 which deal with temporary nursing licenses would extend the length of license from 4 to 6 months which would allow the Board of Nursing to complete necessary background checks. The section of the Bill dealing with license by endorsement would bring the statute into compliance with current practice of the Board concerning applicants who have not worked as a nurse in the past five years.

The Alaska Nurses Association is in full support of CS for HB 276.

Sincerely,

Patricia Senner MS, RN, ANP

FEB 19 2002

SB

280

22-LS1154L
Craver
3/4/02

CS FOR SENATE BILL NO. 280()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act permitting grants to certain regulated public utilities for water quality
2 enhancement projects and water supply and wastewater systems."

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

4 * Section 1. AS 46.03.030(b) is amended to read:

5 (b) The department may grant to a municipality or, to the extent allowed
6 under (i) of this section, to a public utility, as funds are available, a grant for any of
7 the following:

- 8 (1) a water quality enhancement project;
- 9 (2) a public water supply, treatment, or distribution system,
- 10 (3) a wastewater collection, treatment, or discharge system;
- 11 (4) a solid waste processing, disposal, or resource recovery system.

12 * Sec. 2. AS 46.03.030(e) is amended to read:

13 (e) A grant under this section to a municipality or public utility eligible
14 under (i) of this section for a project funded by an appropriation made by the

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legislature

(1) before July 1, 1994, may not exceed 50 percent of the eligible costs of the project;

(2) after July 1, 1994, may not exceed

(A) 85 percent of the eligible costs for a municipality with a population of 1,000 persons or less;

(B) 70 percent of the eligible costs for a municipality with a population of 1,001 to 5,000 persons; and

(C) 50 percent of the eligible costs for a municipality with a population greater than 5,000 persons; however, if a municipality with a population greater than 5,000 persons seeks a grant for a project that relates to a solid waste processing or disposal system that incorporates resource recovery, the department may provide a grant for up to 60 percent of the eligible costs of the project.

* Sec. 3. AS 46.03.030 is amended by adding a new subsection to read:

(i) A public water and sewer utility is eligible for a grant for projects described in (b)(1) - (3) of this section if it serves as the primary utility for a municipality and its rates are regulated by the Regulatory Commission of Alaska under AS 42.05.

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300
ANCHORAGE, ALASKA 99501-3469
PHONE: (907) 276-6222
FAX: (907) 276-0167
TTY: (907) 276-4533

February 15, 2002

The Honorable Gene Therriault
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: SB 280, "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water, wastewater, and solid waste systems."

Dear Senator Therriault:

This is in response to the questions raised in your February 15, 2002 regarding regulated public utilities. In that letter, you ask whether requiring utilities to be regulated by the Regulatory Commission of Alaska in order to be eligible for a grant will ensure that the benefits of the grant are passed on to ratepayers.

All public utilities that serve 10 or more customers for compensation must be certificated by the RCA. All certificated utilities are subject to a public convenience and necessity determination and a fit, willing and able requirement before they can operate as a public utility. Certificated public utilities are subject to economic regulation (rate review) by the RCA if they are privately owned or do not otherwise meet the exemption criteria in AS 42.05.711. The Commission regulates pipelines and utilities to assure reasonable and just rates to the consumer with fair rates of return to the utilities.

Ensuring that the benefits of the grant are passed on to ratepayers will primarily be the responsibility of the agency administering the grant. For an economically regulated utility, the Commission would have the opportunity to assess the benefits of the project through the rate review process, after the project is completed and in use.

You also ask whether regulated utilities get any depreciation or rate of return on grant funds. The answer is no. In traditional ratemaking, depreciation allows the utility to recover the funds it invested to purchase plant that is used and useful in delivering service. Consumers compensate utilities through rates for the costs incurred by a utility to deliver service. Grant-funded plant acquisitions are not allowed in rates because they do not represent an investment by the utility. To require ratepayers to reimburse a utility for grant monies and allow the utilities to earn a return on an investment they have not made would result in higher utility rates for the ratepayer.

I hope the above provides the information you seek. If you have any questions, please call me at (907) 263-2112. I will be in Juneau next Tuesday and Wednesday, and will be available at the hearing to answer any additional questions.

Sincerely,

REGULATORY COMMISSION OF ALASKA


G. Nanette Thompson, Chair

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 280
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title Water/Sewer/Waste Grants to BRU Facility Construction and Operation
Utilities Component Facility Construction and Operation
Sponsor Therriault
Requester Senate Labor & Commerce Component No. 637

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	72.4	72.4	72.4	72.4	72.4	72.4
Travel	12.0	12.0	12.0	12.0	12.0	12.0
Contractual	5.0	5.0	5.0	5.0	5.0	5.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	3.0	1.5	1.5	1.5	1.5	1.5
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	93.4	91.9	91.9	91.9	91.9	91.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	93.4	91.9	91.9	91.9	91.9	91.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	93.4	91.9	91.9	91.9	91.9	91.9

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	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 280 will extend eligibility for Municipal Water, Sewer, Solid Waste Matching Grants program to economically-regulated privately-owned utilities. We estimate that approximately 50 private utilities could qualify for grants. To date, 36 municipalities have participated in the program.

While program workload is largely a function of the total annual program funding, providing financial and technical assistance to smaller, private utilities, such as those serving trailer parks or subdivisions, will create additional workload and require adding a new engineer position to the current program engineering staff of four.

Prepared by: Dan Easton, Director Phone 465-5135
Division: Facility Construction and Operation Date/Time 2/15/02 3:32 PM
Approved by: Kurt Fredriksson Date 2/15/02
Agency: Department of Environmental Conservation

Personal Services New Position Detail

Department of Environmental Conservation
SB 280ABS Fiscal Note

Scenario: DEC 2003 Fiscal Notes (2321)
Component: Facility Construction and Operations (637)
BRU Name: Facility Construction and Operations (210)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Schod	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#011	Environ Engineer I	FT	A	GG	Anchorage	2A	21 A	12.0		53,754	1,114	0	17,586	72,454

Justification:

Implementation of SB 280

Funding Detail:

1004	General Fund Receipts	100.00%	72,454
Total Funding:		100.00%	72,454

Component Summary:

Total New Positions: 1

Fund Description	Fund Percent	Fund Amount
1004 General Fund Receipts	100.00%	72,454
Total Funding:	100.00%	72,454

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

Alaska State Legislature

SENATOR
GENE THERRIAULT

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



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884

Senate District Q

Senate Bill 280 "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water, wastewater, and solid waste systems."

Sponsor: Senator Gene Therriault

Sponsor Statement

Under current law, privately owned public water and wastewater utilities are not eligible to participate in grants made under AS 46.03.030(b), "water quality enhancement, water supply, sewage and solid waste facilities grants." This places the ratepayers of privately owned utilities at a disadvantage when compared to the ratepayers of municipally owned utilities.

SB 280 provides for the inclusion of privately owned water and wastewater utilities in the State's water and wastewater grant program if the utilities are regulated by the Regulatory Commission of Alaska. Regulation insures that all of the economic benefits of the grants are passed on to the ratepayers. The Legislature passed a similar measure in 2000, HB 304, which provided for participation by regulated, privately owned water and wastewater utilities in the State's low interest revolving loan fund.

As is currently the case with municipally owned utilities, the bill would allow privately owned utilities to make utility infrastructure improvements without forcing ratepayers to pay the full burden through increased rates. Additionally, the bill would increase the ability of the utility to expand into areas that are on the peripheral of existing systems, thereby providing water and wastewater services to families that are currently on wells and septic systems.

SB 280, "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water, wastewater, and solid waste systems."

Sectional Analysis

Section 1

AS 46.03.030(b)

Allows public utilities, in addition to municipalities, to receive water quality enhancement, water supply, sewage and solid waste facilities grants through the Department of Environmental Conservation. Grants can be used for water quality enhancement projects; a public water supply, treatment or discharge system; a wastewater collection, treatment or discharge system; or a solid waste processing, disposal or resource recovery system.

Section 2

AS 46.03.030(i)

Defines eligible public utilities as those whose rates are subject to regulation by the Regulatory Commission of Alaska. Restricts grant amount to the same as those applicable to municipalities:

- 85% of eligible costs for a public utility with a population of 1,000 or less within its service area
- 70% of eligible costs for a public utility with a population of 1,001 to 5,000 within its service area
- 50% of eligible costs for a public utility with a population greater than 5,000 within its service area, except if the utility is seeking a grant for a project that relates to a solid waste processing or disposal system that incorporates resource recovery, the department may provide a grant for up to 60 percent of the eligible costs



February 13, 2002

Senator Ben Stevens
Chair, Senate Labor and Commerce Committee
Sent by fax: 907-465-3884

RE: SB 280

Fairbanks Sewer & Water, Inc. (FSW) was formed in 1996 to acquire Golden Heart Utilities, Inc. from the City of Fairbanks when the City divested itself of its utilities. Simultaneously, FSW acquired College Utilities Corporation, which owns and operates the water and wastewater system on the west side of Fairbanks. FSW is the parent of both Golden Heart Utilities and College Utilities, which serve a combined 8,500 customers.

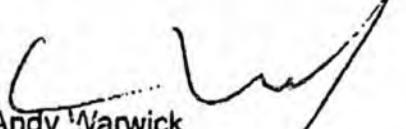
In 2000 we asked the Legislature to allow our water and wastewater utilities to participate in the State's low interest revolving loan fund, which the Legislature accomplished through HB304. Because utilities must be regulated by the Regulatory Commission of Alaska as a condition of participation, all of the benefits of the program are passed on to the ratepayers through lower rates.

Currently Fairbanks is the only community in the State that cannot participate in the State's water and wastewater grant program under AS 46.03.030(b), as under current law, privately owned, public water and wastewater utilities are not eligible. SB280 remedies this inequity in the same manner as HB304 mentioned above. Fairbanks was eligible to participate when the utility was owned by the City of Fairbanks. SB280 provides the same benefits to the Fairbanks ratepayers that they enjoyed under City ownership by including privately owned water and wastewater utilities in the State's water and wastewater grant program if the utilities are regulated by the Regulatory Commission of Alaska. Regulation insures that all of the economic benefits of the grants are passed on to the ratepayers.

SB280 will:

1. Reduce the burden to our ratepayers of critical improvements to our water and wastewater systems. Like all utilities in Alaska, improvements are necessary for the continued reliability of the system.
2. Increase the ability of the utility to expand its water and wastewater system to include families and businesses that utilize wells and septic systems. The vast majority of Fairbanks residents are not hooked up to a public water and wastewater system. In some cases this causes sanitary problems that could be resolved by our utility system.
3. Provide benefits to our ratepayers that other ratepayers in Alaska enjoy.

Thank you for the opportunity to comment on this bill. I can be reached at the telephone number below if you have additional questions.



Andy Warwick
Chair of Board of Directors
Fairbanks Sewer & Water, Inc.
907-456-1566

SB

282

Keirste -

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@ptialaska.net

February 23, 2002

Senate Labor & Commerce Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1192

SENT VIA FACSIMILE TO 907.465.3872

RE: SB 282 - ASMI 1% Reauthorization

Dear Members,

CDFU, representing the fishing fleets of Area E - the Copper River and Prince William Sound - supports the intent of SB 282 relative to the reauthorization of the ASMI 1% salmon assessment. Involved in the successful promotion of Copper River salmon as we are, we feel qualified to comment on the absolute importance of seafood marketing. Our efforts to promote Copper River salmon would not have met with nearly the success that we have were it not for the excellent framework of generic salmon promotion that ASMI provides, as well as their constant support with materials, information, etc.

We support reauthorization of the 1% salmon assessment to ASMI. The salmon industry needs generic, non-branded marketing support for Alaska salmon, and ASMI has proven its expertise, commitment, and ability to provide it. The impacts of farmed fish production in the global marketplace and Japan's faltering economy have heightened the importance of the role that ASMI plays in the marketing of Alaska seafood, especially in salmon.

We also support a lifting of the domestic marketing restriction of the 1% and would like to see SB 282 amended to allow that. An example of potential benefits resulting from expanding ASMI's ability to respond to changing market dynamics is the Mad Cow Disease outbreak in Europe. Use of our 1% assessment to respond to that opportunity for salmon marketing would've been helpful.

We would also like to see SB 282 amended to allow ASMI to lobby for federal marketing funds, and deletion of sections related to reducing the size of the ASMI board. We believe that the diversity of the seafood industry in Alaska is well served by ASMI's current Board size. Thank you.

Sincerely,

Sue Aspelund

Sue Aspelund
Executive Director

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 282: Alaska Seafood Marketing Institute Salmon Marketing Tax

Senate Bill 282 extends the termination date for the 1% domestic salmon marketing tax to the year 2008. In 1993, the legislature enacted the 1% tax to raise revenues to market Alaska's salmon in the United States. The tax is paid by commercial salmon harvesters at the rate of 1% of the value of salmon that is removed from the state or transferred to a buyer in the state. The tax must be reinstated every five years by the state legislature; this will be the third extension since its enactment.

ASMI receives no state funding and is the only non-regulatory state agency that is industry supported. The major components of its' budget are the 1% salmon marketing tax, a .3% seafood processors tax, and funding from two federal grant programs. As the generic marketing agency for all of Alaska's seafood, AMSI utilizes these funds to promote the quality and superiority of Alaska seafood products and to increase worldwide consumption. Over the last six years, they have worked with 34 distributor partners and 60 hotel and restaurant foodservice partners. Last year, ASMI arranged retail promotions with more than 56 major grocery store chains (about 7,000 stores). Through their marketing efforts, more than twenty-five million pounds of Alaska seafood sold directly through their domestic foodservice and retail promotions last year.

In addition to extending the salmon marketing tax to 2008, Senate Bill 282 also reduces the number of ASMI board members from 25 to 13 by attrition, while maintaining the ratio of membership representation. Board members are phased out as their terms expire, beginning in 2003 by a reduction of two members, five members in 2004, and five members in 2005. This change has been introduced as a cost savings effort and to improve the efficiency of the ASMI board of directors.



P.O. Box 762 • Kodiak • AK • 99615
Phone: (907) 486-6899 • Fax: (907) 486-7058 • Email: kodiak@unitedsalmon.org

February 15, 2002

Senator Ben Stevens
State Capitol
Juneau, AK 99801-1182

Dear Senator Stevens,

I am writing to convey the support of the United Salmon Association for the changes to the Alaska Seafood Marketing Institute that you are proposing in SB 282. USA has long supported restructuring ASMI to make it a more effective and accessible organization.

In particular, I would like to convey our support for changes to Alaska law to allow ASMI to lobby for the interests of fishermen in the federal arena. In recent years, USA has identified several issues that require treatment at the federal level. These include, but are not limited to, access to USDA price support programs; access to USDA marketing funds; participation in free trade negotiations; and access to federal food aid programs. Many of ASMI's current marketing goals would be complimented by progress in these areas, and we would like to empower the agency to pursue these issues.

Additionally, we support any and all efforts to bring control of the money generated by the 1% tax on salmon harvesters back into the hands of ASMI's Salmon Marketing Committee. It is important that the harvesting community have directional control of those funds in order to assure support for the tax into the future.

Lastly, we would like to see changes to the rules governing the use of the 1% tax monies so it would be permissible to use them for foreign, as well as domestic, marketing. Again, we believe that oversight of this use must rest in the hands of the Salmon Marketing Committee.

We are encouraged by all of the forward movement in the legislature on the issue of salmon this year, and appreciate your efforts to help strengthen Alaska's salmon industry.

Please feel free to contact us with any questions.

Respectfully,
Thom Wischer
Chairman
USA/Kodiak



UNITED FISHERMEN OF ALASKA

February 21, 2002

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

Senator Ben Stevens
Chair
Senate Labor and Commerce Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: SB 282 Alaska Seafood Marketing Institute/Tax

Dear Senator Stevens,

United Fishermen of Alaska supports passage of elements of this bill to allow renewing the harvester salmon 1% assessment for marketing, authorizing ASMI to lobby for federal funds, and allowing the ASMI board to spend the assessment for marketing worldwide.

As you are aware, the Alaska salmon industry is facing challenges due to imports of farmed fish, the value of the Japanese yen, the lagging Japanese economy, and inefficiencies in the present harvesting structure. It is import to signal to Alaska's fishery markets and our competitors that we are serious about marketing our product; renewing the assessment now rather than waiting until the last minute in 2003 sends the right message.

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

Copy: Senator Alan Austerman

MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • At-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

POM Database

4 per page

Master List

Labels

Goto Constituent Database

Find All

Find

Sort

Import New POMS

Transfer new POM info to Constituent Database

Title **Mrs.**
First Name **Julie**
Middle **A**
Last Name **Decker**
Suffix
Address 1 **2138**
Address 2 **Po Box 2138**
City **Wrangell**
State **AK**
Zip **99929**

Telephone Number **874-3110**
Affiliation **individual commercial fishermen**
Reg Voter **Y**
Constituency **N**
Distribution **5**
match **X**
ascenum
email

Date POM Sent **02/21/2002**

Bill Number **SB 282**

Response **Supports**

Subject

Message 1 My husband Gig and I would like to support SB282. Gig has been a commercial salmon fisherman for 30 years and I went with ASMI on its China Trade Mission last October. ASMI does an excellent job with the funds it has.

Message 2

issue

nameadd DeckerJulie2138

home phone

ascension

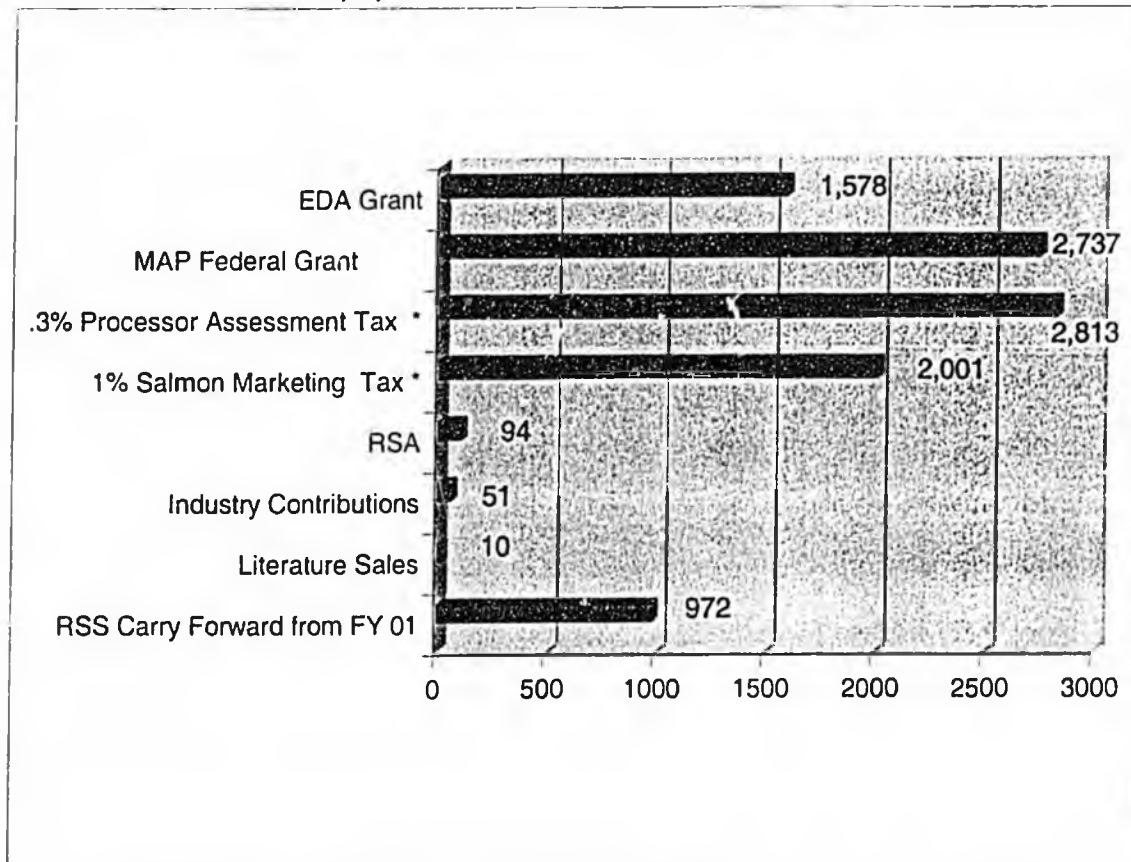
namelast Decker



Sources of ASMI Revenue FY 02

RSS Carry Forward from FY 01	972	9%
Literature Sales	10	0%
Industry Contributions	51	0%
RSA	94	1%
1% Salmon Marketing Tax *	2,001	20%
.3% Processor Assessment Tax *	2,813	27%
MAP Federal Grant	2,737	27%
EDA Grant	1,578	15%
	10,256	100%

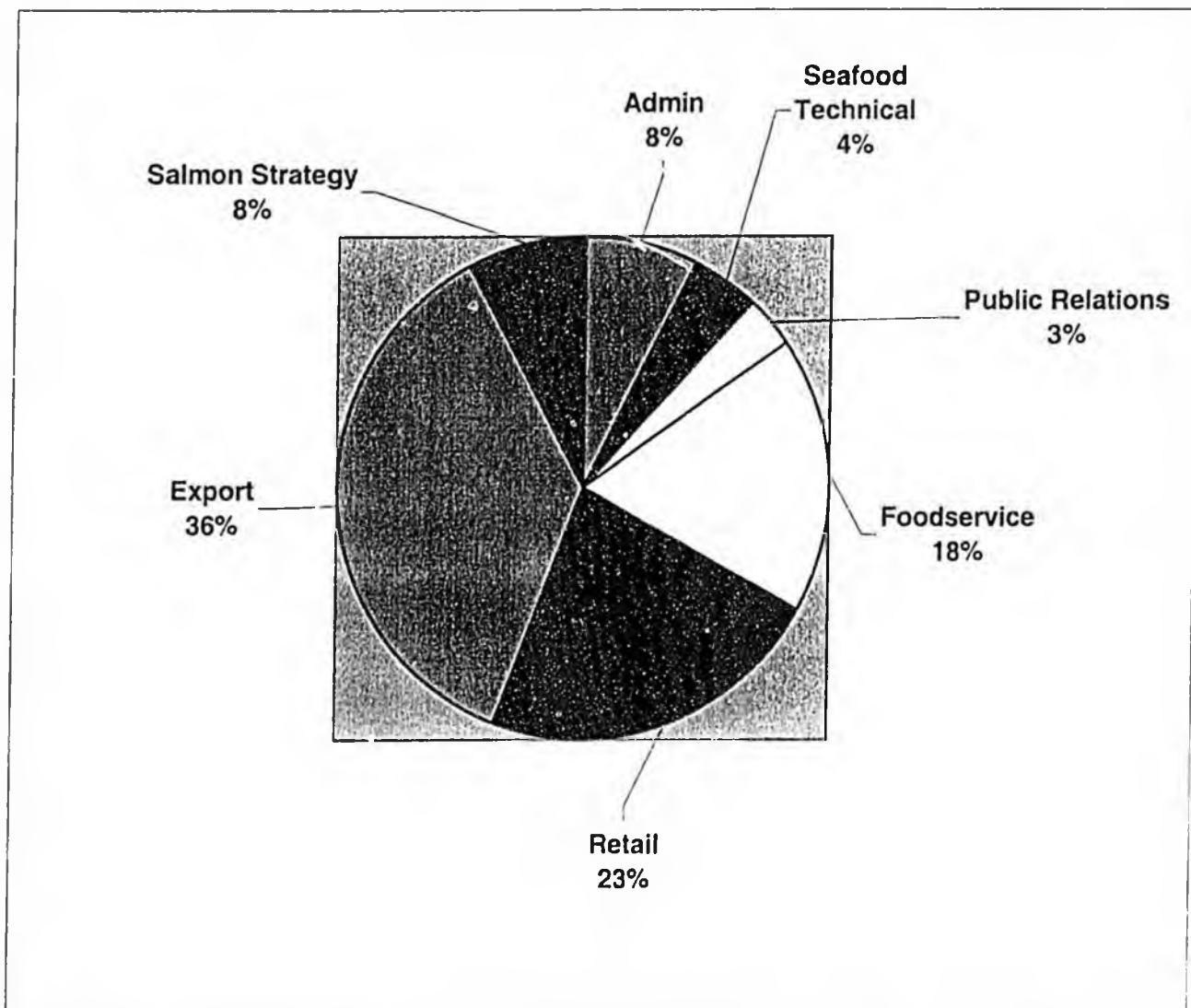
*Note: * The Fish Revenues are projected*





Allocation of ASMI Revenue FY 02

Admin	739	8%
Seafood Technical	439	4%
Public Relations	335	3%
Foodservice	1,728	18%
Retail	2,266	23%
Export	3,582	36%
Salmon Strategy	753	8%
	9,842	100%





Last year more than 50,000,000 pounds of Alaska Seafood was sold directly through ASMI foodservice and retail promotions

Export Foodservice

1,307,061 pounds of Alaska seafood sold through ASMI export foodservice promotions overseas in FY 01

9,912 chefs exposed to Alaska seafood through promotions and seminars overseas

248 promotional partners for export foodservice program

22 new promotional partnerships established

38.8% increase in pounds of value-added seafood sold

Export Retail

23,864,957 pounds of Alaska seafood sold through ASMI export retail promotions overseas in FY 01

8,617 stores conducting ASMI promotions overseas

272 new promotional partners for export retail program

38.8 change in pounds of value added seafood sold at retail

+76% volume and percentage change in sales of canned salmon (UK)

Domestic Foodservice Program

More than 11.5 million pounds of Alaska seafood sold through domestic foodservice promotions in FY 01

35 working accounts, with 4,786 units (excludes those served by broadline foodservice distributors)

15 new promotional partners

35,000 chefs exposed to ASMI and Alaska seafood through promotions and educational seminars

Domestic Retail Program

More than 13 million pounds of fresh and frozen Alaska seafood sold through domestic retail promotions in FY 01

3 million pounds of this was value-added product

58 grocery chains with 7,103 stores involved in ASMI promotions

Added six new retail chains (1,443 stores) as partners for promoting all species of Alaska seafood

Sales figures were up 6.8% over last year for sales of value-added Alaska seafood items through national home delivery service promotion

U.S. marketing efforts are enhanced by a strategic salmon initiative funded by federal EDA grant funds. In FY 01 this initiative achieved 145 million impressions: key messages about Alaska Salmon were delivered that many times through radio, newspaper, magazine, and TV. An expenditure of \$900,000 generated media coverage valued at \$19.7 million.

Did you know that....

- **In 2000, the Alaska Seafood brand ranked Number 3 among branded food items on menus of the top 500 restaurant chains in the U.S.**
- **The Marine Stewardship Council (MSC) validated Alaska's salmon fishery management in September 2000, certifying Alaska salmon fisheries as sustainable. Promotions of MSC-certified Alaska salmon were held in Europe and the United States in the summer of 2001. Alaska's salmon fishery is the largest fishery certified to date and the only salmon fishery in the world to be certified.**
- **More fresh and frozen sockeye than ever before entered the U.S. market last year.**
- **Alaska seafood valued at \$67.8 million was sold as a direct result of ASMI retail promotions in Japan during FY 01.**
- **A single ASMI event in the Japanese port city of Shiogama drew 9000 consumers and 170 representatives of the Japanese seafood trade.**
- **New laws in effect in Japan and the European Union require seafood labels at the retail level to state the country where the product originated and whether it is wild or farmed. This aids ASMI's effort to differentiate and reposition Alaska products in the market.**
- **New markets are opening up for fresh and fresh/frozen Alaska salmon. In the UK, major retailer Tesco is using frozen Alaska keta salmon to create kabobs with two types of sauce that are sold at chilled retail service counters.**
- **At the world's largest seafood tradeshow, the European Seafood Exposition, ASMI's Alaska pavilion generated \$50 million in seafood sales and over 400 trade leads.**
- **In France, four national foodservice distributors now carry Alaska keta and pink salmon fillets and portions on a year-round basis. Surimi consumption is at an all-time high.**
- **European salmon smokers are beginning to return to wild Alaska salmon after years of using farmed salmon. In 2001, the biggest salmon smoker in Germany, a company that has been using coho and king, is considering adding sockeye salmon to the range of products.**

Alaska Seafood Industry Facts

- Alaska's 4,584,200,000 pound commercial fish harvest in the year 2000 had an ex-vessel value of \$1,050,884,000.
- About half the U.S. commercial seafood harvest comes from Alaska. The nation's top port in terms of volume is Dutch Harbor/Unalaska with landings in 2000 of 699.8 million pounds valued at \$124.9 million. The number two port in terms of value is Kodiak, with landings of 289.6 million pounds valued at \$94.7 million.
- Alaskans own about 79% of the total number of active commercial fishing entry permits. About half of these 11,118 Alaskan-owned permits are held by rural residents.
- Anchorage is Alaska's largest fishing village, with 903 commercial fishing permit holders and 36 fish processors. The seafood industry directs about \$250 million a year to the economy of Anchorage, the state's major commercial hub.
- Seafood industry taxes and license fees provided more than \$52 million to the state treasury in FY 01. Additional revenue is received through property tax assessments of vessels and seafood plants, corporate income tax, locally levied fish taxes, local sales taxes and marine motor fuel taxes.
- The seafood industry accounts for 47% of the private sector employment in Alaska. More than 15,000 Alaskans worked in seafood harvesting in 1999, and about 8,500 worked for seafood processors. Eleven seafood processors rank among the state's top 100 employers. Earnings to fish processors were about \$2.4 billion in 1999.
- Alaska produces 90-95% of the U.S. commercial salmon harvest, and is the world's top producer of wild salmon. Alaska's carefully managed salmon fishery has been certified as sustainable by the Marine Stewardship Council (MSC).
- Seafood is Alaska's number one export, valued at over \$1 billion in 2000. For comparison, oil and gas exports amounted to \$572 million. Japan imported Alaska seafood valued at \$710 million. Much of the \$133 million worth of seafood exported to Korea is also re-exported to Japan. In 2001, seafood exports appeared to be up 21% compared to the previous year, totaling slightly over \$1 billion through the third quarter.



ASMI Programs

ASMI has four core programs: Export, Domestic (U.S.) Marketing, Seafood Technical (quality information and education), and Public Relations. A new program, Alaska Salmon Strategic Marketing, was established in September 2000, made possible by an EDA grant for salmon marketing in the U.S.

Export

Promotional activities are conducted in more than a dozen countries around the world. Overseas marketing representatives based in Japan, China, Taiwan, Europe and Australia market "Alaska" brand seafood products through foodservice and retail promotions, public relations, trade and consumer advertising, and trade education. ASMI has received support for this program since 1988 from the USDA Market Access Program, and it was originally limited to salmon promotion. Four years ago the federal government opened the door to marketing the full range of Alaska seafood products.

Domestic Marketing

The retail and foodservice programs boost sales of all species of Alaska seafood.

The retail program arranges promotions in partnership with major grocery store chains. There are all-species promotions and canned salmon promotions placed in retail stores each year, supported with advertising and public relations. More than 56 chains (about 7,000 stores) participated in retail promotions last year. Four field representatives serve this program. ASMI retail also works with the nation's largest home delivery service, which stocks six branded Alaska seafood products.

The foodservice program works with national foodservice distributors and restaurant/hotel chains, conducting customized promotions to boost Alaska seafood awareness and sales. Over the last six years ASMI has worked with 34 distributor partners (companies that move millions of pounds of Alaska seafood each year), and 60 hotel and restaurant foodservice partners (chains that represent from 1 to 1700 restaurants). The number of promotional partners has grown steadily. Through the Culinary Institute of America, ASMI trains prominent executive chefs in Alaska seafood use, resulting in Alaska products being added to menus of large chains and institutions across the country.

ASMI initiated a Kids' Marketing Program for restaurants serving Alaska seafood, and a Takeout program to position Alaska seafood in the deli section of stores that sell ready-to-eat meals, and in restaurants providing takeout service.

Seafood Technical

Seafood quality assurance is the focus of this program. ASMI develops market-oriented quality specifications that promote a high quality image for Alaska seafood in the marketplace. It also adopts and disseminates recommendations for the handling of seafood from the moment of capture to final distribution, using education and training as its primary tools. This program offers technical assistance and support to the industry and to all other ASMI programs in the areas of scientific and regulatory issues including food safety, product labeling, environmental concerns, and importation requirements in overseas markets.

Public Relations

The public relations program supports the marketing programs by responding to inquiries and information requests from industry members, news media, businesses, government agencies and the general public. It uses industry newsletters, press releases, recipe releases, televised Alaska seafood segments, information kits, trade show booths, and the newly restructured website (www.alaskaseafood.org) as its primary tools. It also oversees the Salmon Market Information Service (ASMI has a statutory obligation to provide information about the salmon market to the salmon fleet,) and is a major sponsor of the Symphony of Seafood held each year.

Alaska Salmon Strategic Initiative

This program was initiated in September 2000 to help the Alaska salmon industry by developing and executing an Alaska salmon marketing plan to boost sales. Public relations activities include: radio and television segments featuring Alaska salmon, public service announcements for national television broadcast, press kits to newspapers and magazines resulting in editorial coverage, recipe releases to newspapers, promotion of value-added products, and trade and consumer advertising highlighting the attributes of wild Alaska salmon. It is funded by a federal EDA grant through the Trade Adjustment Assistance Act.

ASMI'S CURRENT MARKETING PARTNERS - JANUARY 2002

Domestic Foodservice

Alliant Foodservice: broadline foodservice distributor
Bill Knapps Restaurants: over 50 units based in Michigan
Byerlys/Lunds: 19 upscale retail stores in Midwest
C.A. Muer: upscale seafood chain based in Detroit, Michigan
Carrows: 141-unit family-style restaurant chain
Chart House: 58-unit steakhouse
Culinary Institute of America (CIA): California and New York campus sponsorships
Club Corporation: 120 private clubs across the U.S.
Dennys: more than 1,700 restaurants nationwide
Fresh Fish Company: largest seafood restaurant in Denver, Colorado
Food Services of America: broadline foodservice distributor, corporate headquarters, Seattle, Washington; Portland, Oregon
Fultons Crab House: annual Seafood Alaska month; Orlando, Florida
Holland America Chefs Forum: seafood training at CIA
Hyatt Hotels: 135 properties
Ivars: Pacific northwest seafood chain
Lindblad Expeditions: five 70-passenger cruise ships
Long John Silvers: 33 restaurants based in southeast
McCormick & Schmicks: 25-unit seafood chain nationwide
Mallards Restaurant: joint promotion with O'Briens Supermarkets, Modesto, California
Marie Callenders: 155 units across the Western U.S.
Marriott Hotels: 215-property promotion extending into Canada
Max & Ermas: based in midwest, more than 61 units
Pappas: 52-unit restaurant chain in Houston, Texas
Pennsylvania State University: training seminar for multi-sector dining facilities
Rubios Baja Grille: based in San Diego, California, 125 units, expanding to new markets including Portland and Denver
Rubys Diner: 31 units based out of Southern California
Ryans: 312-unit chain in Greer, South Carolina
ServiceMaster: seafood training at CIA
Sodexo: non-commercial sector with over 4,900 outlets
Stillwater Grill: independent restaurant in central Michigan
Sysco: broadline foodservice distributor, corporate headquarters plus 15 regional divisions
Walt Disney World: on-going multi-property training
Westin Hotels: 70 properties
Wyndham Hotel: 200-property hotel chain based out of Dallas, Texas

Training Key Chefs

Alaska seafood seminars are conducted at the prestigious Culinary Institute of America (CIA) in California. These events lead to Alaska seafood being added to the menus of national chain

restaurants. Alaska seafood education was provided at a special session for chefs working in the cruise ship industry.

2001 CIA Seminar Participants: U.S. Army, Phoenix Restaurant Group, H.E.B. Grocery, Sea World Adventure Park, Darden Restaurants, California Sushi Academy, Disney's Wilderness Lodge, Royal Caribbean Cruise Lines, P.F. Changs China Bistro, Ameristar Casinos

Domestic Retail

Alaskan Brewing Company (possible summer grilling promo)
Fetzer Winery (promotions in California)
General Mills (retail & foodservice)
McCormick's (Alaska Seafood Cookbook)
Mondavi Winery (Lent promotion)
Reynolds (Alaska Seafood Cookbook)
Southern Women Shows (fall shows)
Schwan's (consumer sweepstakes)
Andronicos (8 stores) Lent fresh pollock promo
A. & J.'s Lent fresh cod promo
Basha's Lent canned salmon promo
Big Y (47) "Night of Lite Laughter with Joan Rivers" - cookbook promo kick-off
Bi-Lo (290)
Bruno's (152) (Southern Women Shows)
Byerly's/Lunds (19) Lent fresh and canned salmon promos
Costco (350)
Cub Foods - (44) Seafood Test Section - "Lose for Lent" promo
D&W (26) Tailgate party contest - Lent Seafood Cooking Clinics
Farmer Jack (103) Internet microsite - recipe contest
Fiesta Mart (43) Banners & bi-lingual recipes - Lent Canned coupon
Food Lion, Salisbury North Carolina (1,136)
Fred Meyer, Portland, Oregon (135) Cooking schools
Furr's (69)
Gerland's (16)
Giant Carlisle (173)
H.E.B. (268) Holiday - crab promo, Lent - whitefish promo, Summer - grilling promo
Harris Teeter (149)
Hen House (28)
IGA stores in Georgia, Florida and South Carolina (75)
Ingle's (208)
King Soopers/City Mkts (122) Lent whitefish promo
Kroger Corporate (3,133); Atlanta, Georgia; Cincinnati, Ohio (99 stores); Detroit, Michigan; Houston, Texas; Indianapolis, Indiana (141 stores); Louisville, Tennessee; Nashville, Tennessee; Memphis, Tennessee; Roanoke, Virginia.
Larry's Markets - Lent fresh salmon promo

Lowe's Foods (86)
MDI (Galaxy Foods) (168)
Meijer (263)
Mid-Mountain KVAT (Food City) (87)
Mollie Stones - Lent fresh cod promo
Pavilions (Safeway) (43) Lent canned salmon promo
Penn Traffic (366) Lent recipe contest
Piggly Wiggly (107)
Price Chopper (106)
Publix - Atlanta, Georgia (637)
QFC - Bellevue, Washington (88) Lent salmon & canned salmon demos
Rainbow Foods (46) Lent canned and fresh salmon demos
Raley's (149) Lent canned salmon demos
Ralph's (426) Lent salmon and canned salmon promo
Randall's/Tom Thumb (121)
Safeway Corporate (1,672); Eastern Division; Portland, Oregon; Seattle, Washington
SAM'S Club (500) Grand Store Opening demos
Save Mart (98) Cook from frozen promo
Smith's (116) Lent Whitefish Promo
Stater Bros. Lent canned and frozen salmon promo
The Fresh Market (25)
Trader Joe's (140)
Vons - Safeway (285)
WalMart (760)
Wegman's (59) pot-caught cod promo
Whole Foods, Southern Division 29 units operating under the names Fresh Fields and Whole Foods throughout Washington, D.C., Georgia, Maryland, Virginia, North Carolina, New Jersey and Pennsylvania. (140)
Winn-Dixie (all divisions -1,182)

SB

283

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 283
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title An Act relating to temporary p rmits and licenses BRU: Occupational Licensing (117)
by endorsement issued by the Board of Nursing Component Occupational Licensing
 Sponsor Senator Wilken
 Requester Senate Health & Social Services 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 the changes of this bill.

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

Phone (907) 465-2144
 Date/Time 2/26/02 10:06 AM
 Date 2/26/2002

GARY WILKEN

SENATOR
West Fairbanks

Interim:
1851 Fox Ave
Fairbanks, Alaska 99701
Tel: (907) 451-4347
Fax: (907) 456-8163



During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: 451-5501 (from Ebks)
Tel: (907) 465-3709 (outside Ebks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

Senate Bill 283 Sponsor Statement

“An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties,”

SB 283 is submitted at the request of the state Board of Nursing. It will reconcile current nursing industry standards with Alaska state law and maintain efficient management of licensed nurses in our state.

Specifically, it does the following:

- 1) codifies the authority of licensed nurses to delegate certain basic tasks to unlicensed assistive personnel;
- 2) extends the duration of a temporary nursing license from 4 to 6 months; and
- 3) updates the statutory language authorizing the issuance of licenses by endorsement.

These statutory adjustments are the result of diligent efforts by the state Board of Nursing. It would serve to tighten, clarify, and improve their ability to regulate and manage the delivery of safe and effective health care to the citizens of Alaska. There is no known opposition to or negative impact of these adjustments.

Please support the state Board of Nursing by enacting this beneficial legislation.

A handwritten signature in black ink, appearing to read "Gary Wilken", is written over a horizontal line.

Senate Bill 283

An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties.

SECTIONAL ANALYSIS

Prepared by Tim Lamkin, staff to Senator Gary Wilken
For the precise impact of the bill, please refer to the actual bill text.

Section	Statute	Existing	Changes
1	AS 08.68.200 License by Endorsement	Applicants can receive a license by endorsement if they have trained to be a nurse and if they fulfill the requirements of subsections 1, 2, OR 3. Respectively, the subsections require (1) that the applicant was a nurse in another state; (2) passed the Canadian Nurses' Exam, if comparable to Alaska's exams, OR (3) not worked as a nurse in the past 5 years but has met the Board's Continuing Competency requirements.	Subsection 3 would be removed and added as (b) under AS 08.68.200 (see Section 2)
2	AS 08.68.200(b) License by Endorsement	(b) does not exist under current law	(b) is a new subsection and is the former subsection (3) of AS 08.68.200. Previously, applicants could acquire a license by endorsement if they met subsections (1), (2), or (3). The new law would require a combination of [(1) AND (3)] or [(2) AND (3)].
3	AS 08.68.210(a) Temporary Permits	Currently, the Board of Nursing may issue a temporary license by endorsement that is valid for 4 months.	This section would be amended to make temporary licenses by endorsement valid for up to 6 months.
4	AS 08.68.340(a)(2) Prohibited Conduct	Under this section, it is a class B misdemeanor to practice nursing without a license, unless the person is acting in an emergency situation.	Makes it okay to practice nursing without a license IF the person is executing tasks delegated by a registered or practical nurse, as set forth in AS 08.68.405 (see section 5)
5	AS 08.68.405 Delegation of Nursing Functions	This section does not exist under current law.	Establishes that registered or practical nurses may delegate nursing duties to other persons, including unlicensed personnel. Specific types of duties and eligibilities of assistive personnel are determined by regulations set by the Board of Nursing.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 283
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title An Act relating to temporary permits and licenses BRU: Occupational Licensing (117)
 by endorsement issued by the Board of Nursing Component Occupational Licensing
 Sponsor Senator Wilken
 Requester Senate Health & Social Services 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 the changes of this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 2/26/02 10:06 AM
 Approved by: Deborah B. Sedwick, Commissioner Date 2/26/2002
 Agency Department of Community & Economic Development



Tony Knowles, Governor

Division of Occupational Licensing

3601 C Street, Suite 722, Anchorage, AK 99503-5934

Telephone: (907) 269-8160 • Fax: (907) 269-8156 • Text Telephone: (907) 465-5437

Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

February 26, 2002

Senator Gary Wilken
State Capitol Building
Juneau, Alaska 99801-1182

Dear Senator Wilken:

On behalf of the Board of this letter to inform you that the Board supports Senate Bill 283 "An Act related to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to Delegation of nursing duties."

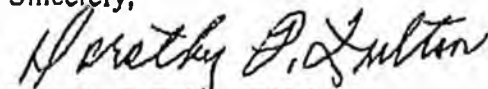
"Delegation of nursing duties" gives the give the Board the authority to delegate nursing duties to other personnel and gives the Board of Nursing the authority to write regulations outlining safe delegation practices to ensure safety to the consumer. The Board of Nursing is charged with consumer protection.

Therefore, the Board views this section of the bill as a clean-up bill section because it gives the nurses and the Board the authority that we thought we already had. The nurse aides have no legal scope of practice since they have no license to practice. The legal source of authority to perform the nursing task that is delegated to the nurse aide is the licensed nurse who delegates the task.

This bill does not create create new health care workers; Unlicensed Assistive Personnel (UAPs) by whatever title are already in place throughout the health care system. It does eliminate a gray area of practice for nurses who are already delegating to UAPs as a part of their job on a daily basis.

The Board would like to thank you for your willingness to sponsor this bill.

Sincerely,


Dorothy P. Fulton, RN, MA
Executive Administrator
Alaska Board of Nursing

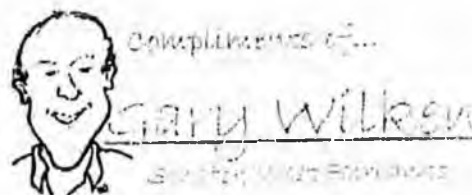
Subject: re SB 283

Date: Tue, 26 Feb 2002 16:41:13 -0900

From: "Lynn Hartz" <lhartz@alaska.com>

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

CC: "Lynn Hartz" <lhartz@alaska.com>



Dear Mr. Lamkin,

I just got home from the Olympics late last night and found an email from you requesting letters of support for SB 283. I left you a phone message but in case we do not connect today, please know that I would like to testify in support of SB 283 tomorrow (2/27) at 1:30 and will be getting a letter to you too if this email is not formal enough. My testimony is below. I know this is very last minute and apologize again for not having a letter to fax you at this point. I have asked the Alaska Nurses Association to fax a letter to you also. You can reach me at my home phone of 248-2877 or cell of 227-5253.

Lynn Hartz, MSN, Boardmember, Alaska Board of Nursing

2/27/02

Senate Health Education and Social Services Committee

Sen. Green (Chair)

Sen. Leman (Vice Chair)

Sen. Ward, Wilken, Davis

Testimony to the HESS committee

For the record, my name is Lynn Hartz, I am a Family Nurse Practitioner in private practice and a member of the Board of nursing.

Thank-you for giving me the opportunity to voice my support as a member of the Board of Nursing for SB 283. I would also like to thank Senator Wilken for his willingness to sponsor this bill. My plan is to make a short statement on why it is important to pass this bill and after that I would welcome any questions or comments.

HB 276 is essentially a "clean-up bill" which brings nursing statutes up to date with current nursing practice in three areas:

(1) Changes the wording placement regarding licensure by endorsement from one section to another. Apparently, by shifting the wording placement, this statute change corrects a "technical error" that created a loophole allowing the unlikely possibility of a non-nurse applying for licensure. This wording change fixes that loophole

(2) The bill increases the length of time available for a temporary nursing license from 4 to 6 months to allow for the extra time it may take to get back results of criminal justice background checks required in new regulation;

(3) Gives licensed nurses the authority to delegate nursing duties to other personnel and gives the Board of Nursing the authority to write regulations outlining safe delegation practices to ensure safety of the consumer. This came about when the Board of nursing was drafting regulations on delegation last year and we were told at that time that nurses did not have statutory authority to delegate to unlicensed assistive personnel (we call them UAPs) in this state and therefore the board could not write regulations about delegation. The board had always assumed that nurses had the authority to delegate to unlicensed assistants and had even published a position statement about safe delegation in 1993. Therefore we view this section of the bill as another 'cleaning up' section because it is giving nurses and the Board authority that we thought we already had. An example of delegation might be a nurse asking a nurses aide to run a urine test on a patient. The nurses aide has no legal scope of practice since they have no license to practice (hence the term unlicensed assistive personnel). The legal source of the authority to do the nursing task, in this case a urine test, is the licensed nurse because that nurse does have a legal scope of practice in Alaska. The nurse transfers or delegates the authority to perform the nursing task to the UAP. Without the ability for nurses to delegate nursing tasks, the unlicensed assistant has no authority to act. Therefore, without this legislation, UAPs who are called patient care technicians at Providence Hospital would have no legal basis to

continue to perform nursing tasks for patients at that hospital. At the municipality of Anchorage health department, UAPS who are called family service aides would not be able to perform nursing tasks delegated by the public health nurses. This bill does not create new health care workers; UAPs by whatever title are already in place throughout the health care system. It does eliminate a grey area of practice for nurses who are already delegating to UAPs as part of their job on a daily basis. For the sake of those nurses, the UAPs they work with and the patients they take care of , we hope you will pass this bill.

Senator Gary Wilken
State Capitol Building
Juneau, Alaska 99801-1182

Dear Senator Wilken,

I am writing in support of SB 283 "An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties."

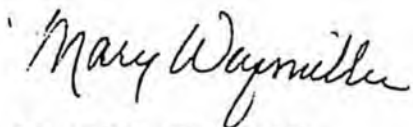
As you know the Board of Nursing is charged with protecting the public by developing reasonable and uniform standards for nursing practice.

SB 283 is a clean-up bill that clarifies several statutes by amendments and additions to AS 08.68.

Each of the statute clarifications listed in this bill will allow a more clear cut and precise description of the law and will allow the Board of Nursing to develop regulations needed to protect the public and offer clear guidelines for nurses and health care workers practicing in Alaska.

Thank you for considering this bill.

Sincerely,



Mary Weymiller, L.P.N.
Board of Nursing
666 11th Ave. #302
Fairbanks, AK. 99701
907-479-4395
907-479-7432 fax

Alaska State Hospital & Nursing Home Association

We're helping people care for people!

February 25, 2002

Senator Gary Wilken
Alaska State Legislature
State Capitol, Room 514
Juneau AK 99801-1182

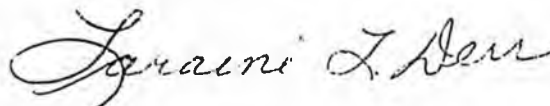
Dear Senator Wilken:

The Senate Health Education and Social Services Committee will be hearing SB 283 on February 27, 2002. As the president of the Alaska State Hospital and Nursing Home Association (ASHNHA), I am writing a letter of support for the Senate Bill No. 276, "An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties."

This bill will put into law what has always been a part of nursing practice. The bill gives licensed nurses the authority to delegate nursing duties to other personnel and give the Board of Nursing authority to set out regulations to outline safe delegation of their duties. Because there is such a severe shortage in the nursing profession, extending the temporary nursing license from 4 to 6 months will allow extra time. Any help in this area will be greatly appreciated.

ASHNHA is an organization of 34 healthcare providers around the state of Alaska. We believe that passage of this legislation will allow for better health care delivery to our citizens.

Sincerely yours,



Laraine L. Derr
President/CEO

426 Main Street, Juneau, Alaska 99801

Phone: 907-586-1790 • Fax: 907-463-3573 • Web: ashnha.com



t/ 907-274-0827
f/ 907-272-0292

2207 East Tudor Rd, Suite 34
Anchorage, AK 99507-1069
www.aknurse.org
aknurse@aknurse.org

February 26, 2002

Honorable Gary Wilken
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Wilken:

We are writing this letter in support of SB 283, "An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties." This bill brings the nursing statutes up to date with current nursing practice in the areas of delegation of nursing duties and the issuance of temporary licenses and licenses by endorsement.

Over the last ten years there has been an increase in the number and type of ancillary unlicensed health care workers that RNs and LPNs are required to delegate nursing duties to and have oversight of the work they perform. The Attorney General's office recently ruled that the existing statutes do not give the Board of Nursing the authority to promulgate regulations covering delegation of nursing duties to persons other than nursing assistants.

It is imperative that RNs and LPNs have regulations from the Board of Nursing covering delegation of nursing tasks. Nurses rarely hire or train the unlicensed personnel they are required to work with, yet their employers require nurses to make sure these persons perform the tasks delegated to them in a safe and accurate manner. Because these individuals are unlicensed, there is no regulatory body overseeing their training and competency. Nurses need the backing of the regulations promulgated by the Board of Nursing so that they can delegate in a manner that maintains the health and safety of their patients.

The sections of SB 283 which deal with temporary nursing licenses would extend the length of license from 4 to 6 months which would allow the Board of Nursing to complete necessary background checks. The section of the Bill dealing with license by endorsement would bring the statute into compliance with current practice of the Board concerning applicants who have not worked as a nurse in the past five years.

The Alaska Nurses Association is in full support of SB 283.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Senner".

Patricia Senner MS, RN, ANP

Alaska School Nurses Association

2207 E Tudor Road, Suite 34
Anchorage, AK 99507-1569

2/25/2002

To Senator Gary Wilken:

Thank you for introducing SB 283. Nursing is a complex and often poorly understood profession; in our efforts to meet the health needs of Alaska, we often encounter difficult and frustrating situations. This bill will help to clarify some of those issues, and give some authority in decision making to those who understand the ramifications of those decisions the best.

The Alaska School Nurses Association supports this bill.

Elizabeth Engle, RN, BSN
President, ASNA



SB

299

SB 299

- This amendment to the workers' compensation act provides for an additional panel of the Workers' Compensation Board for the South Central Venue.

All contested workers' compensation cases that can't be resolved are heard by panels of the Workers' Compensation Board.

The panels consist of a commissioner's designee (a full time hearing officer of the division), an industry seat member (usually someone who is executive of a company) and a labor member (usually an officer of a labor union). The industry members and labor members are volunteers who receive a \$50 per day stipend.

The Department has a sufficient number of hearing officers at this time to increase the number of hearings in the Anchorage venue, but needs additional lay members.

This bill will provide those additional lay members of the Workers' Compensation Board.

Additional hearings need to be scheduled in Anchorage (South Central) to address time lag and backlog of hearing caseload problems.

Currently

- The average time from a request for hearing to the hearing is 137 days
- The hearing caseload has risen approx. 19% per year over the past two years.

The additional panel will allow the Board to schedule approx. 16% more hearing days. This translates into as much as 25% more hearing days in the South Central Venue.

This bill will give the Board some additional tools to address the time lag and hearing caseload problem at a very low cost.

It's a win, win, win:

The Department gets additional resources to address the hearing problems; employees get their hearings sooner; and employers save cost; and employers save money by reducing administrative and legal cost.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 299
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Workers' Compensation Board BRU: Workers' Compensation
 Component: Workers' Compensation
 Sponsor: Senate L&C
 Requester: Senate L&C Component Number: 344

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	5.0	5.0	5.0	5.0	5.0	5.0
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	5.0	5.0	5.0	5.0	5.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1157 Workers Safety Account	5.0	5.0	5.0	5.0	5.0	5.0
Other (Specify Type)						
TOTAL	5.0	5.0	5.0	5.0	5.0	5.0

Estimate of any current year (FY2002) cost: None

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)

This bill provides for an additional panel of the Workers' Compensation Board in the south-central venue. The panel will allow for additional hearings in that venue to reduce the time lag and back log. The increase in the travel line of the budget is required to provide for the \$50.00 a day stipend paid to the individual panel members when they are presiding over board hearings and other board business. The total is derived from two members working an average of approximately four to five days per month.

Prepared by: Paul Grossi, Director Phone: 465-2790
 Division: Workers' Compensation Date/Time: 2/22/02 2:49 PM
 Approved by: Ed Flanagan, Commissioner Date: 02/22/02
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

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 JF

Sponsor Statement

SB 299

"An act relating to the establishment of an Additional southcentral panel to the Alaska Workers' Compensation Board and to appointments to that panel."

SB 299 would amend the Workers' Compensation Act to provide for an additional panel for the Alaska Workers' Compensation Board in the Southcentral venue. This is needed to help provide more hearings in that area of the state, and will address the need to reduce the lag time between when a worker files a claim and obtaining a hearing. It will also relieve a growing caseload.

The Alaska Workers' Compensation Act requires hearings to be conducted by panels of the Workers' Compensation Board. A panel consists of a labor member and an industry member, with a designee of the commissioner of the department of labor and workforce development. The commissioner's designee is an employee of the State of Alaska, while the other two members are lay volunteers who receive a \$50 per day stipend.

The industry seat members of the panels usually work in some management position, while the labor members are usually officers of labor unions. This makes for a very good mix for deciding these types of cases, but panel members also have full time jobs outside of the division, and, as a result, tend to be very busy, with limited time that they can devote to hearings. Consequently, there are only so many hearing that can be conducted with the current complement of panel members.

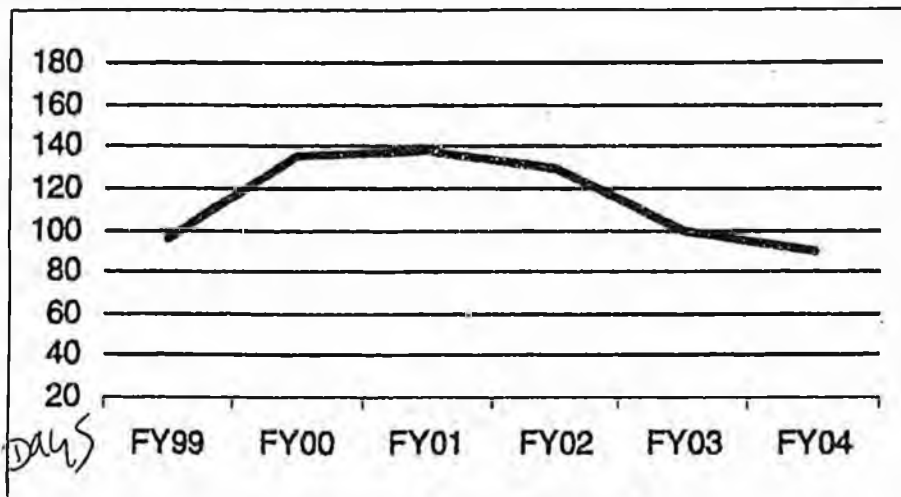
Enactment of SB 299 would provide much needed relief to the Worker's Compensation Board

Key Performance Measures for FY2003

Measure:

The average time taken from a compensation hearing request until the date on which the hearing is scheduled.
Sec 90(b)(1) Ch 90 SLA 2001(HB 250)

Alaska's Target & Progress:



Reduce the time lag between the request and scheduling of a hearing.

FY99 - 95.8 days

FY00 - 135.8 days

FY01 - 137.7 days

FY02 - 130 days (projection)

FY03 - 100 days (projection)

FY04 - 90 days (projection)

The time lag has gotten worse because of two major factors: the hearing case load has been going up; and because of funding reductions, we had fewer hearing officers.

Benchmark Comparisons:

The benchmark for this measurement is 90 days. This is based on AS 23.30.110(c). This subsection of the statute provides for a hearing to be scheduled within 60 days of request if not opposed by a party. If an opposition is filed, as they are in the vast majority of cases, a prehearing must be held within 30 days to set a hearing. If the hearing is scheduled within 60 days from the prehearing, 90 days to set a hearing from the date of request is a reasonable benchmark. The division expects to be able to begin meeting the 90 day benchmark in FY04 if the current level of funding is not reduced.

Background and Strategies:

The increase in the hearing time lag was noted in FY00. There was an elimination of a hearing officer as a result of budget cuts, and at the same time there was a corresponding rise in the overall hearing caseload. The legislature granted an increment in the FY02 budget for an additional hearing officer to address the problem. The hearing officer was hired in September of 2001 and additional hearings are currently being scheduled.

The Department promulgated and the Workers' Compensation Board approved a new regulation that would require hearings to be scheduled within 60 days from prehearings to further define the legislative intent in AS 23.30.110(c). The regulation will have to be approved by the Department of Law and filed by the Lieutenant Governor to become final. The department anticipates that it will be finalized and in place by the end of fiscal year 2002.

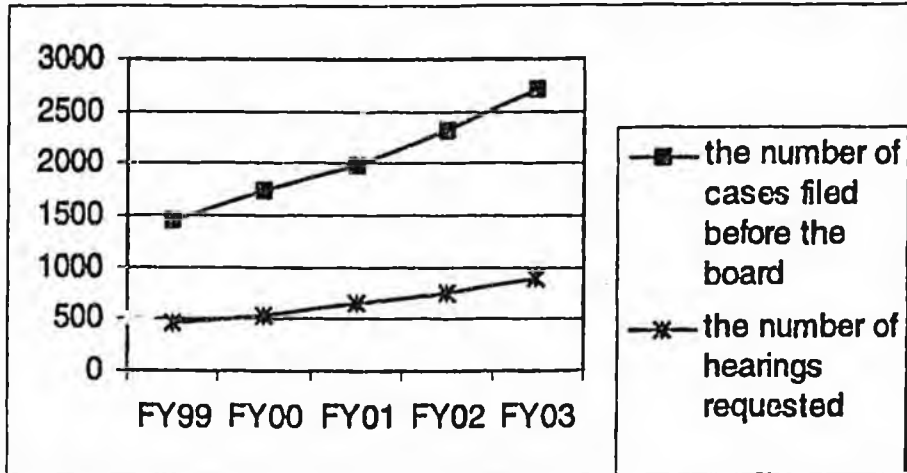
* An additional Workers' Compensation Board panel in the Anchorage venue would expedite the handling of cases to

both reduce the time lag and address the back log. The department will present this situation to the legislature.

Measure:

The number of cases filed before the Workers' Compensation Board compared to the number of requests for hearing.
Sec 90(b)(2) Ch 90 SLA 2001(HB 250)

Alaska's Target & Progress:



Determine the hearing caseload

FY99 - 1446 cases filed - 459 hearings requested

FY00 - 1746 cases filed - 539 hearings requested

FY01 - 1987 cases filed - 651 hearings requested

FY02 - 2324 cases filed - 760 hearings requested (projections based on current trends)

FY03 - 2700 cases filed - 890 hearings requested (projections based on current trends)

Benchmark Comparisons:

There is no benchmark for this measure. This measurement will help determine the hearing caseload to give better understanding to hearing time lag and backlog problems.

Background and Strategies:

This measurement was requested by the house legislative budget subcommittee and will track the increases in both the number of cases filed and the number of hearings. Not all cases filed reach the hearing stage as a number are settled or otherwise resolved prior to the arrival of the hearing date.

SB

309

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 309
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Adverse Possession BRU Community Assist & Econ. Dev. (405)
 Component Community & Business Development
 Sponsor Senator Therriault
 Requester Senate Labor & Commerce 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

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)

This bill has no fiscal impact on the operations of the department.

Prepared by: Pat Poland, Director Phone 907-269-4578
 Division Community & Business Development Date/Time 2/28/02 3:48 PM
 Approved by: Deborah B. Sedwick, Commissioner Date 2/28/2002
 Agency Department of Community & Economic Development

Alaska State Legislature

SENATOR
GENE THERRIAULT

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



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884

Senate District O

Senate Bill 309

"An Act relating to actions to quiet title to, eject a person from, or recover real property or the possession of it, and to acquisition of real property by adverse possession; and providing for an effective date."

SPONSOR: Senator Gene Therriault

SPONSOR STATEMENT:

Adverse possession is the doctrine under which a person—even a squatter acting in bad faith—can take the owner of record's property without compensation by simply possessing it, in an open and hostile way, for a certain period of years. It is a doctrine born in the Middle Ages under circumstances that have little applicability to 21st Century Alaska, and it offends Alaska's abiding respect for private property ownership.

SB 309 would limit the availability of this doctrine to two narrow circumstances where the rule may have some arguable policy justification: (1) where a person has, in good faith, occupied property under color of title for 20 years; and (2) where a property owner occupies property adjacent to his own land under a reasonable, good-faith error over the actual boundaries of his property. In both instances, the adverse possessor would be required to pay the property's legal owner both full market value for the property taken, as well as any consequential damages.

Adverse possession imposes a particularly harsh burden on private landowners in Alaska who, because of the doctrine, are often charged with the impossible task of policing large remote landholdings to assure themselves that no squatter has taken up residence. It is for this reason that, under existing law, a person cannot take land by adverse possession from the State of Alaska or the United States. SB 309 simply accords equal dignity to private land ownership rights.

***SB 309: Legislation to Limit the Circumstances Under Which
A Person May Divest a Landowner of Title to Its Land
Under the Doctrine of Adverse Possession:***

A Rationale and Section-by-Section Analysis

I. Rationale

A. Overview of the Legislation

“Adverse possession” is the doctrine under which a person--even a squatter acting in bad faith--can take another person’s property without compensation by simply possessing it, in an open and hostile way, for a certain period of years. It is a doctrine born in the Middle Ages under circumstances that have little applicability to 21st Century Alaska, and it offends Alaska’s abiding respect for private property ownership.

SB 309 would limit the availability of this doctrine to two narrow circumstances where the rule may have some arguable policy justification: (1) where a person has, in good faith, occupied property under color of title for 20 years; and (2) where a property owner occupies property adjacent to his own land under a reasonable, good-faith error over the actual boundaries of his property.

In both instances, the adverse possessor would be required to pay the property’s legal owner both full market value for the property taken, as well as any consequential damages.

Beyond these two limited circumstances, “adverse possession” is a doctrine inimical to the concept of private property ownership. And it imposes a particularly harsh burden on private landowners in Alaska who, because of the doctrine, are often charged

with the impossible task of policing large remote landholdings to assure themselves that no squatter has taken residence.

That burden is an economic waste, and serves no valid public policy. As a result, beyond the limited circumstances mentioned, the concept of taking another's land by "adverse possession" ought to be abolished in Alaska.

B. The Origins and Purpose of the "Adverse Possession" Doctrine

1. The Doctrine's Original Rationale--Possession was Equated with Ownership

"Adverse possession" is a doctrine that rewards possession of land at the expense of the landowner. Not surprisingly, then, the doctrine has its roots in the feudal concept of "seizin." In the early Middle Ages, "ownership" of land was proven not by title or deed, but rather by actual possession. If a person was forcefully expelled from his property, the trespasser became the land's new "owner," and the dispossessed person could regain "ownership" only by himself resorting to force.^{1/}

Gradually, the dispossessed "owner" was given a legal remedy to regain possession--a remedy which, by virtue of a statute issued under Henry VIII, must be exercised within 60 years of dispossession. Thus was borne the thought that a person could recover his land from an "adverse possessor," but only if he acted within a specific period of time.^{2/}

^{1/} 5 George W. Thompson, *Commentaries on the Modern Law of Real Property* (1979) ("Commentaries") at 573-76.

^{2/} *Commentaries, supra* at 574-76. Actually, "adverse possession" rules can be traced further back, to the Code of Hammurabi, which provided, in part, that:

If a captain or a soldier has neglected his field, his garden and his house, instead of working them; and another takes his field, his garden and his house, and works them for three years; if he returns and desires to till his field, his garden, and his

Remember, though, that in those days possession--or "seizin"--was title. Therefore, by giving the "adverse possessor"--or "disseizor"--the opportunity to bar the person he dispossessed from reclaiming his property after 60 years, feudal courts were, in their minds, doing no injustice to the prior occupant, since that occupant had lost the basis for his claim of "ownership" when he was forceably dispossessed.

2. A New Rationale--Possession was the Best Proof of Ownership

Gradually, English common law came to recognize the concept of conveying and holding land by deed. "Title" became something different from, and superior to, mere "possession." And so the doctrine of "adverse possession" needed a new rationale.

The virtue of "seizin," of course, was that it was obvious who is "seized" of a particular piece of property--the person living on it. "Title," conversely, was the source of considerable dispute, since there then existed no reliable, centralized recording system to resolve conflicting claims of "title." As a result:

In an era of comparatively scarce land, decentralized records and crude surveying techniques, lengthy possession may have been the best possible proof of ownership.

^{3/} Thus, while possession no longer equated with ownership, possession remained the best evidence of "title," and so the doctrine of adverse possession continued to serve some worthwhile purpose. "Ultimately, the 1623 Statute of Limitations required that

house, they shall not be given to him. He that has taken and worked them shall continue to use them.

The Hammurabi Code and the Sinaitic Legislation at 32-33 (Chilperic Edwards ed., 1904).

^{3/} Sprankling, *An Environmental Critique of Adverse Possession*, 79 Cornell Law Rev. 816, 822 ("Critique") (1994).

suits to recover possession of land be brought within twenty years. The Statute recited that this limit was necessary for 'quieting men's estates, and avoiding of suits...'”^{4/}

3. *The New American Purpose--Social Engineering*

In James I's England, if a person owned land, he probably lived on it.^{5/} Even by the 16th century, there was precious little wild land in England that a person might own, but not make productive use of.^{6/}

This was not true in North America, where vast tracts of wilderness might lie in private ownership. Here, the assumption that ownership was reliably proven by physical possession did not hold true:

Transplanted to the abundant, sparsely populated wild lands of North America, however, the assumptions of the [doctrine of adverse possession] ...failed. The terrain was too hostile, the forests too impenetrable and the distances too vast for most owners to reside upon or even to inspect their properties regularly. More importantly, possession of land in the English sense, characterized by residence, cultivation or improvement, was often impractical. The minor acts, greatly separated in time, that characterized land use in wilderness areas were unlikely to afford constructive notice to the owner who did inspect occasionally.

Critique, supra at 823. "Adverse possession," then, needed a new purpose, and found one in our 19th century urge to settle the West. The modern doctrine "developed when much of the continental United States was unsurveyed wilderness," and our courts and legislatures resultantly "adopted a public policy that as much land should be put to use as

^{4/} *Critique, supra* at 823.

^{5/} James I promulgated the 1623 statute just quoted.

^{6/} By 1696, only 16% of England's land were uncultivated forest lands. *Critique, supra* at 822, n. 25.

possible.”⁷¹ Under the new theory of adverse possession, the squatter was to be rewarded for making use of wild land, even at the expense of the person who owned it:

Beginning in the nineteenth century, American courts serving the ideology of economic expansion reformulated adverse possession in the pursuit of national productivity. These courts transformed the doctrine from a mechanism designed to protect the title of the true owner against false claims into a tool designed to transfer title to wild lands from the idle true owner to the industrious adverse possessor.

Critique, supra at 821 (emphasis original).

The American justification for the doctrine also took on something of a Marxist flavor. Vast expanses of public lands were conveyed to large, absentee landlords--principally, the railroads. As pioneers struck west and inadvertently (or otherwise) homesteaded then-or-future railroad land, Western state legislators, and courts, concluded that disputed land should belong to the worker rather than the absentee capitalist:

By 1803 more than ninety percent of the nation consisted of sparsely populated, publicly owned wild lands. The broad federal policy toward these wild lands was to transfer them into private ownership, initially through sale. Because the government had never been able to enforce its theoretical ban against squatting on these lands, sales often resulted in conflicts between new absentee owners holding legal title and actual settlers who had already placed the land in productive use.

Critique, supra at 843. For this reason, the periods necessary to establish title by “adverse possession” tend to shrink as one proceeds westward--from the old 20-year English rule still prevalent in the original colonies, to as little as five years in many western states.

⁷¹ *Seddon v. Harpster*, 403 So. 2nd 409, 413 (Florida 1981).

C. Adverse Possession in 20th Century Alaska--A Doctrine Without a Reason

To this day, some courts, including the Alaska Supreme Court, maintain that the doctrine of adverse possession serves a useful public purpose because "society will benefit from someone's making use of land the owner leaves idle." ^{8/}

One might argue that there is considerable "idle" land in Alaska's *public* domain. However, in Alaska as elsewhere, neither the state nor federal government can be divested of title through adverse possession. AS 09.45.052(a). And Alaska has precious little "idle" private land.

The largest private landowners in Alaska are the Native corporations established under the Alaska Native Claims Settlement Act. Those lands were conveyed both in settlement of Alaska Natives' aboriginal claims, and to meet the "real economic and social needs of Natives." ANCSA, §1. ANCSA lands, then, and every acre of them, serve an important legal, social and economic purpose. They are not, any of them, "idle" in that sense.

Congress, in fact, has recognized that fact, and has accordingly extended ANCSA lands some protection from adverse possession claims as long as they remain undeveloped. 43 U.S.C. §1636(d). But ANCSA corporations often acquire other remote lands for future resource development purposes, as will other private landowners as time goes by. To the extent that these lands are not developed, it is because development now would be an economic waste, and there is no sound public policy that should prevent a private landowner from investing those lands for future generations.

^{8/} *Tenala, Ltd. v. Fowler*, ___ P.2nd ___, Slip Op. 4376 at 16 (August 2, 1996).

The last remaining modern justification for adverse possession is that it "keep[s] stale causes out of court." *Tenala, Ltd. v. Fowler, supra* at 16. But, in fact, it does just the opposite. Adverse possession cases involve untrustworthy testimony about who possessed-what 10 or 20 years ago; conversely, and "considering current methods of record storage on microfiche, computer disks and data tapes," claims based on record ownership will never grow stale. ^{9/}

Similarly, allowing adverse possession claims promotes litigation, while limiting them discourages it. This because:

[b]right line standards generally deter litigation...The record title standard draws an exceedingly bright line: the holder of record title always prevails. In contrast, adverse possession as applied to wild lands is an indeterminate, murky standard under which results can rarely be predicted with certainty.

Critique, supra at 878. The fact of the matter, as Florida's Supreme Court observed, is that "[w]ith modern technology and computerized transactions our society is now more capable of accurately establishing legal interest to property through paper title than through possession." *Seddon v. Harpster*, 493 So.2nd at 414.

Adverse possession serves no useful public purpose in Alaska today, and it disserves others. Apart from its impact on private property ownership generally, and implementation of ANCSA in particular, "[a]dverse possession...erode[s] the effectiveness and utility of both recording and marketable title statutes by creating uncertainty." *Outlaws, supra* at 97.

^{9/} / "Outlaws of the Past: A Western Perspective on Prescription and Adverse Possession," 31 Land and Water Law Review 79, 104 (1996) ("Outlaws").

The doctrine ought to be limited to those few situations where some equity might lie in the adverse possessor's favor, and the enclosed legislation attempts to do just that.

II. SB 309: Section-by-Section Analysis

Section 1. There are two adverse possession statutes in Alaska. The first is AS 09.10.030. This is the squatters' statute. The adverse possessor need not occupy the property under "color of title"--that is, a deed or other conveyance. And the squatter need not even occupy the property in good faith.^{10/} As one commentator puts it, this statute "gives title not only to one who because of good faith error occupies the land of another but also to a person who knowingly sought to appropriate another's land."^{11/}

Under this statute, the squatter must adversely possess the property for 10 years. After that, the statute, which is framed as a statute of limitations, bars the property's owner from bringing any action against the squatter to recover his property.

Section 1 would amend this statute to provide that the owner of record could recover his or her land--by a quiet title or ejectment action--at any time.^{12/} Because of computerized land records, the record owner's claim will never, as a practical matter, grow stale.

Sections 2-3. There are several elements to Sections 2-3:

1. *Retaining adverse possession claims arising under "color of title."* AS 09.45.052 is Alaska's second adverse possession statute, and it deals with adverse possession that is based on "color of title." In other words, the adverse possessor has some deed or other document purporting (but for some reason failing) to convey title to

^{10/} *Hubbard v. Curtiss*, 684 P.2nd 842, 848 (Alaska 1984).

^{11/} 7 Richard R. Powell, *Powell on Real Property*, ¶1012(3) (1993).

the property being possessed. Unlike the statute amended by Section 1, this statute requires good faith on the part of the possessor--in other words, an honest and reasonable belief that the possessor really owns the land. *Ault v. State*, 688 P.2nd 951, 956 (Alaska 1984).

Under subsection (a)(1), Section 2 retains "color of title" as a basis for claiming property by adverse possession, but returns the required period of possession to the common law's original 20 years.

2. *Allowing adverse possession claims to be brought for good faith boundary disputes.* A second specie of adverse possession claims that may retain some public policy justification arises when a property owner, in good faith, occupies property beyond the boundaries of property owned by that person. After 20 years' notorious and adverse possession of that property, the property owner may quiet title to the adjacent property he or she has occupied. Section (a)(2) retains this type of adverse possession claim.

3. *Explicitly requiring a showing of good faith.* Section 2 makes the existing court-imposed requirement of "good faith" explicit in the statute, as Oregon did in 1989.

^{13/}

4. *Requiring the possessor to prove entitlement to the property by "clear and convincing evidence."* Again, this requirement is already imposed by the courts. ^{14/} Section 2 would make that requirement explicit.

^{12/} To the extent that this statute governs other types of real property claims, the 10-year statute of limitations would be retained.

^{13/} ORS 105.620. As our Supreme Court has noted, "in almost all of these jurisdictions, the requirement of good faith was explicitly written into the statutes." *Lott v. Muldoon Road Baptist Church, Inc.*, 466 P.2nd 815, 818, n. 9 (Alaska 1970). The "good faith" requirement will exist whether or not this legislation is enacted; however, it is better practice for the material elements of any claim to be expressed in the statute itself.

5. *Requiring just compensation to the property owner.* It is one thing to allow a person to take the private property of another. It is quite another to allow the adverse possessor to do so without paying the owner, and none of the modern justifications for the doctrine of adverse possession explain the squatter's current ability to deprive property owners of land *without compensation*.

Section 3 requires the successful adverse possessor, as a condition of receiving title to the property, to: (1) pay for an appraisal of the property; (2) pay the record owner the appraised value of the property taken; and (3) pay any other damages that the owner may have suffered as a result of the adverse possession and loss of the property (including the rental value of the property during the period of adverse possession), as a condition of quieting title in the possessor's favor. If the adverse possessor fails to promptly do so, title will be quieted in the owner's favor.

Section 4. This section makes the new legislation applicable to any adverse possession claim that has not "vested" by the effective date of the legislation. Adverse possession claims "vest" when the adverse possessor has met the statutory requirements for the requisite number of years--under current Alaska law, 10 years (or seven years for claims under color of title).^{14/} Serious constitutional questions would arise if the legislation purported to extinguish already-vested adverse possession claims; conversely, there would appear to be no constitutional difficulty in affecting unvested claims, since an

^{14/} *Curran v. Mount*, 657 P.2nd 389, 391 (Alaska 1982).

^{15/} *Markovich v. Chambers*, 857 P.2nd 906, 908 (Or. App. 1993).

adverse possessor has no protected right in the mere expectation that, eventually, he or she may possess the land for a sufficient period of time. ^{16/}

Section 5. Section 5 gives an immediate effective date to the legislation.

^{16/} / See *Lovell v. Magnet Cove School District No. 8*, 782 S.W.2nd 41, 42 (Ark. 1990) (change in Arkansas adverse possession statutes applicable to unvested adverse possession claims).



Doyon, Limited

1 Doyon Place, Suite 300
Fairbanks, Alaska 99701-2941
(907) 459-2000
info@doyon.com

April 3, 2002

The Honorable Ben Stevens
Alaska State Senate
Alaska State Capitol, Room 119
Juneau, Alaska 99801-1182

SUBJECT: SB 309 (Adverse Possession)

Dear Senator Stevens:

Doyon, Limited supports SB 309, which would terminate the current right of squatters to take private property without compensation and limit the continued use of the outdated doctrine of "adverse possession" to two limited circumstances.

Alaska landowners, and in particular Alaska's ANCSA corporation, must currently bear the substantial burden of continually policing their remote lands in order to detect and chase off squatters. Under current law, even if those squatters are there in bad faith—that is, for the sole purpose of trespassing long enough to gain "squatters' rights"—our courts will still reward that conduct by taking the property away from its owner, and giving it instead to the trespasser. Whatever theory might have originally motivated this odd doctrine, the doctrine makes a mockery of Alaska's supposed respect for private property right, and it ought to be abolished—except in the very limited circumstances recognized in SB 309.

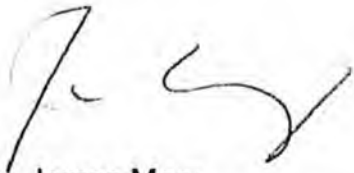
The legislature has already exempted state land from being taken by "adverse possession," because the doctrine poses too great a burden on the state as

landowner. It is ironic that a legislature ostensibly devoted to protecting the private sector from overbearing government would find state land more deserving of protection than private land.

SB 309 is currently in the Senate labor and commerce committee, and Doyon, Limited respectfully urges your office, and that of each committee member, to expedite movement of SB 309 so that private landowners in Alaska can realize the protections afforded by the bill beginning this year.

Thank you in advance for the consideration that I know you will give to our concerns.

Sincerely,



James Mery
Senior Vice President
Lands and Natural Resources

CC: Governor Tony Knowles
Senate Labor and Commerce Committee Members
Senator Austerman
Senator Leman
Senator Torgenson
Senator Davis