

LEGAL SERVICES

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MEMORANDUM

February 9, 2015

SUBJECT: Bill prohibiting the Board of Fish and the Board of Game from proposing regulations (Work Order No. 29-LS0475)

TO: Representative Tammie Wilson

FROM: T.L. Alpheus Bullard *TAB*
Legislative Counsel

You requested a bill that would prohibit the Board of Fish and the Board of Game (boards) from proposing regulations. The language of the accompanying bill differs from what you requested because the word "propose" is a statutory term of art that is both broader and different than the word's usual sense of "form[ing] or put[ing] forward a plan or intention."¹ However, the accompanying bill is drafted to reach the same result.

This result is problematic. AS 16 provides the boards with regulation making powers. AS 16.05.241. The boards are directed to adopt regulations relating to all aspects of the state's fish and game resources. See AS 16.05.251, AS 16.05.255, AS 16.05.258, AS 16.05.260, etc. Under the bill, the boards would only be permitted to adopt regulations that have been recommended to them. Perhaps in a theoretical world, every possible regulatory response to a given situation might be recommended to the boards, but in reality -- this seems unlikely. The statutory power to adopt regulations usually involves the ability to craft those regulations. This bill limits the boards' regulatory authority, and it may be difficult for the boards to accomplish their assigned statutory duties.

If you have questions, please do not hesitate to contact me.

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¹ Merriam-Webster's Collegiate Dictionary, 997 (Eleventh Ed, 2003).