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**HOUSE CS FOR CS FOR SENATE BILL NO. 261( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR OLSON**

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

1 **"An Act relating to the membership of the Alcoholic Beverage Control Board; and**  
2 **providing for an effective date."**

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

4 **\* Section 1.** AS 04.06.020 is amended to read:

5 **Sec. 04.06.020. Appointment and qualifications.** The board consists of five  
6 members appointed by the governor and confirmed by a majority of the members of  
7 the legislature in joint session. A member of the board may not hold any other state or  
8 federal office, either elective or appointive. Two members of the board shall be  
9 persons actively engaged in the alcoholic beverage industry, except that no member  
10 may hold a wholesale license or be an officer, agent, or employee of a wholesale  
11 alcoholic beverage enterprise. Not more than two [NO THREE] members of the  
12 board may be engaged in the same business, occupation, or profession. Three [AT  
13 LEAST THREE] members of the board, at least one of whom shall reside in a rural  
14 area, shall represent the general public. A board member representing the general

1 public or an immediate family member of a board member representing the general  
2 public may not have any financial interest in the alcoholic beverage industry. In this  
3 section,

4 (1) "immediate family member" means a spouse, child, or parent;

5 (2) "rural area" means a community with a population of 6,000 or  
6 less that is not connected by road or rail to Anchorage or Fairbanks, and that is

7 (A) a city; for purposes of this subparagraph, "city" has the  
8 meaning given in AS 29.71.800; or

9 (B) ~~an established village.~~

10 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 TRANSITION. The requirement that at least one member of the Alcoholic Beverage  
13 Control Board be a resident of a rural area added in AS 04.06.020, as amended by sec. 1 of  
14 this Act, first applies on the date the first term of office of a board member who represents the  
15 general public expires, and applies thereafter.

16 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

(B) IS AN ESTABLISHED VILLAGE THAT IS  
LOCATED IN A BOROUGH OR IN THE  
UNORGANIZED BOROUGH; FOR  
PURPOSES OF THIS SUBPARAGRAPH,  
"ESTABLISHED VILLAGE" HAS THE  
MEANING GIVEN IN AS 04.21.080.

# ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



ALASKA  
STATE CAPITOL  
ROOM 514  
JUNEAU, ALASKA 99801-1182

(907) 465-3707  
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## MEMORANDUM

**DATE:** April 5, 2010

**TO:** Representative Bob Lynn, Chairman  
House State Affairs Committee

**FROM:** Senator Donald Olson *DO*  
Senate District T

**SUBJ:** Draft Committee Substitute for CSSB 261 (L&C)

I am providing a draft committee substitute, attached, in response to committee deliberations on this bill last week. For your consideration, the following changes appear in this draft CS:

Page 1, Line 11: Revised language says, "No more than two members....."

Page 2, Lines 5-6: Definition of "rural area" deletes the reference to participation in a local-option election, and retrieves the definition from the original version of the bill. Further, it raises the population number in the original version from 4,500 to 6,000. This adds to the universe of the applicant pool, and would include a community like Bethel, where before, it was excluded in the original bill.

Also on Page 2, at line 7, inclusion of cities is supplemented by adding the statute reference AS 29.71.800 (4).

Also on Page 2, Line 9, the description of an "established village" is retained, and a clearer reference that an established village may be in an organized borough, or in the unorganized borough, is made.

My interests and those of the constituents who brought this issue forward, are retained in this draft committee substitute, while attending to the expressed concerns of committee members.

Our objective remains to identify one of the public member seats for an applicant from a small community with significant alcohol problems. SB 261 would mandate the governor apply this criteria for appointment to a public member seat, and not rely on a governor's discretion. The other two public member seats remain available for other interest sectors.

Under this bill, Cordova, for example, would formally qualify as a community from which an applicant or our desired profile could come.

If there are any questions, contact Tim Benintendi of my office at 465-4989. Thank you.

(h) In this section,

(1) “agricultural products” includes dairy products, timber and lumber, and products manufactured from timber and lumber;

(2) “state money” includes state reimbursement to municipalities for school or related construction, foundation funding for education, municipal assistance, revenue sharing, and state funds for capital projects. (§ 2 ch 64 SLA 1988)

**Sec. 29.71.050. Procurement preferences for recycled Alaska products.**

(a) Alaska recycled products shall be used in municipal procurements when the products are of comparable quality, of equivalent price, and appropriate for the intended use.

(b) Unless the procurement is governed by AS 29.71.040, in the evaluation of a bid or proposal for a procurement by a municipality, if a bid or proposal designates the use of recycled Alaska products for the products identified in the contract specifications, and if the recycled Alaska products meet the contract specifications, the bid or offer shall be decreased by the percentage of preference given to the recycled Alaska products under AS 36.30.332.

(c) The contract specifications for a municipal procurement must include a provision that describes the preference granted under (b) of this section.

(d) If a successful bidder or offeror who receives the preference under (b) of this section fails to use the designated recycled Alaska product for a reason within the control of the successful bidder or offeror, each payment under the contract shall be reduced by the percentage reduction scheduled under AS 36.30.330(a) for the classification the product has received under AS 36.30.332.

(e) In the evaluation of a bid or proposal for a municipal procurement, a person is not a responsible bidder or offeror if, during two contracts for which the person received a preference under (b) of this section during the preceding three years, the person failed to use the recycled Alaska product designated in the person’s bids or proposals for the contracts for reasons within the control of the bidder or offeror.

(f) This section applies to home rule and general law municipalities.

(g) In this section, “recycled Alaska product” has the meaning given in AS 36.30.338. (§ 3 ch 63 SLA 1988)

**Revisor’s notes.** — Enacted as AS 29.71.040. Re-numbered in 1988. Also in 1988, a reference to “AS 29.71.040” in (b) of this section was substituted for a reference to “AS 36.15.050” to reflect the amendment to AS 36.15.050 and enactment of AS 29.71.040 by ch. 64, SLA 1988.

**Sec. 29.71.060. Copyrights in computer software.** A municipality may hold the copyright for software created by the municipality or developed by a contractor for the municipality, and may enforce its rights to protect the copyright. (§ 13 ch 200 SLA 1990)

**Collateral references.** — Copyright protection of computer programs. 180 ALR Fed. 1.

**Sec. 29.71.800. Definitions.** In this title, unless otherwise provided or the context otherwise requires,

(1) “areawide” means throughout a borough, both inside and outside all cities in the borough;

(2) “assembly” means the governing body of a borough;

(3) “borough” means a general law borough or a home rule borough;

(4) “city” means a general law first or second class city or a home rule city;

(5) “commissioner” means the commissioner of commerce, community, and economic development;

(6) “consolidation” means dissolution of two or more municipalities and their incorporation as a new municipality;

(7) “council” means the governing body of a city;

circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the person's conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had the person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had the person not been intoxicated acts recklessly with respect to that risk.

(b) In this title,

(1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491, "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

(2) "board" means the Alcoholic Beverage Control Board;

(3) "bottling" means to put into a bottle, can, or other container;

(4) "community work" means and is limited to work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public land, forests, parks, roads, highways, facilities, or education; community work may not confer a private benefit on a person except as may be incidental to the public benefit;

(5) "designated premises" means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee for the purpose for which the permit is issued by the board at the location of the site for which the permit is issued;

(6) "director" means the director of the Alcoholic Beverage Control Board;

(7) "distributing point" means a location where alcoholic beverages are distributed from a warehouse;

(8) "drunken person" means a person whose physical or mental conduct is substantially impaired as a result of the introduction of an alcoholic beverage into the person's body and who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the overconsumption of alcoholic beverages;

(9) "established village" means an area that does not contain any part of an incorporated city or another established village and that is

(A) an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents; or

(B) an unincorporated community that is in an organized borough, has 25 or more permanent residents, and

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

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

Identifier (file name): CSSB261(L&C)-DPS-ABCB-02-16-10  
 Title ALCOHOLIC BEVERAGE CONTROL BD MEMBERS  
 Dept. Affected: DPS  
 RDU Statewide Support (165)  
 Component Alcohol Beverage Control Board  
 Sponsor Senator Olson  
 Requester Senate State Affairs  
 Component Number \_\_\_\_\_

**Expenditures/Revenues** **\$0**

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

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES ( )</b>							
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<b>FUND SOURCE</b>	<b>\$0</b>						
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: 0.0

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This legislation requires at least one of the three public members of the Alcohol Beverage Control Board reside in a rural area that is not connected by road or rail to Anchorage or Fairbanks, that has participated in a local option election under AS 04.11.491, and is a city; or is an established cillage that is located in the unorganized borough.

CSSB 261 does not increase the number of board members. The ABC Board currently has a rural member serving as a public member, therefore, this legislation does not require additional funds.

Prepared by: Shirley A. Gifford, Director  
 Division: ABC Board  
 Approved by: Joe Masters  
Commissioner

Phone 269-0351  
 Date/Time 4-2-10 8:11 a.m.  
 Date 4/2/2010