

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 STA 12766

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### Gov. Owens signs House Bill for Lacy's Law

19 Mar 2004

#### OWENS SIGNS BILL TO TOUGHEN PENALTIES FOR IMPERSONATING A POLICE OFFICER

(DENVER) – Gov. Bill Owens today signed House Bill 1304 to increase the penalties for impersonating a police officer.

"In our society, the only sure barrier between our citizens and the chaos of lawlessness is a blue line of police officers," said Owens. "The ability of each law enforcement officer to protect us depends on trust. Today, Colorado takes an important step to restore the trust that every citizen must have in law enforcement."

The legislation comes in the wake of the abduction and murder of Lacy Miller, a twenty-year-old student from Fort Collins, this past January. Miller was abducted when she was pulled over by a man impersonating a police officer.

Wendy Cohen, Lacy Miller's mother, joined the Gov. Owens at the bill signing. Since the death of her daughter, Cohen has been a diligent advocate for tougher penalties for anyone who impersonates a police officer.

"I'm honored to stand alongside Wendy Cohen," said Owens. "Her determination has helped make Colorado a safer place."

House Bill 1304 was sponsored by Rep. Bob McCluskey and Sen. Steve Johnson.

Under House Bill 1304, a judge may sentence the perpetrator to 18 months in jail and up to a \$5,000 fine.

4444



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## Police Impersonators

10 Jul 2007

From GMA

July 10, 2007

Police are still searching for a Massachusetts man who posed as an undercover state trooper and sexually assaulted a female driver this weekend in Boston.

The nature of the crime is particularly chilling: transforming the trusted image of a police officer into someone to be feared at all costs. With fake police badges, uniforms, official looking caps and other gear readily available, potential victims may not have any clue that the police officer before them is a fake.

Since February, ABC News has uncovered at least 13 incidents of people impersonating police officers across the country. The cases ranged from displaying a fake badge to sexual assault.

Wendy Cohen's daughter Lacy was abducted and murdered in Fort Collins, Colo., by a police impostor who had pulled her over.

When it comes to new ways of posing as police officers, she sees on the rise. "I'd rather take the ticket for evading the police and pay the fine than be kidnapped, raped or killed," Cohen said.

Cohen said the more aware people were of the different types of crimes, the safer they would be.

"The prison that is going to do this type of crime is going to look for the opportunity," said Mary Ann Varetta, the former president of the International Association of Chiefs of Police.

A wide range of authentic looking police gear can be found for sale on the Internet.

"Many of the auction sites allow the sale of police identifiers and as long as there's a profit, somebody's willing to sell it," said Chuck Canterbury, the national president of the National Order of Police.

A simple Internet search revealed that ABC News retrieved pages displaying that looking to sell representing nearly every state, city and law enforcement division.

"Obviously we push for legislation that stops the sale of any police identifiers," Canterbury said.

The legislation hopes to eventually decrease the number of tragic cases like Lacy's.

In 2004, Cohen helped to pass Lacy's Law, legislation that makes impersonating a police officer a felony in Colorado. Cohen also created a web site in honor of her daughter to raise awareness and prompt other states to enact similar laws. For more information, visit [www.2hearts4lacy.org](http://www.2hearts4lacy.org).

Good Morning America 4444



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## "Lacy's Law" Targets Police Impersonators

15 Apr 2003

Wendy Cohen circulates petition to toughen penalties

By Sarah Langbein  
SarahLangbein@coloradoan.com

Wendy Cohen is getting a jump-start on Colorado's next legislative session by asking everyone she knows to circulate a petition

Her campaign to enact a "Lacy Law" would change the laws of police impersonation in Colorado

Police believe Cohen's daughter, Lacy Miller, was murdered in January by a Fort Collins man posing as a police officer. Police believe that Jason Peder Clausen lured Miller from her car with flashing police-type lights that he had installed in her sport utility vehicle

Clausen was sentenced April 3 to life in prison for brutally killing Miller

"Let's learn from what happened to Lacy Miller," the petition reads. "Let's take away tools from would-be law enforcement impersonators and keep our loved ones safe."

The petition proposes that anyone possessing police-style lights, who does not work in law enforcement, would be charged at minimum with a class 1 misdemeanor. The lights would be confiscated on the spot by authorities. In addition, anyone possessing or using any other police paraphernalia, such as badges or car emblems, would be charged with a class 2 misdemeanor. Those items also would be taken away.

"I just wanted to be prepared if I ever get a voice," Cohen said. "I just want to get their attention. I think by doing this I will get their attention."

Cohen is in the process of setting up a mailbox outside of her home, 2915 Brumbaugh Drive, where people can pick up and drop off petitions. She said people can stop by her home until then to get copies of the petition.

"Hopefully, it will get out the message to people who do have lights in their cars," she said. "I want to have every 18-year-old and older in Colorado sign one. I want to be able to bring them stacks of petitions."

Cohen also has been invited by Gov. Bill Owens to attend the signing of House Bill 1304.

State Rep. Bob McCluskey, R-Fort Collins, introduced House Bill 1304 that looks to increase the penalty of impersonating a peace officer from a class 2 misdemeanor, punishable by up to a year in prison and a fine up to \$1,000, to a class 1 misdemeanor. The crime's punishment would be up to 18 months in jail and a fine up to \$5,000.

It has passed both houses of the General Assembly and awaits the governor's signature.

"It would be my honor if you would consider joining me at the signing ceremony," Owens wrote to Cohen. "Again, thanks for bringing this matter to my attention, and for dedicating your time and energy to the task of ensuring that this crime against Lacy does not strike other innocent victims."

Dan Hopkins, spokesman for Owens, said the governor has not yet received the bill, and the date of the

signing has not been determined

"I will be there with bells on," Cohen said

Sarah Langbein 4444

**Rough Cost Estimate**

This is the text of an e-mail sent to Cindy Smith from Bernadette Blankenship, Retirement and Benefits:

"We were able to get the information from our actuary as far as the cost for Tier II & III peace officers/firefighters to use military time for eligibility for the health insurance. The cost would be .026% of the payroll. The last valuation indicates the total salary for this group is \$182,848,000 X .026 = \$475,400 (total cost)."

Sec. 39.35.680. Definitions

**Peace Officer/Fire Fighter**

(29) "peace officer" or "fire fighter" means an employee occupying a position as a peace officer, chief of police, regional public safety officer, correctional officer, correctional superintendent, fire fighter, fire chief, or probation officer, but does not include a village public safety officer employed by a village public safety officer program established under AS 18.65.670 ;

**Public Safety Employees Association, Inc.**  
***"Representing Alaska's Finest"***

**Position Paper**  
**Supporting HB 286**

HB 286 increases the penalties for a person who impersonates a peace officer. We must be conscience of every effort to protect the environment and the enforcement persona of those who work to enforce the law and protect persons from those who seek to break the law. One who impersonates a peace officer infiltrates the confidence a law abiding citizen has in our system of law enforcement.

Alaska's citizens must be assured that those who wear the uniform of a peace officer or drive a police vehicle are who they appear to be. Anyone who seeks to impersonate a police officer for whatever reason not only confuse, anger and abuse the public, they place law abiding citizens at risk. If and when a law abiding citizen honors a police vehicle's strobes by pulling over, that individual doesn't need to question whether the person wearing a peace officer's uniform is who they appear to be

An effort to discourage or curtail impersonation is good public policy. The members of the Public Safety Employees Association commend Representatives Dahlstrom, Lynn and Gatto for introducing HB 286 and recommend it passage.



# Municipality of Anchorage



4501 Bragier Street • Anchorage, Alaska 99503 • Telephone (907) 746-4600 • <http://www.muni.org>

Mayor Mark Begich

Anchorage Police Department

January 31, 2008

Representative Nancy Dahlstrom  
House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Dahlstrom:

On behalf of the law enforcement professionals at the Anchorage Police Department, I want you to know of my support for HB286, an act relating to impersonating a public servant.

As you know, preservation of the public trust is basic to the credible enforcement of state statutes. That said, the appropriate drafting and resourcing of appropriate legislation, and the establishment of a credible expectation of consequences for the intentional crossing of this trust by those inclined to victimize the public, is proper.

I'd like to thank the sponsors for their continued efforts on behalf of public safety.

Rob Heun  
Chief of Police  
Anchorage Police Department

*Community, Security, Prosperity*

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Joseph Young  
Anchorage

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Natalie White, Member  
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Unalaska  
Pres. Aleutian Islands Chapter

Kelly Shover, Member  
Wrangell  
Pres. Wrangell Chapter

Scott McCumby, Member  
Valdez  
Pres. Port of Valdez Chapter

January 24, 2008

Representative Nancy Dahlstrom  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Dear Representative Dahlstrom:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 286, an act relating to impersonating a public servant.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Angella Long  
State President

February 22, 2008

Shirley A. Gifford  
P.O. Box 1696  
Soldotna, Alaska 99669  
(907) 260-5605  
[sgifford@alaska.net](mailto:sgifford@alaska.net)

The Honorable Nancy Dahlstrom  
Representative for the State of Alaska  
c/o [Jennifer Baxter@legis.state.ak.us](mailto:Jennifer_Baxter@legis.state.ak.us)

Dear Representative Dahlstrom,

I had been a peace officer in the State of Alaska for 27 years. I retired from the Anchorage Police Department as captain of detectives and again from the Soldotna Police Department as chief of police. I remain involved as a lifetime member of the Alaska Peace Officers Association, the Women Police of Alaska and the International Association of Women Police.

Many times throughout my career I had advised citizens that if they feel uncomfortable about the circumstances of a traffic stop they should follow their instincts. I have advised them that upon being directed in some way to stop their car by a person they feel suspicious, either verbally, by motions, or by lights on top of the car it is legal and right that they drive to the police department, trooper detachment or another well-lit and traveled location.

It is a horrible situation for everyone when a person is violated by someone impersonating a peace officer. Peace officers are the very people our citizens should be able to trust above all others, wherever they may be at the time. When that trust is violated by someone posing as an officer it affects the feeling of safety and security for all people. I have also advised that it is reasonable to ask for identification even if a peace officer is in uniform. It is unfortunate our citizens must be this careful but there are those who will go to great lengths to prey on the innocent.

I have had the opportunity to read a bill you are sponsoring – HB 286, Impersonating a Public Servant. I was very pleased to see that you have separated a peace officer from the definition of a public servant and attached a more severe penalty. I agree with your intention to make impersonating a peace officer a class C felony rather than the current class B felony. Thank you very much for your initiative and support of the integrity of peace officers around the state, and your support especially for our citizens who count on us to provide protection.

Sincerely,

Shirley A. Gifford

**HB**

**296**

# Alaska State Legislature

**Chairman**

State Affairs Committee

**Vice-Chairman**

Economic Development, Trade & Tourism  
Committee

**Member**

Judiciary Committee  
Joint Armed Services Committee

**Finance Subcommittees**

Corrections  
Labor and Workforce Development  
Military and Veterans' Affairs  
Public Safety



*A Communication From*

**REPRESENTATIVE BOB LYNN**  
**District 31 Anchorage**

**E-Mail:** [Representative\\_Bob\\_Lynn@legis.state.ak.us](mailto:Representative_Bob_Lynn@legis.state.ak.us)  
**"Bob Lynn's Alaska Blog"** [RepBobLynnBlog.com](http://RepBobLynnBlog.com)

**Session:**

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**Interim:**

716 W. 4<sup>th</sup> Ave., #650  
Anchorage, AK 99501-2133

Phone: (907) 269-0205

Fax: (907) 269-0207

## HB 296

### Sponsor Statement

HB 296 extends the termination date of the Board of Parole until June 30, 2016.

The Board of Parole serves as the parole authority for the State. As such, the board fulfills the Alaska Constitution requirement that the State establish a parole system. The board's primary responsibilities include determining a prisoner's suitability for discretionary parole and setting conditions for individuals receiving parole. Another major responsibility of the board is the holding of parole revocation hearings.

The Division of Legislative Audit recently concluded that there was a demonstrated need for the Board of Parole and that the terminated date be extended until June 30, 2016. That date was chosen for two reasons: it was recommended in the audit report and it is the same amount of time from the previous term.

Your support of HB 296 is respectfully requested.

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 296  
 () Publish Date: \_\_\_\_\_

Identifier (file name): \_\_\_\_\_ Dept. Affected: Corrections  
 Title HB 296 Extending Board of Parole RDU Population Management  
 Component Parole Board  
 Sponsor Representative Lynn  
 Requester House Finance Committee Component Number 695

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

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

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>OPERATING EXPENDITURES</b>							
Personal Services		658.3	658.3	658.3	658.3	658.3	658.3
Travel		41.7	41.7	41.7	41.7	41.7	41.7
Contractual		44.6	44.6	44.6	44.6	44.6	44.6
Supplies		24.5	24.5	24.5	24.5	24.5	24.5
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>

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

1002 Federal Receipts							
1003 GF Match							
1004 GF		769.1	769.1	769.1	769.1	769.1	769.1
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>	<b>769.1</b>

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time		5.00	5.00	5.00	5.00	5.00	5.00
Part-time							
Temporary							

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

HB 296 extends the Board of Parole to June 30, 2016. There is funding in the Governor's FY 09 Proposed Operating Budget for the Board of Parole and no additional funds will be required due to the passage of this legislation.

Prepared by: Rep. Meyer  
 Division: House Finance Committee  
 Approved by: Rep. Meyer  
House Finance Committee

Phone 465-4945  
 Date/Time 1/30/08 1:23 PM  
 Date 1/30/2008

# **House Bill 296**

## **Extending Board of Parole**

### **Background Information**

Parole Board Hearing Schedule, 2008

Full/Half Day Hearing Days by Location, 2007

Full/Half Day Hearing Days by Board Member, 2007

Board of Parole Statistical Report, 1996-2007

Sunset Audit by Div. of Legislative Audit, 08/28/07

# PAROLE BOARD HEARING SCHEDULE

## January --- December 2008

**NOTE: AMCC, KCC, WWCC, YKCC contact Board for scheduling of discretionary parole applicants**

January 7 - 11	ACCW / ACCE / Anch PO / Furlough/EM Telephonics	<i>packets due in Board office by 12/21/07</i>
February 4 - 8	ACCW / ACCE / Anch PO PCC/Palmer HMCC/ MatSu / Pt MAC Administrative	<i>packets due in Board office by 1/18/08</i>
March 10 - 14	ACCW / ACCE / Anch PO FCC/Fairbanks	<i>packets due in Board office by 2/22/08</i>
March 26 - 27 (a.m.)	<i>telephonics - only if necessary</i>	<i>packets due in Board office by 3/12/08</i>
April 7 - 11	CCA - ARIZONA (Red Rock Correctional Center)	<i>packets due in Board office by 3/21/08</i>
<i>(April 14-18 – Statewide PO training in Anchorage)</i>		
May 5 - 9	ACCW / ACCE / Anch PO / Furlough/EM Telephonics SCCC (Seward)	<i>packets due in Board office by 4/18/08</i>
June 2-8	ACCW / ACCE / Anch PO HMCC/ MatSu / Pt MAC	<i>packets due in Board office by 5/16/08</i>
June 18 –19	LCCC/Juneau / Telephonics	<i>packets due in Board office by 6/4/08</i>
July 16	PUBLIC ADMINISTRATIVE MEETING	
July 28 – August 1	ACCW / ACCE / Anch PO PCC/Palmer Telephonics	<i>packets due in Board office by 7/11/08</i>
September 15-19	ACCW / ACCE / Anch PO / Furlough/EM HMCC/ MatSu /Pt MAC FCC/Fairbanks	<i>packets due in Board office by 8/29/08</i>
September 24 – 25 (a.m.)	<i>telephonics - only if necessary</i>	<i>packets due in Board office by 9/10/08</i>
October 6 – 10	ACCW / ACCE / Anch PO SCCC (Seward) Telephonics	<i>packets due in Board office by 9/19/08</i>  <i>(be aware of PD staff training scheduled annually in October)</i>
November 3 – 7	CCA - ARIZONA	<i>packets due in Board office by 10/17/08</i>
November 24 - 26	ACCW / ACCE / Anch PO Telephonics Administrative	<i>packets due in Board office by 11/7/08</i>
December 8 – 12	ACCW / ACCE / Anch PO / Furlough/EM PCC/Palmer LCCC/Juneau	<i>packets due in Board office by 11/21/08</i>

**NOTE: Some days of telephonic hearings will be added throughout the calendar year.**

**NOTE: All dates subject to potential change as circumstances require.**

2007 PB full-half hearings days by location

	A	B	C	D
1	HEARING DATES	DAY OF WEEK	FULL/HALF HEARING DAYS	LOCATION
2	01/08/07	Monday	Full	ACCW/APO
3	01/09/07	Tuesday	Full	ACCW/APO
4	01/10/07	Wednesday	Full	ACCW/APO
5	01/11/07	Thursday	Half	APO
6	02/12/07	Monday	Full	ACCW/APO
7	02/13/07	Tuesday	Full	ACCW/APO
8	02/14/07	Wednesday	Half hearings and half Board admin. meeting	APO; half Board Admin Meeting
9	02/15/07	Thursday	Full	MSPT/PCC
10	02/16/07	Friday	Half	HMCC
11	03/12/07	Monday	Full	ACCW/APO
12	03/13/07	Tuesday	Full	ACCW/APO
13	03/14/07	Wednesday	Half hearings and half travel	HMCC; half travel to FBKS
14	03/15/07	Thursday	Full	FCC
15	03/16/07	Friday	Half hearings and half travel	FCC; half return to ANC
16	03/21/07	Wednesday	Half	LCCC; Stark in Juneau/rest of Board in ANC
17	03/28/07	Wednesday	Half	LCCC; Stark in Juneau/rest of Board in ANC
18	04/08/07	Sunday	travel day	travel to Arizona
19	04/09/07	Monday	Full	Arizona
20	04/10/07	Tuesday	Full	Arizona
21	04/11/07	Wednesday	Full	Arizona
22	04/12/07	Thursday	Full	Arizona
23	04/13/07	Friday	Half hearings and half Board admin. meeting	Arizona; half day Board admin meeting
24	04/14/07	Saturday	travel day	return to Alaska
25	04/30/07	Monday	Full	APO
26	05/01/07	Tuesday	Half hearings and half travel	SCCC; half travel to Seward
27	05/02/07	Wednesday	Half hearings and half travel	SCCC; half travel to ANC
28	05/03/07	Thursday	Full	ACCW/APO
29	05/04/07	Friday	Half	ACCW
30	05/16/07	Wednesday	Half	LCCC; Stark in Juneau/rest of Board in ANC
31	05/17/07	Thursday	Half	LCCC; Stark in Juneau/rest of Board in ANC
32	06/18/07	Monday	Full	ACCW/APO
33	06/19/07	Tuesday	Full	ACCW/APO
34	06/20/07	Wednesday	Full	ACCW/APO
35	06/21/07	Thursday	Full	HMCC
36	06/22/07	Friday	Full	APO
37	07/30/07	Monday	Full	ACCW/APO
38	07/31/07	Tuesday	Full	ACCW/APO
39	08/01/07	Wednesday	Full	ACCW/APO

2007 PB full-half hearings days by location

	A	B	C	D
40	08/02/07	Thursday	Full	HMCC/PCC
41	08/03/07	Friday	Half hearings and half travel	Board office; half day Board admin meeting
42	09/10/07	Monday	Full	ACCW/APO
43	09/11/07	Tuesday	Full	HMCC/APO
44	09/12/07	Wednesday	Half hearings and half travel	ACCW; half travel to FBKS
45	09/13/07	Thursday	Full	FCC
46	09/14/07	Friday	Half hearings and half travel	FCC; half return to ANC
47	10/07/07	Sunday	Half travel day	travel to Seward
48	10/08/07	Monday	Full	SCCC
49	10/09/07	Tuesday	Half hearings and half travel	SCCC; half return to ANC
50	10/10/07	Wednesday	Full	ACCW/APO
51	10/11/07	Thursday	Full	Board office/APO
52	10/12/07	Friday	Full	ACCW/APO
53	11/05/07	Monday	travel day	travel to Arizona
54	11/06/07	Tuesday	Full	Arizona
55	11/07/07	Wednesday	Full	Arizona
56	11/08/07	Thursday	travel day	return to Alaska
57	11/26/07	Monday	Full	ACCW/APO
58	11/26/07	Tuesday	Full	Board office/APO
59	11/28/07	Wednesday	Full	Board office/APO
60	12/10/07	Monday	Full	ACCW/Board office
61	12/11/07	Tuesday	Full	ACCW/APO
62	12/12/07	Wednesday	Full	PCC
63	12/13/07	Thursday	Full	Board office/APO
64	12/14/07	Friday	Half hearings and half travel	travel to Juneau; half day LCCC; return to ANC (1 day trip)
65				
66			Full hearing days - 40	63%
67			Half hearing days - 6	10%
68			Half hearings/half travel days - 10	16%
69			Travel days - 4	6%
70			Half travel days - 1	2%
71			Half hearings/half board admin. meeting days - 2	3%
72			<b>TOTAL 63 DAYS</b>	<b>100%</b>
73				
74			<b>NOTE: Most half days compute out to a full day for some board members who must travel from their residences for hearings</b>	<b>NOTE: Some board members elect to travel the morning of hearings to save hotel and a half day of compensation on the day prior to the week of hearings</b>

Preliminary Hearings 2007

**Alaska Board of Parole  
Preliminary Parole Hearing by Board Member, 2007**

<b>CHARLES MOSES, Anchorage area</b>	<b># of hearings</b>	<b>Full prelim hearing days</b>	<b>Half prelim hearing days</b>	<b>EDWARD RAIS, Anchorage area</b>	<b># of hearings</b>	<b>Full prelim hearing days</b>	<b>Half prelim hearing days</b>	<b>MICHAEL NEWMAN Wasilla/Palmer area</b>	<b># of hearings</b>	<b>Full Prelim Hearing days</b>	<b>Half Prelim Hearing days</b>
January	21	0	4	January	5	1	1	January	3	0	3
February	17	2	1	February	11	3	0	February	1	0	1
March	9	1	1	March	18	4	1	March	1	0	1
April	16	1	2	April	15	2	1	April	0	0	0
May	24	3	1	May	3	1	0	May	2	0	2
June	6	1		June	16	3	0	June	1	0	1
July	18	3		July	15	3	1	July	2	0	2
August	12	1	2	August	17	4	0	August	5	0	4
September	18	3		September	9	2	0	September	0	0	0
October	15	2	1	October	7	2	1	October	0	0	0
November	5	1	1	November	28	4	0	November	1	0	1
December	13	2		December	18	3	0	December	2	0	2
<b>TOTAL</b>	<b>174</b>	<b>20</b>	<b>13</b>	<b>TOTAL</b>	<b>162</b>	<b>32</b>	<b>5</b>	<b>TOTAL</b>	<b>18</b>	<b>0</b>	<b>17</b>

<b>MICHAEL STARK, Juneau &amp; all other outlying areas</b>	<b># of hearings</b>	<b>Full prelim hearing days</b>	<b>Half prelim hearing days</b>	<b>LINDA SMITH, Fairbanks/Kenai area</b>	<b># of hearings</b>	<b>Full prelim hearing days</b>	<b>Half prelim hearing days</b>
January	8	0	5	January	8	1	2
February	11	0	4	February	9	1	2
March	12	0	5	March	5	1	2
April	14	0	6	April	8	1	2
May	13	0	8	May	5	0	3
June	10	0	5	June	8	1	2
July	6	0	4	July	12	1	3
August	14	0	5	August	7	1	2
September	9	0	4	September	4	0	2
October	12	0	7	October	8	2	0
November	6	0	2	November	8	0	3
December	10	0	5	December	4	0	1
<b>TOTAL</b>	<b>125</b>	<b>0</b>	<b>60</b>	<b>TOTAL</b>	<b>86</b>	<b>9</b>	<b>24</b>

<b>Total of 5 members</b>	<b>565</b>	<b>61</b>	<b>119</b>
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# ALASKA BOARD OF PAROLE

## STATISTICAL REPORT 1996 - 2007

[NOTE: All percentages are rounded to the nearest whole percentage point.]

[NOTE: Statistics are calculated on calendar year basis.]

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Total Full Board Hearings Held	538	562	655	590	595	570	543	582	488	492	435	497
Specials Hearings (see Specials section)	156	196	274	274	320	293	304	289	354	418	370	271
MR Conditions Set	-	425	648	633	540	598	722	744	643	646	605	791 (939 total with initial)
Preliminary Hearings Held	-	298 <i>[72% increase from 1997 to 2000]</i>	367	430	513	489	541	510	487	479	532	562
Parole Arrest Warrants Issued Statewide <i>( represents # warrants issued only - does not reflect actual arrests )</i>	-	491	515	551	669	633	616	600	591	600	618	600
Arrest Warrants	Year 2002 by Region:	Southeast- 63;		Northern- 132;		Southcentral- 421						
Arrest Warrants	Year 2003 by Region:	Southeast- 66;		Northern- 128;		Southcentral- 406						
Arrest Warrants	Year 2004 by Region:	Southeast- 61;		Northern- 161;		Southcentral- 369						
Arrest Warrants	Year 2005 by Region:	Southeast- 63;		Northern- 117;		Southcentral- 420						
Arrest Warrants	Year 2006 by Region:	Southeast- 44;		Northern- 98;		Southcentral- 478						
Arrest Warrants	Year 2007 by Region:	Southeast- 74;		Northern- 48;		Southcentral- 478						

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
<u>Full Board Hearings Held by Quarter</u>												
Winter	129	135	160	170	142	138	173	164	118	146	124	120
Spring	141	141	158	124	147	153	108	117	90	123	106	145
Summer	132	139	188	152	186	120	91	159	184	96	98	97
Fall	<u>134</u>	<u>147</u>	<u>148</u>	<u>144</u>	<u>120</u>	<u>159</u>	<u>171</u>	<u>142</u>	<u>96</u>	<u>127</u>	<u>107</u>	<u>135</u>
	538	562	655	590	595	570	543	582	488	492	435	497

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
<b>Total Full Board Hearings Held Each Year</b>	<b>526</b>	<b>552</b>	<b>656</b>	<b>680</b>	<b>695</b>	<b>670</b>	<b>643</b>	<b>582</b>	<b>488</b>	<b>492</b>	<b>435</b>	<b>497</b>
% of Full Board Hearings that are Initial Discretionary	37%	41%	36%	32%	27%	27%	28%	28%	30% (148)	28% (122)	24% (104)	28% (140)
% of Full Board Hearings that are Revocations	51%	43%	48%	55%	63%	66%	69%	64%	63% (309)	67% (328)	70% (305)	67% (334)
% of Full Board Hearings that are Rescissions	3%	2%	4%	5%	4%	3%	2%	3%	3% (12)	4% (19)	3% (15)	4% (20)
% of Full Board Hearings that are Reviews	6%	7%	4%	6%	6%	4%	6%	5%	4% (21)	4% (23)	3% (11)	1% (3)

<b>Hearing Types</b>	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
# of All Full Board Hearings that are Initial Discretionary	198	228	238	186	181	154	145	165	148	122	104	140
% of All Full Board Hearings that are Initial Discretionary	37%	41%	36%	32%	27%	27%	27%	28%	30%	28%	24%	28%
# of All Full Board Hearings that are Reviews	29	39	28	37	35	22	33	28	21	23	11	3
% of All Full Board Hearings that are Reviews	6%	7%	4%	6%	6%	4%	6%	5%	4%	4%	3%	1%
# of All Full Board Hearings that are Rescissions (all types)	15	13	29	30	21	18	9	14	12	19	15	20
% of All Full Board Hearings that are Rescissions	3%	2%	4%	5%	4%	3%	2%	2%	2%	4%	3%	4%

(For information on Revocations, see next page)

### Discretionary Parole Hearing Decisions

# of Initial Discretionary Hearings with Grant decision	80	79	121	95	66	61	57	60	50	44	30	57
% of All Initial Discretionary Hearings	40%	35%	51%	51%	41%	40%	39%	36%	35%	36%	30%	40%
# of Initial Discretionary Hrgs with "Continue" Decision	41	30	31	32	34	23	29	27	21	14	14	19
% of All Initial Discretionary Hearings	21%	13%	22%	17%	21%	15%	20%	17%	14%	11%	14%	14%
# of Initial Discretionary Hrgs with "Deny" Decision				59	61	70	59	78	75	64	57	64
% of All Initial Discretionary Hearings				32%	36%	45%	41%	47%	51%	53%	50%	46%

### "Continue" Decisions for All Full Board Hearings

# of "Continue" Decisions (of All Full Board Hearings)	81	68	86	85	95	75	79	68	68	49	51	44
% of All Full Board Hearings with "Continue" Decision	15%	12%	13%	14%	16%	13%	15%	17%	14%	10%	12%	8%

**NOTE:** See next page for statistics on all Revocation hearings.]

# REVOCATION STATISTICS

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
<b>Total Full Board <u>Revocation</u> Hearings Held (Disc. &amp; MR)</b>	272	243	322	336	376	416	367	374	342	366	331	361
	<i>(38% increase from 1996 to 2000)</i>											

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
<b># of <u>Discretionary Revocation</u> Hearings</b>	28	29	18	28	29	38	26	34	30	34	15	20
<b>% <u>Discretionary Revocation</u> Hrsg of all <u>Revocation Hrsg</u> held</b>	10%	12%	6%	8%	8%	9%	8%	9%	9%	10%	5%	6%
<b># of <u>Mandatory Revocation</u> Hearings (includes recalls &amp; reviews)</b>	246	214	304	307	347	377	369	380	312	321	316	331
<b>% of <u>Mandatory Revocation</u> Hrsg of all <u>Revocation Hrsg</u> held</b>	90%	88%	94%	92%	92%	91%	94%	92%	91%	90%	95%	94%

**Subjects/Types of Mandatory Revocations Hearings:** *(does not include Review hearings)*

<b># of MR Revocations &amp; all Rescissions</b>	238 (78%)	282 (81%)	318 (81%)	261 (77%)	281 (79%)	248 (85%)	252 (73%)	229 (72%)	296 (85%)		
<b># of MR <u>Reparole</u> Revocation Hearings</b>	31 (10%)	28 (8%)	33 (8%)	36 (11%)	55 (16%)	31 (11%)	52 (15%)	62 (19%)	32 (9%)		
<b># of <u>Anticipatory MR</u> Revocations</b>	38 (12%)	37 (11%)	42 (11%)	39 (11%)	14 (4%)	12 (4%)	15 (4%)	7 (2%)	4 (0%)		
<b><u>Discretionary Reparole</u> Revocation</b>				1	0	3 (1%)	4 (1%)	0 (0%)	9 (3%)	7 (2%)	8 (2%)
<b><u>Discretionary Revocation</u> (statistics not maintained until 2005)</b>					-	-	-	-	19 (5%)	15 (5%)	14 (4%)

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
<b># of All <u>Revocation Hrsg</u> Resulting in "<u>Revoke/Deny</u>" Decision</b>	80	131	111	109	115	153	103	121	98	110	89	95
<b>% of All <u>Revocation Hrsg</u> Resulting in "<u>Revoke/Deny</u>" Decision</b>	29%	54%	34%	33%	30%	39%	28%	30%	31%	31%	28%	27%
<b># of All <u>Revocation Hrsg</u> Resulting in "<u>Reprimand/Warn</u>" Decision</b>	42	25	37	38	51	39	40	24	24	18	15	17
<b>% of All <u>Revocation Hrsg</u> Resulting in "<u>Reprimand/Warn</u>" Decision</b>	15%	10%	11%	11%	14%	10%	11%	6%	8%	4%	4%	5%
<b># of All <u>Revocation Hrsg</u> Resulting in "<u>Revoke/Reparole</u>" Decision</b>	85	76	126	136	151	144	168	189	154	188	185	210
<b>% of All <u>Revocation Hrsg</u> Resulting in "<u>Revoke/Reparole</u>" Decision</b>	31%	31%	39%	41%	40%	37%	46%	46%	46%	54%	56%	60%
<b># of All <u>Revocation Hrsg</u> Resulting in "<u>Continue</u>" Decision</b>				52	59	57	56	75	43	37	31	26
<b>% of All <u>Revocation Hrsg</u> Resulting in "<u>Continue</u>" Decision</b>				15%	16%	14%	15%	18%	13%	11%	10%	8%

# Specials Hearings

(Definition: Full Board hearings for special requests; parolees do not participate in Specials hearings)

Total # of Specials Hearings Held	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
	158	195	274	274	320	293	304	289	354	418	371	271

# Special Hearings Held by Type:	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	
Condition Change Request	12	21	14	35	44	24	11	20	28	54	44	21	
Anticipatory Waiver	0	2	0	0	3	2	1	3	2	1	1	0	
Discr. Rescission Waiver	1	0	1	0	1	1	0	5	0	2	3	0	
Discr. Reparole Revoc Waiver	0	1	0	0	1	0	0	1	0	0	1	1	
Discr. Revocation Waiver	7	5	13	13	14	19	12	17	18	10	17	5	
MR Reparole Revoc Waiver	8	10		3	15	26	32	29	32	42	29	34	
MR Revocation Waiver	77	114	178	148	175	166	182	151	217	243	228	149	
Reconsideration	27	30	41	37	38	31	22	36	26	38	32	33	
Rescission Waiver	17	12	16	21	13	6	16	6	20	13	3	4	
Offender Supv. Program(OSP)	-	-	-	5	3	1	1	4	0	1	0	0	
Request for Time Served	-	-	-	-	3	-	1	3	2	4	1	4	
Dismissed Charges	-	-	-	-	4	-	0	0	0	0	0	10	
Special Requests	-	-	-	-	-	5	9	0	1	0	0	1	
Early Release	7 (7grant)	0	11 (7grant) (4deny)	10 (3grant) (7deny)	4 (3grant) (1deny)	9 (4grant) (5deny)	15 (7 grant) (8 deny)	9 (5 grant) (4 deny)	5 (3 grant) (2 deny)	9 (4 grant) (5 deny)	12 (3 cont) (3 grant) (6 deny)	6 (1 cont) (2 grant) (3 deny)	
<b>Special Medical Parole</b>					2	2	3	2	3	3	0	2	3

Questions should be addressed to the Alaska Board of Parole  
 Mail: 550 W. 7<sup>th</sup> Ave, Suite 601, Anchorage, AK 99501  
 Email: kathy\_matsumoto@correct.state.ak.us

ASC: statistics addendum 2007.doc

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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August 29, 2007

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the attached report is submitted for your review.

### DEPARTMENT OF CORRECTIONS BOARD OF PAROLE SUNSET REVIEW

August 28, 2007

Audit Control Number

20-20053-07

This audit was conducted as required by Alaska Statute 44.66.050, under the authority of AS 24.20.271(1). Currently, under AS 44.66.010(a)(2), the Board of Parole is scheduled to terminate operations on June 30, 2008. If the legislature does not extent the termination date for the board, it will have one year from that date to conclude operations.

In our opinion, the termination date for the Board of Parole should be extended. There is a demonstrated public need for the Board of Parole, and the board carries out a public purpose mandated in the State constitution. Accordingly, we recommend the termination date of the board be extended to June 30, 2016.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we reviewed the activities of the Board of Parole to determine if the board is operating in the best interest of the public and carries out a public purpose. As required by AS 44.66.050(a), the committee of reference is to consider this report during the legislative oversight process as it determines whether the board should be reestablished, or for how long the termination date for the board should be extended. Currently, under AS 44.66.010(a)(2), the board will terminate on June 30, 2008, and will have one year from that date to conclude its affairs.

### Objectives

There are two central, interrelated, objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest. The assessment of the operations and performance of the board was based on AS 44.66.050(c). This statute sets out the criteria used in determining a demonstrated public need for the board.

### Scope and Methodology

During the course of our examination, we reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Parole hearing calendars.
3. Parole application files from years 2004 through 2006.
4. Interviews with staff of the Board of Parole; the Victim Service Unit within the Department of Corrections; and, the Office of Victims' Rights.
5. Administrative policies and procedures of the Board of Parole and the Department of Corrections.
6. Compensation records related to the members of the board for 2001 through 2006.
7. Office of the Ombudsman closed case file.
8. Budget documents related to the appropriation requests of the Board of Parole.

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## ORGANIZATION AND FUNCTION

The Board of Parole was created as the parole authority for the State under AS 33.16, referred to as The Parole Administration Act.<sup>1</sup> The board consists of five part-time members, appointed by the governor, to serve staggered terms of five years. The statute directs that board members be selected for their ability to make decisions that are, "*compatible with the welfare of the community and of individual offenders.*"<sup>2</sup>

Members of the board serve for staggered terms of five years and until their successors are appointed. The board's presiding officer is chosen by the governor from current board members. Alaska statute directs that the governor make appointments to the board, "*with due regard for representation on the board of the ethnic, racial, sexual, and cultural populations of the state.*"<sup>3</sup> See Exhibit 1.

State law also requires the governor appoint at least one member who resides in the First Judicial District, one member who resides in the Third Judicial District, and one member who resides in either the Second or Fourth Judicial District.

Board members are compensated for participating in board business at a rate set by the governor. The current compensation rate for board members is set at \$125 for each half day and \$250 for each full day.

Travel costs and per diem are also provided to board members traveling in conjunction with their duties directly related to board activities. The board has an administrative staff which currently consists of an executive director, parole administrator, parole board officer, and two support staff.

The State of Alaska has two forms of parole: discretionary and mandatory. After an individual meets the statutory requirement for parole eligibility (after serving a mandatory minimum sentence of either one-third or one-fourth of the imposed sentence), they may apply to the board for discretionary parole. If an offender is sentenced to two years or more,

<sup>1</sup> Article III Section 3.21 of the state constitution states "[s]ubject to procedure prescribed by law, the governor may grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures. This power shall not extend to impeachment. A parole system shall be provided by law." Alaska Statute 33.16 sets out the details of the state's parole administration process. Alaska Statute 33.16.060(a)(1) specifically identifies the Board of Parole as the "*parole authority of the state.*"

<sup>2</sup> AS 33.16.030(a)

<sup>3</sup> AS 33.16.020(d)

### Exhibit 1

#### Board of Parole Members As of August 2007

Edward L. Rais, Chair  
Michael Stark, Vice-Chair  
Charles Moses  
Linda J. Smith  
Michael Newman

and is not released on discretionary parole for any reason, they must be released to mandatory parole supervision for the good time credit earned<sup>4</sup> on their sentence(s).

Upon application, an eligible inmate may appear before the board and be considered for discretionary parole. Consideration of each application typically involves an interview with the applicant. Additionally, if victims of the crime for which the applicant was convicted opt to do so, they may submit written or oral statements for the board to also consider. After deliberations, the board makes one of three decisions:

1. Continue the case to a future date;
2. Grant parole with conditions set by the board; or
3. Deny the parole application.

In contrast, mandatory parole is not voluntary and release is not contingent upon the board's approval. Although it is not involved with the original decision in the mandatory parole process, the board plays a large role. The board reports it spends most of its time either setting parole conditions or holding parole revocation hearings related to mandatory parolees.<sup>5</sup>

#### Operating Costs and Appropriations

The board's operations are financed by General Fund appropriations. Prior to FY 07 the board's budget was funded as a separate appropriation. For FY 07 the Board of Parole was included as an allocation under the Division of Probation and Parole within the Department of Corrections. In FY 05 and FY 06, the board received supplemental appropriations.

Fiscal Year	Appropriations	Expenditures
2007	\$ 621,500	\$ 594,400 <sup>6</sup>
2006	617,700 <sup>7</sup>	613,700
2005	530,900 <sup>8</sup>	530,900
2004	530,400	530,400

<sup>4</sup> With some exceptions specified in state law, for every three days a prisoner serves in which they follow "the rules of the correctional facility in which [they are] confined" they earn a good time credit of one-third their sentence. Prisoners not receiving discretionary parole, either because they: (1) were not eligible; (2) did not apply; or, (3) applied and were denied by the board, must be released on mandatory parole. Individuals with sentences of two years or more are released on mandatory parole after serving their sentence less any good time credit earned.

<sup>5</sup> The board holds revocation hearings when a parolee is charged with violating a law or condition of parole. After such hearings, the board ultimately determines to revoke all or a portion of an individual's parole, or reprimand and warn parolee.

<sup>6</sup> As of August 22, 2007.

<sup>7</sup> Includes operating appropriation of \$596,200 and a supplemental appropriation of \$21,500.

<sup>8</sup> Includes operating appropriation of \$459,200 and a supplemental appropriation of \$71,700.

## **REPORT CONCLUSIONS**

Under AS 33.16, the Board of Parole serves as the parole authority for the State. As such, the board fulfills the Alaska Constitution requirement that the State establish a parole system. The board's primary responsibilities include determining a prisoner's suitability for discretionary parole and setting conditions for individuals receiving parole. Another major responsibility of the board is the holding of parole revocation hearings.

The board conducts its business in a professional manner. Although we have concerns about the board's accessibility to the general public and accountability over how effectively it is operating (see Recommendation No. 1), we believe there is a demonstrated public need for the Board of Parole. Accordingly, the termination date of the board should be extended.

Currently, the board is scheduled to terminate operations on June 30, 2008. If the legislature does not extend the termination date for the board, it will have one year from that date to conclude operations. We recommend that the legislature extend the board's termination date to June 30, 2016.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

#### The Board of Parole should increase public accessibility to, and accountability for, its administrative actions and operations.

For more than four years the board has not had a meeting that provided an opportunity for the public to observe or comment on the board's activities. Additionally, since 2001 the board has not formally issued a statistical report summarizing how effective the board has been at achieving operating objectives.

There is an expectation that appointed boards and commissions, responsible for carrying out certain government functions, be accessible to the public. That accessibility includes an opportunity to make comments regarding the board's activities, as well as being able to assess how well the board meets key operating objectives.

The two key groups involved with the board's central mission, incarcerated parole applicants and the victims of their crimes, consistently have access to the board. The board's current operations accommodate these two groups very well. However, the board should also be cognizant of its responsibility to a third group, the general public.<sup>9</sup>

The board should improve its accessibility and accountability to the public in two important ways:

1. The Board of Parole should hold a general session meeting, open to the public, at least once a year.

The Board of Parole meets numerous times during the year to deliberate and consider parole applications. Since the board's primary responsibility involves dealing with incarcerated felons, conducting business in public-accessible venues is not a ready option.

Holding at least one meeting a year would afford the public the opportunity to address and observe the board. Such a meeting could be held in the afternoon at a public venue, after a morning of hearings at a nearby correctional facility. This could be accomplished at minimal additional cost.

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<sup>9</sup> Under its statute and regulations, the board has discretion not to hold any publicly-accessible meetings, if funding does not permit. The board has faced funding shortages in each of the last three fiscal years (FY 05-07).

2. The board should periodically report on its activities and the results of those activities.

The Board of Parole has not issued an annual report since 2001. Nor does the board participate in the missions and measures (M&M) program administered by the Office of Management and Budget (OMB) in the Office of the Governor. Either of these forums would provide the legislature and the public with information regarding the board's accomplishments and a summary of its operational results.

Although not specifically required of the Board of Parole, the legislature often requires other boards and commissions to prepare an annual report of activities and accomplishments. Likewise, OMB's M&M program provides information on how well state agencies are accomplishing various operating objectives and goals.

Summary data exists that suggests individuals released on discretionary parole have their parole revoked substantially less often than individuals on mandatory parole. The board should take steps to develop a database of its decisions for each parole application it administers. Such a database could provide more reliable statistical information to document, as well as, quantify the cost effectiveness of having a discretionary parole process in place.

Such actions would assist the board in: improving public accessibility, increasing accountability, improving its administration, and achieving greater compliance with operational expectations reflected in state law.

Prior Recommendation No. 1

The Board of Parole should develop a formal Memorandum of Understanding (MOU) with the Department of Corrections to formally reflect the de facto partial "delegation" of the board's responsibilities under statute for the notification of victims of their right to comment at parole hearings.

The concerns of this prior recommendation have been addressed.

In 2003, the Department of Corrections (DOC) adopted regulations<sup>10</sup> related to victim notification. Under the new regulations, DOC was made responsible for all victim notification functions, both for parole hearings and impending release. DOC has developed policies and procedures to carry out this victim notification responsibility. These regulations eliminate the need for a formal MOU between DOC and the board.

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<sup>10</sup> 22 AAC 20.160(l)(1)

Prior Recommendation No. 2

The board should seek reauthorization from the governor for compensation of board members. Such reauthorization should be structured in a manner that accurately reflects the tasks performed by the Board of Parole.

This recommendation has been implemented.

The new compensation structure was formalized in November 2006 in a letter signed by Governor Murkowski. Board members now receive a rate of \$250 per full day, a rate of \$125 per half day, and a piecework<sup>11</sup> rate of \$16 per specified activity. This action resolves our previous recommendation.

Prior Recommendation No. 3

The board should initiate procedures that allow for a review of the risk assessment form to ensure that all mathematical calculations are performed correctly.

This recommendation has been partially implemented.

The parole risk assessment score sheet is a tool used by the board in their discretionary parole deliberations. In the 2000 sunset audit, we reviewed 80 parole files and noted seven errors in the mathematical calculation of the applicant's score sheet. In two of the instances, the errors had an impact on the risk category to which the individual was assigned. We recommended the board initiate procedures allowing for a review of the parole risk assessment score sheet, to ensure mathematical calculations are performed correctly. During the current audit we reviewed 90 files and noted two mathematical calculation errors. Neither of the errors had an impact on the assigned risk assessment category.

Board staff has implemented a system where they hand check the mathematical accuracy of the risk assessment sheets. Although mathematical error frequency did decrease, we note there are continued opportunities for improvement in parole file maintenance.

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<sup>11</sup> Piecework activities could include reading files for discretionary hearings, setting mandatory and discretionary parole conditions, deciding appeals of conditions, or conducting preliminary revocation hearings.

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## **A ANALYSIS OF PUBLIC NEED**

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

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

The Board of Parole must make discretionary parole decisions which protect the public while promoting cost-effective incarceration. The board has established objective, quantitative criteria for use in evaluating individuals eligible for discretionary parole. The criteria applied by the board are designed to assess the risk posed to the public by an individual under consideration of parole.

The board, in evaluating possible discretionary parole for an applicant, uses regulation-based guidelines<sup>12</sup> such as the parole risk assessment score sheet and number of months served by an applicant, in addition to the board's discretion.

The parole risk assessment score sheet assigns points for each risk factor, based on known information of the potential parolee. The score is then totaled. The total corresponds with a risk category, with "A" being the lowest risk and "D" being the highest risk. This classification ostensibly measures the risk of an applicant violating parole or committing future criminal offenses. Exhibit 2 lists examples of factors that raise or lower an applicant's risk score.

### **Exhibit 2**

#### **Factors that increase parole risk:**

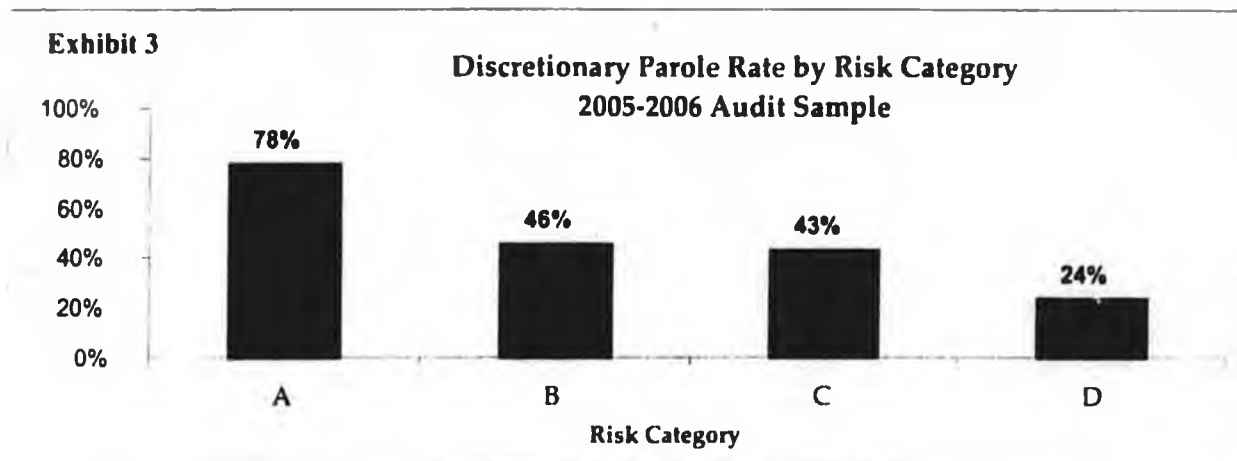
- First offense at a young age
- High number of felony convictions
- Previous parole revocations
- Sporadic employment
- Substance abuse issues
- Disciplinary actions in prison
- Convicted of a sexual assault

#### **Factors that decrease parole risk:**

- First offense after 25 years old
- No previous felony convictions
- No parole revocations
- Consistent employment
- No substance abuse issues
- Good prison record
- Current age is over 35 years old

<sup>12</sup> 22 AAC 20.142

We reviewed 90 of the 195 cases that had discretionary parole hearings in calendar years 2005 and 2006. As illustrated in Exhibit 3, we confirmed the board granted parole in a manner consistent with the assessed relative risk of applicants. Essentially, applicants assessed with lower risk scores were granted parole at a higher rate than individuals with higher risk scores. This trend indicates the Board of Parole is appropriately considering risk, as measured by their rating tool, when granting discretionary parole.



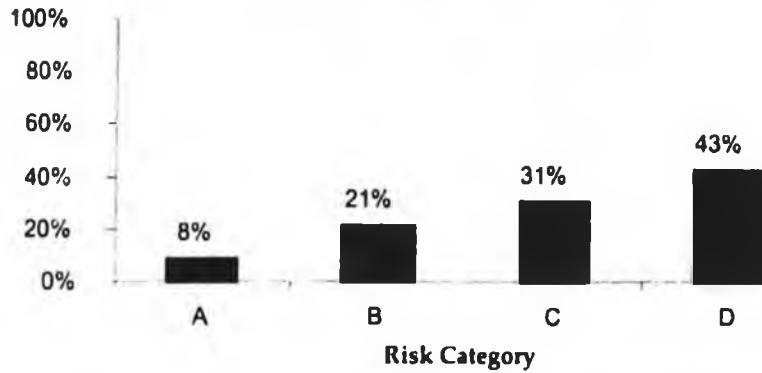
Number of Parole Requests in the Audit Sample	Risk Categories			
	Lower	—————>		Higher
	A	B	C	D
Granted	7	5	22	4
Denied	2	6	29	13
Withdrawn	<u>1</u>	<u>1</u>	<u>-0-</u>	<u>-0-</u>
Total Parole Request	10	12	51	17

Exhibit 4, on the following page, illustrates the rate at which individuals, within each risk category, violated parole and had their parole revoked. For this analysis we reviewed 97<sup>13</sup> of the 120 cases that were granted discretionary parole during calendar years 2004 to 2006. These years were chosen to give adequate time to track parole progress. The higher rate of revocations for individuals in the riskier classifications indicates the criteria used by the Board of Parole is relevant and does reflect graduated risk to the general public as measured by parole revocation.

<sup>13</sup> There were 120 granted discretionary paroles initially targeted for review. Six parole files were unavailable and 17 were inmates who had been granted parole but were not yet physically released from prison at the time of our review. This left 97 cases for our review.

**Exhibit 4**

**Parole Revocation Rate by Risk Category  
2004-2006 Audit Sample**



Number of Paroles/Revocations In Sample	Risk Categories			
	Lower			Higher
	A	B	C	D
Paroles Granted	12	19	59	7
Parole Revoked	1	4	18	3

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

The board's administrative support operations have generally been short-staffed by at least one position since 2000. The board was short one board member for a period of almost a year but now has the five members required by state law.<sup>14</sup> Through these difficulties, the board has continued to meet statutory requirements for discretionary parole hearings, revocations, and clemency investigations.

In 2006, the board moved their administrative offices to Anchorage. Previous to the move, the board maintained staffed offices in Juneau and Anchorage with parole files being shuttled between the two locations. The board made the decision to combine and centralize the office in Anchorage, because a majority of parole board hearings are conducted in southcentral Alaska. The intent of the consolidation was to lower travel expenditures for board members and staff.

<sup>14</sup> AS 33.160.020(a)

Prior to FY 07, the Board of Parole received a separate legislative appropriation. For both FY 05 and FY 06, the board was forced to seek supplemental appropriations to cover overspent, initial appropriation funding. In FY 07, the Board of Parole was placed under the Division of Probation and Parole's appropriation within DOC. The board's expenditures in FY 07 were within its allocated appropriation.

As discussed earlier, the current statutes require the Board of Parole to be responsible for victim notification under AS 33.16.120; yet, in practice, DOC performs the function. Since our last audit, additional regulations<sup>15</sup> were adopted specifying DOC's responsibility for victim notification for discretionary parole hearings.

In recent years, new state law was adopted which could potentially have an impact on the operations of the board. Chapter 14 SLA 06 enacted longer prison sentences for sex offenders and implemented the use of polygraphs<sup>16</sup> to manage the supervision and treatment of paroled sex offenders. Beginning July 2007, sex offenders must take polygraph tests as a condition of discretionary parole. Specifically, contractors will administer the test to determine if the parolee has participated in activities prohibited by conditions of the individual's parole. Depending on the results of the polygraph, the parole officer can subsequently recommend revocation of the individual's discretionary parole.<sup>17</sup> The board will be presented with evidence of parole violations, but may not necessarily know the violation stemmed from analysis of a polygraph test.

Chapter 1 SLA 07 expanded the Board of Parole's role in the executive clemency process. The legislation required the governor to provide notice of consideration of executive clemency to the board for an investigation. The board has up to 12 days to complete the investigation and submit a report to the governor. The board is also responsible for sending the governor's consideration of clemency to the Department of Law, the Office of Victims' Rights, and if requested, the victim of the crime involved. If victim notification is requested, the board is required to make a reasonable effort to locate the victim and provide reasonable notice of the potential executive clemency.

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<sup>15</sup> 22 AAC 20.160 (I)(1)

<sup>16</sup> A polygraph (commonly referred to as a "lie detector") is a device that measures and records several physiological variables such as blood pressure, pulse, respiration, and skin conductivity of an individual while they answer a series of questions. Analysis of the measurements, made by the polygraph, presumably can allow a trained administrator to assess the truthfulness of the answers given by the individual being tested. According to legislative testimony, the use of the polygraph is part of the Containment Model for treatment of sex offenders, which is a nationally-recognized methodology to manage and treat such individuals.

<sup>17</sup> According to the board, it is anticipated in instances where deception is noted, the parolee will be given an opportunity to clear up the deception. An indication of deception alone will not be considered as a valid basis to revoke parole.

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

Chapter 25 SLA 03 modified the standards for granting a special medical parole to incarcerated individuals. The legislation gave the board more discretionary authority in the granting of medical paroles by reducing the standard used to assess the risk of an individual to re-offend. The former executive director of the board testified in support of the legislation.

The intent of the legislation was to medically parole inmates that are too sick and fragile to be capable of re-offending. While under DOC's care, an inmate is not eligible for any sort of insurance and the State is responsible for an inmate's cost of medical treatment. Typically, by the time an inmate is ill enough to fit the new statute's criteria, they are already receiving costly treatment for their medical condition. If an inmate is medically paroled the cost of care can often be shifted to native health benefits, veteran benefits, or Medicaid.

Our review of special medical paroles, made under the new statute, confirmed the board decisions were consistent with the intent of the new law and were appropriately supported.

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

As discussed in Recommendation No. 1, the board has not provided adequate opportunities for written or oral public comments at general administrative meetings. Under board regulations, the board may forego such meetings if operating funds are insufficient. Since 2000, the board has had only two general session meetings.

There is no evidence that oral or written comments were received by the board. No minutes were kept for one meeting, while the other had incomplete minutes that were never formally adopted by the board.

As to access of other "interested persons" to board proceedings, the board consistently engages with both applicants for parole and crime victims. When conducting parole hearings, the board typically meets applicants face-to-face at the correctional facility where they are incarcerated.

State law<sup>18</sup> allows crime victims to attend Board of Parole meetings in which the status of the perpetrator of the crime is officially considered. The victim can comment in writing, or in person, on the proposed parole decision. The victim notification process, as implemented, is working effectively in a manner consistent with the intent of the statute. During review of parole board files we noted several victim impact statements.

<sup>18</sup> AS 33.16.087 and AS 33.16.120

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

We reviewed the State of Alaska's public online notice system for the notice of proposed changes in the regulations for the Board of Parole. The proposed regulation changes were announced and there was an opportunity for the public to submit written comment by a specified date.

We could not determine whether any comments were presented to, or considered by, the board. As discussed previously, minutes of the two regulation comment meetings were either not kept, or were incomplete. The former executive director certified that an accumulated packet of information, forwarded to the Department of Law during the regulation development and adoption process, included all comments received by the board. No public comments were included in the certified information packet.

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

We contacted the Office of Victims' Rights who did not have any concerns or issues with the board. Additionally, we contacted the Office of the Ombudsman who had five initial contacts. None of the contacts were considered significant enough to merit further investigation.

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

During our review of board activities, nothing came to our attention regarding complaints involving state personnel practices or affirmative action requirements.

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

As discussed in the Report Conclusions section, we recommend the board be extended to June 30, 2016. However, as reflected in Recommendation No. 1, we recommend the board take two measures to increase its accountability and access to the public and the legislature.

These measures include:

1. Conducting an annual general session meeting, accessible to the general public, to give the public an opportunity to comment on concerns or issues on the board;
2. Establishing measures that would reflect the board's operating mission, in order to assess and report how consistently the board is meeting the established operating performance objectives; and,
3. Developing a database of parole decisions in order to better quantify the apparent cost effectiveness of having a discretionary parole process in place.

***Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.***

The board has timeline standards, set in statute, for all parole revocation hearings. The board must conduct a preliminary hearing within 15 working days<sup>19</sup> of a parolee's arrest and incarceration, with a final revocation hearing no later than 120 working days<sup>20</sup> after the parolee's arrest and incarceration. Our review of parole revocation files confirmed preliminary and final revocation hearings are consistently being completed in accordance with these time standards.

***Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.***

The activities of the Board of Parole are unduplicated within the State of Alaska. The state constitution requires that a parole function be developed. The Board of Parole is the state's parole authority.

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<sup>19</sup> AS 33.16.220(b)

<sup>20</sup> AS 33.16.220(f)

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CORRECTIONS

PAGE 01/03

**SARAH PALIN,  
GOVERNOR**

**DEPARTMENT OF CORRECTIONS**  
*Office of the Commissioner*

P.O. Box 112000  
Juneau, AK 99811-2000  
PHONE: (907) 485-4852  
FAX: (907) 485-3390

September 25, 2007

Pat Davidson  
Legislative Auditor  
Division of Legislative Audit  
P. O. Box 113300  
Juneau, AK 99811-3300

**RECEIVED**  
**SEP 26 2007**  
**LEGISLATIVE AUDIT**

Dear Ms. Davidson:

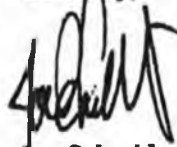
Thank you for the opportunity to respond to your September 25, 2007, preliminary audit report on:

*Department of Corrections, Board of Parole, Sunset Review, April 13, 2007*

A written response to your request has been prepared by the Chair of the Alaska Board of Parole and is attached for your review.

The Department of Corrections looks forward to your report and will assist in any way possible.

Sincerely,



Joe Schmidt  
Commissioner  
Department of Corrections

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**STATE OF ALASKA**

DEPARTMENT OF CORRECTIONS  
**BOARD OF PAROLE**

**SARAH PALIN**  
**GOVERNOR**

Ed Reis, Chair  
Bronze Stalk, Vice Chair  
Charles Moses, Member  
Linda Smith, Member  
Michael Newman, Member

Kathy Matsumoto, Executive Director

ALASKA BOARD OF PAROLE  
550 West 7<sup>th</sup> Ave., Suite 601  
Anchorage, AK 99501

PHONE: (907)770-6309

FAX: (907)770-6308

September 24, 2007

Pat Davidson  
Alaska State Legislature  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811-3300

**RECEIVED**  
**SEP 26 2007**  
**LEGISLATIVE AUDIT**

Dear Ms. Davidson:

On behalf of the Alaska Board of Parole, I wish to thank you for the opportunity to respond to the Preliminary Audit Report (Audit Control Number 20-20053-07) relating to the sunset audit for the Alaska Board of Parole. The professionalism and cooperation exhibited by the audit team during the course of the field work portion of the audit was appreciated. I offer the following responses to the Findings and Recommendations noted in this preliminary final report.

Article III of the Alaska Constitution, Section 21 states that a parole system shall be provided for by law. Because of this, the Board of Parole is unlike any other Board or Commission in the State of Alaska, it is respectfully requested that consideration be given to exempting the board from sunset criteria. However, the board fully supports the recommendation that the board's termination date be extended to June 30, 2016.

Recommendation No. 1

The Board of Parole should increase public accessibility to, and accountability for, its administrative actions and operations.

The board accepts this recommendation and will plan to hold at least one meeting each year in a public venue to afford the public the opportunity to address and observe the board during an administrative meeting as well as releasing annual statistical reports as the board has done in years past.

1. The Board of Parole should hold a general session meeting, open to the public, at least once a year.

The board has planned an administrative meeting in 2008 utilizing the Alaska Video Teleconference Network which will allow public access in the geographic areas where board members currently reside. These areas currently include Juneau, Anchorage, and Fairbanks.

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CORRECTIONS

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Pat Davidson, Legislative Audit  
Board of Parole Sunset Audit  
September 24, 2007  
Page 2 of 2

2. The board should periodically report on its activities and the result of those activities.

The board acknowledges that within the past few years they have not formally published a report that summarized how effectively the board has been at achieving operation objectives. However, the board has posted an annual statistical report on the internet through the Department of Corrections web site. The statistical report currently contains years 1996 through 2005. Data for 2006 has recently been submitted for posting on the internet.

The board is revising the amount of data compiled, and with recent increases in staffing, the board intends to issue a formal report of the Alaska Board of Parole in the future. Additionally, this report will contain the board's recently revised mission statement which is currently being reviewed by the Commissioner of the Department of Corrections.

The board wishes to clarify information contained on page 14 regarding polygraph tests administered to sex offenders. As the board understands the use of polygraph tests in the treatment of sex offenders, the tests are part of a treatment plan which includes a Department of Corrections approved sex offender therapist as well as the supervising parole officer. Polygraph test results are provided to the sex offender therapist as well as the supervising parole officer. Treatment decisions are made on the basis of many factors, one of which is the polygraph test. Polygraph test results cannot be the sole basis for a parole violation. The sex offender treatment team would determine what factors could result in the filing of parole violations related to sex offender treatment.

The Board is in agreement with your analyses, findings and statements. Should you have further questions or desire additional input, please contact myself or Kathy Matsumoto (770-6309).

Sincerely,



Edward L. Rals  
Chair, Alaska Board of Parole

cc: Joe Schmidt, Commissioner, Department of Corrections  
Kathy Matsumoto, Executive Director, Alaska Board of Parole

**HB**

**305**

# LEGAL SERVICES

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

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

## MEMORANDUM

February 26, 2008

**SUBJECT:** Constitutional issues (CSHB 305(RLS);  
Work Order No. 25-LS1226\L)

**TO:** Representative Kevin Meyer  
Attn: Mike Pawlowski

**FROM:** Alpheus Bullard *AB*  
Legislative Counsel

You have requested a legal opinion as to the constitutionality of provisions in CSHB 305(RLS) (25-LS1226\L) that prohibit a legislator or legislative employee from "solicit[ing] or accept[ing] a contribution or a promise or pledge to make a contribution" when either house of the legislature is in regular or special session for (1) another candidate in an election for municipal, state, or federal office, or (2) to influence a state ballot proposition or question.

It is my opinion that these provisions do not significantly burden a legislator's First Amendment rights and would most likely be interpreted by a court as constitutional. While restrictions on campaign contributions encounter constitutional problems associated with First Amendment protections of the rights of association and expression, the Supreme Court has recognized "the prevention of corruption and the appearance of corruption" as a sufficiently important interest to justify restrictions on campaign contributions. See Buckley v. Valeo, 424 U.S. 1, 26 (1976). Therefore, the relevant legal analysis is whether these prohibitions are consistent with the state's compelling interest in preventing corruption and the appearance of corruption and do not "burden substantially more speech than is necessary to further the government's legitimate interests." State v. Alaska Civil Liberties Union, 978 P.2d 597, 619 (Alaska 1999), quoting California Pro-life Council v. Scully, 989 F. Supp. 1282, 1296 (E. D. Cal. 1998), quoting Ward v. Rock Against Racism, 491 U.S. 781, 799 (1989).

In State v. Alaska Civil Liberties Union, the Supreme Court of Alaska in applying the principles of Buckley v. Valeo held that "the [ ] test does not require exhaustive proof of corruption in this context, but merely, in the words of the Court, 'empirical support or at least sound reasoning' in favor of the measures defended." Id. at 607, quoting Turner Broadcasting System, Inc. v. FCC, 512 U.S. 622, 666 (1994).

The analysis of the bill's prohibitions on the solicitation and acceptance of campaign contributions for other candidates and ballot propositions and questions is no different

DRAFT  
Page 2

than that of the bill's prohibition against a legislator accepting or soliciting a contribution for the legislator's own campaign. Corruption, and the appearance of corruption, is arguably possible no matter whether a legislator solicits or accepts a contribution for the legislator's own campaign, another candidate's campaign, or for the purpose of influencing a ballot proposition or question. A legislator who solicits or accepts a contribution for any of these purposes is equally likely to appear to be trading on the legislator's position and influence.

Because the bill's prohibitions are limited to the "acceptance and solicitation" of certain contributions during a legislative session, it is my opinion that a court would hold that such prohibitions are constitutionally acceptable, since the prohibitions only minimally restrict a legislator's expressive and associational First Amendment freedoms for the compelling governmental interest in preventing corruption and the appearance of corruption.<sup>1</sup>

If I may be of further assistance, please do not hesitate to contact me.

TLAB:ljw  
08-117.ljw

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<sup>1</sup> Please note that the bill's prohibitions against "acceptance and solicitation" of contributions do not deny a legislator the right to make an individual contribution to another candidate or a contribution for the purpose of influencing a ballot proposition or question. Neither do the bill's prohibitions prevent a legislator from speaking on behalf of a candidate or issue.



# REPRESENTATIVE KEVIN MEYER

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HOUSE DISTRICT 30

## Sponsor Statement for House Bill 305

**"An Act relating to campaign fund raising by a legislator, legislative employee, or candidate for election to the legislature during a regular or special legislative session."**

In 1998, the Legislature changed AS 24.60.031(b) to allow a legislator to raise campaign funds during a legislative session as long as the funds were not for a legislative campaign. This enabled sitting members to raise money for a gubernatorial, federal or municipal campaign. House Bill 305 reverses this change and prohibits any fundraising by a legislator during a legislative session.

If the goal of the Legislative Ethics Act (AS 24.60) is to set ethical guidelines for legislators, it seems inconsistent to allow fundraising during a session for some offices but not others. HB 305 will bring consistency to the Legislative Ethics Act's guidelines on fundraising and ensure that a legislative session remains a forum for policy debates rather than an opportunity to fundraise for future elected office.

1/16/2008



# **REPRESENTATIVE KEVIN MEYER**

**HOUSE DISTRICT 30**

## **MEMORANDUM**

**DATE:** February 21, 2008  
**TO:** Representative Kevin Meyer  
**FROM:** Mike Pawlowski  
**RE:** Sectional Analysis for CS HB 305 (RLS) am  
(Version No. 25 – LS1226\A)

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As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Amends AS 15.13.072(d), State Election Campaigns, to prohibit fundraising in the capital city or a location where the legislature is convened unless it is within 90 days of an election for legislative or municipal office.

**Section 2.** Amends AS 24.60.031(a), Legislative Ethics Act, to prohibit a legislative employee from fundraising for statewide, municipal or federal office during a legislative session unless it is within 90 days of the applicable election.

**Section 3.** Adds a new subsection to AS 24.60.031 that prohibits a legislator, during a legislative session, from fundraising for statewide, municipal, or federal office on behalf of themselves unless it is within 90 days of the election, or from soliciting contributions for a political party, other candidate for state, federal or municipal office, or ballot proposition or question.

**Section 4.** Immediate Effective Date