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Referred: Health, Welfare &
Education and Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE
LEGISLATIVE COUNCIL

1 IN THE HOUSE

2 HOUSE BILL NO. 812

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to historic preservation."

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

8 * Section 1. AS 41 is amended by adding a new chapter to read:

9 CHAPTER 35. ALASKA HISTORIC PRESERVATION ACT.

10 Sec. 41.35.010. DECLARATION OF PURPOSE. The legislature is
11 concerned over the fact that the most recent past has seen the neglect,
12 desecration, loss and destruction of the historic, prehistoric and
13 archeological resources of Alaska with a resulting loss to the people
14 of the state of knowledge concerning their heritage. The legislature
15 determines that the public has an interest in the preservation of all
16 historic, prehistoric and archeological resources for their scientific
17 and historical information and value and that the public has a right
18 to the knowledge to be derived and gained from the study of these
19 resources. The legislature finds and declares that the historic, pre-
20 historic and archeological resources of the state are properly the
21 subject of concerted and coordinated efforts exercised on behalf of
22 the general welfare of the public in order that these resources may be
23 located, preserved, studied, exhibited and evaluated.

24 Sec. 41.35.020. TITLE TO HISTORIC, PREHISTORIC AND ARCHEOLOGICAL
25 RESOURCES. The State of Alaska reserves to itself title to all his-
26 toric, prehistoric and archeological resources situated on land owned
27 or controlled by the state, including tidelands and submerged lands,
28 and reserves to itself the exclusive right of field archeology on state
29 owned or controlled lands.

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Sec. 41.35.030. DESIGNATION OF MONUMENTS AND HISTORIC SITES.

Upon the recommendation of the Historic Sites Advisory Committee, the governor may declare by public order any particular historic, prehistoric or archeological structure, deposit, site or other object of scientific or historic interest that is situated on land owned or controlled by the state to be a state monument or historic site and he may designate as a part of the monument or site as much land as is considered necessary for the proper access, care and management of the object or site to be protected. When an object or site is situated on land held in private ownership, it may be declared a state monument or historic site in the same manner, with the written consent of the owner.

Sec. 41.35.040. ADMINISTRATION AND FINANCIAL SUPPORT OF MONUMENTS AND HISTORIC SITES. State-owned monuments, sites and other historic, prehistoric or archeological properties owned or purchased by the state are under the control of the Department of Natural Resources and their maintenance shall be covered in the appropriations made to that department. Privately owned state monuments or historic sites are eligible to receive state support for their maintenance if they are kept accessible to the general public and application for support is made in conformity with regulations adopted by the commissioner of natural resources.

Sec. 41.35.050. REGULATIONS. The commissioner of natural resources shall adopt regulations to carry out the purposes of this chapter.

Sec. 41.35.060. POWER TO ACQUIRE HISTORIC, PREHISTORIC, OR ARCHEOLOGICAL PROPERTIES. (a) The department, with the recommendation of the Historic Sites Advisory Committee, may acquire real and personal properties that have statewide historic, prehistoric, or archeological significance by gift, purchase, devise or bequest. The department

1 shall preserve and administer property so acquired. The department
2 may acquire property adjacent to the property having historic, pre-
3 historic or archeological significance when it is determined to be
4 necessary for the proper use and administration of the significant
5 property.

6 (b) In the event that a historic, prehistoric or archeological
7 property which has been found by the department, upon the recommenda-
8 tion of the Historic Sites Advisory Committee, to be important for
9 state ownership is in danger of being sold or used so that its historic,
10 prehistoric or archeological value will be destroyed or seriously im-
11 paired, or is otherwise in danger of destruction or serious impairment,
12 the department may acquire the property by eminent domain under AS 09.
13 55.240 - 09.55.460.

14 Sec. 41.35.070. PRESERVATION OF HISTORIC, PREHISTORIC AND
15 ARCHEOLOGICAL RESOURCES THREATENED BY PUBLIC CONSTRUCTION. (a) The
16 department in cooperation with the state archeologist shall locate,
17 identify and preserve in suitable records information regarding his-
18 toric, prehistoric and archeological sites, locations and remains. The
19 information shall be submitted to the heads of the executive departments
20 of the state.

21 (b) Before any public construction or public improvement of any
22 nature is undertaken by the state, or a governmental agency of the
23 state or by a private person under contract with or licensed by the
24 state or governmental agency of the state, the information required
25 under (a) of this section shall be consulted by the appropriate agency
26 or person to determine if the area to be affected by the public con-
27 struction or improvement contains listed historic, prehistoric or
28 archeological sites, locations or remains. If the affected area con-
29 tains listed sites, locations or remains, the proposed public

1 construction or improvement may not be commenced, or, in the event
2 it has already begun, continued, until the Department of Natural
3 Resources and the state archeologist are advised of the construction
4 or improvement and the concurrence of the department in the project
5 is secured.

6 (c) If the department does not concur because the listed site,
7 location or remains will be adversely affected by the public construc-
8 tion or improvement, it shall perform the necessary investigation,
9 recording and salvage of the site, location or remains.

10 (d) If in the course of performing public construction or im-
11 provements, historic, prehistoric or archeological sites, locations,
12 remains or objects are discovered, the department and the state arche-
13 ologist shall be notified and the concurrence of the department shall
14 be requested in continuing the construction or improvement. Upon
15 receipt of this notice, the department and the state archeologist shall
16 survey the area to determine whether the area contains historic, pre-
17 historic or archeological data which should be preserved in the public
18 interest. The survey shall be conducted as expeditiously as possible.
19 If, as a result of the survey, it is determined that (1) such data
20 exists in the area, (2) that the data has exceptional historic, pre-
21 historic or archeological significance, and should be collected and
22 preserved in the public interest, and (3) that it is feasible to
23 collect and preserve the data, the department shall perform the
24 necessary work to collect and preserve the data. This work shall be
25 performed as expeditiously as possible.

26 (e) If the concurrence of the department, required under (b),
27 (c) and (d) of this section, is not obtained after 90 days from the
28 filing of a request for concurrence of the department to proceed with
29 the project, the agency or person performing the construction or

1 improvement may apply to the governor for permission to proceed with-
2 out the concurrence of the department and the governor may take the
3 action he considers best in overruling or sustaining the department.

4 Sec. 41.35.080. NOTICE REQUIRED BY PRIVATE PERSON. Before any
5 construction, alteration or improvement of any nature is undertaken on
6 a privately owned, officially designated state monument or historic
7 site by any person, he shall give the department and the state arche-
8 ologist three months notice of intention to construct on, alter or
9 improve it. After the expiration of the three-month notification
10 period, the department shall either begin eminent domain proceedings
11 under sec. 50(b) of this chapter or undertake or permit the recording
12 and salvaging of any historic, prehistoric or archeological information
13 considered necessary.

14 Sec. 41.35.090. PERMITS. The commissioner, with the advice and
15 recommendation of the state archeologist, may issue a permit for the
16 investigation, excavation, gathering or removal from the natural state,
17 of any historic, prehistoric or archeological resources of the state.
18 A permit may be issued only to persons or organizations qualified to
19 make the investigations, excavations, gatherings or removals and only
20 if the results of these authorized activities will be made available to
21 the general public through institutions and museums interested in
22 disseminating knowledge on the subjects involved.

23 Sec. 41.35.100. EXCAVATION AND REMOVAL OF HISTORIC, PREHISTORIC
24 OR ARCHEOLOGICAL REMAINS ON PRIVATE LANDS. Before any historic, pre-
25 historic or archeological remains are excavated or removed from private
26 lands by the department or the state archeologist, the written approval
27 of the owner shall first be secured. When the value of the private
28 land is diminished by the excavation or removal, the owner of the land
29 shall be compensated for the loss at a monetary sum mutually agreed on

1 by the department and the owner or at a monetary sum set by the court.

2 Sec. 41.35.110. HISTORIC SITES ADVISORY COMMITTEE. There is
3 created in the Department of Natural Resources the Historic Sites
4 Advisory Committee.

5 Sec. 41.35.120. COMPOSITION OF COMMITTEE. The committee consists
6 of the following persons:

- 7 (1) one representative from the Alaska State Museum;
8 (2) one representative from the University of Alaska Museum;
9 (3) the state archeologist;
10 (4) four persons appointed to represent each of the follow-
11 ing fields: history, architecture, geology and natural history;
12 (5) one representative of the Alaska Historical Society;
13 (6) the commissioner of natural resources; and
14 (7) the State Liaison Officer appointed under the National
15 Historic Preservation Act of 1966, Public Law 89-665, as an ex officio
16 member without vote.

17 Sec. 41.35.130. APPOINTMENT OF MEMBERS. Members of the committee
18 are appointed by the governor and confirmed by the legislature meeting
19 in joint session.

20 Sec. 41.35.140. TERM OF MEMBERSHIP. The term of office for a
21 member of the committee is three years, except for those who are mem-
22 bers by virtue of their positions with the state. They serve for as
23 long as they remain in the position by virtue of which they are members
24 of the committee. A member appointed to fill a vacancy serves for the
25 unexpired term of the member he succeeds. Of those members listed
26 under sec. 120(1), (2), (4) and (5), upon initial appointment, two
27 shall serve for one year, three for two years, and two for three years.

28 Sec. 41.35.150. COMPENSATION. The members of the committee serve
29 without compensation but are entitled to per diem and travel expenses

1 authorized by law for other boards and commissions.

2 Sec. 41.35.160. OFFICERS. At the first meeting of each year,
3 the committee shall elect a chairman from among its members.

4 Sec. 41.35.170. MEETINGS AND QUORUM. The committee shall meet
5 at least twice a year. Additional meetings may be called by the chair-
6 man or by petition of at least five members. Five members of the com-
7 mittee constitute a quorum.

8 Sec. 41.35.180. DUTIES OF THE COMMITTEE. The Historic Sites
9 Advisory Committee shall

10 (1) develop criteria for the evaluation of state monuments
11 and historic sites and all real and personal property which may be con-
12 sidered to be of historic, prehistoric or archeological significance
13 as would justify their acquisition and ownership by the state;

14 (2) cooperate with the Department of Natural Resources and
15 the state archeologist in formulating and administering a statewide
16 historic sites survey under the National Historic Preservation Act of
17 1966, Public Law 89-665;

18 (3) review those surveys and historic preservation plans
19 that may be required, and approve properties for nomination to the
20 National Register as provided for in the National Historic Preservation
21 Act of 1966, Public Law 89-665;

22 (4) Provide necessary assistance to the governor and the
23 legislature for achieving balanced and coordinated state policies and
24 programs for the preservation of the state's historic, prehistoric and
25 archeological resources.

26 Sec. 41.35.190. POWERS OF CHAIRMAN. Subject to available appro-
27 priations the chairman may, with the concurrence of a majority of the
28 committee, employ necessary personnel and may contract for the services
29 of experts and other persons who may be needed.

1 Sec. 41.35.200. UNLAWFUL ACTS. (a) It is unlawful for a person
2 to appropriate, excavate, remove, injure, or destroy, without a permit
3 from the commissioner, any historic, prehistoric or archeological
4 resources of the state.

5 (b) It is unlawful for a person to knowingly possess, sell, buy
6 or transport within the state, or offer to sell, buy or transport
7 within the state, historic, prehistoric or archeological resources
8 taken or acquired in violation of this section or 16 U.S.C. 433.

9 (c) It is unlawful for a person to wilfully destroy, mutilate,
10 deface, injure, remove or excavate a gravesite or a tomb, monument,
11 gravestone or other structure or object at a gravesite, even though
12 the gravesite appears to be abandoned, lost or neglected.

13 (d) A historic, prehistoric or archeological resource which is
14 taken in violation of this section shall be seized by any person
15 designated in sec. 220 of this chapter wherever found and at any time.
16 Objects seized may be disposed of as the commissioner determines by
17 deposit in the proper public depository.

18 Sec. 41.35.210. PENALTIES. A person who violates a provision of
19 this chapter is guilty of a misdemeanor, and upon conviction is punish-
20 able by a fine of \$1,000, or by imprisonment for not more than six
21 months, or by both.

22 Sec. 41.35.220. ENFORCEMENT AUTHORITY. The following persons are
23 peace officers of the state and shall enforce this chapter:

- 24 (1) an employee of the department authorized by the commis-
25 sioner;
26 (2) a police officer in the state;
27 (3) any other person authorized by the commissioner.

28 Sec. 41.35.230. DEFINITIONS. In this chapter, unless the context
29 otherwise requires

1 (1) "commissioner" means the commissioner of natural
2 resources;

3 (2) "committee" means the Historic Sites Advisory Committee;

4 (3) "department" means the Department of Natural Resources;

5 (4) "historic, prehistoric and archeological resources"
6 include deposits, structures, ruins, sites, buildings, graves, arti-
7 facts, fossils, or other objects of antiquity which provide information
8 pertaining to the historical or prehistorical culture of people in the
9 state as well as to the natural history of the state.

10 Sec. 41.35.240. TITLE OF CHAPTER. This chapter may be cited as
11 the Alaska Historic Preservation Act.

12 * Sec. 2. AS 38.12 and 38.25 are repealed.

13 * Sec. 3. AS 44.19 is amended by adding a new section to read:

14 Sec. 44.19.024. STATE ARCHEOLOGIST AND DUTIES. (a) There is
15 established in the state museum the position of state archeologist.
16 The state archeologist shall be a professional archeologist and shall
17 be hired by the director of the museum.

18 (b) The state archeologist shall

19 (1) sponsor, engage in and direct fundamental research into
20 the archeology of the state and encourage and coordinate archeological
21 research and investigation undertaken in the state;

22 (2) cooperate with the Department of Natural Resources and
23 the Historic Sites Advisory Committee in performing their functions
24 under AS 41.35;

25 (3) cooperate with the Department of Natural Resources in
26 preparing an inventory of historic, prehistoric and archeological
27 sites in the state;

28 (4) cooperate with the commissioner of natural resources in
29 reviewing and issuing investigation, excavation, gathering and removal

1 permits;

2 (5) ensure that historic, prehistoric and archeological
3 sites are properly reported by persons or agencies engaged in public
4 construction work and protect sites and objects of significance dis-
5 covered at state sites or discovered during the course of public
6 construction and encourage the protection of sites and objects dis-
7 covered during the course of any other construction work;

8 (6) investigate reported historic, prehistoric or archeo-
9 logical sites and appraise them for any future excavation; and

10 (7) serve as a central clearing-house for information on
11 all historic, prehistoric and archeological site excavation in the
12 state.

13 * Sec. 4. AS 14.56.010 is amended to read:

14 CHAPTER 56. THE STATE LIBRARY AND HISTORICAL
15 LIBRARY AND ARCHIVES [MUSEUM].

16 Sec. 14.56.010. DEPARTMENT OF EDUCATION TO GOVERN LIBRARY AND
17 ARCHIVES. The Department of Education shall manage and have complete
18 charge of all of the property contained in the institutions known as
19 the state library, [AND] state historical library, and state archives.
20 The state library, [AND] state historical library and archives shall
21 be maintained in the state capital.

22 * Sec. 5. AS 14.56.080(3) is repealed.

23 * Sec. 6. AS 14.56 is amended by adding new sections to read:

24 Sec. 14.56.090. STATE ARCHIVES DUTIES. The department shall

25 (1) negotiate for, acquire and receive public records of
26 legal or administrative value or of historical interest, including
27 noncurrent public records of the state, political subdivisions of the
28 state and defunct public agencies which may be transferred to and
29 accepted in official custody in the state archives where they will be

1 preserved, protected and arranged according to approved archival
2 practice;

3 (2) cooperate with records management in the Department of
4 Administration in the development of standards for records creation,
5 maintenance and service, with disposal of public records subject to
6 approval from the archives;

7 (3) have the right of reasonable access to and examination
8 of all public records in the state, unless otherwise prohibited by
9 law;

10 (4) adopt a seal for official use and for certification of
11 record copies which shall have the same effect as if made by the
12 original custodian of the records;

13 (5) make copies of archival materials available, unless
14 restricted by law or by specified terms and conditions of their de-
15 posit, to any person for a reasonable fee;

16 (6) recover records of any public office in the Territory
17 or State of Alaska by negotiating for their return or by notifying
18 the attorney general to initiate recovery proceedings;

19 (7) acquire and maintain private records, papers and manu-
20 scripts concerning Alaska which are of historic interest or signifi-
21 cance;

22 (8) publish guides, inventories, reports, bulletins and
23 other publications to promote the objectives of the archives; and

24 (9) report to the governor and the legislature on the
25 activities and requirements of the archives with recommendations for
26 improving services to the state.

27 * Sec. 7. AS 40.20 is amended by adding a new section to read:

28 Sec. 40.20.040. PUBLIC RECORDS DEFINED. In this chapter "public
29 records" include all written or printed documents, books, papers,

1 letters, photographs, maps, sound recordings, tapes, and other records
2 regardless of physical form, made or received under law or in the
3 transaction of public business by an agency of the state or a political
4 subdivision of the state.

5 * Sec. 8. AS 29.10 is amended by adding a new section to read:

6 Sec. 29.10.223. EXCEPTIONS FOR HISTORIC SITES, BUILDINGS AND
7 MONUMENTS. Exceptions to the regulations provided for in secs. 213
8 and 219 of this chapter may be made in order to provide for the
9 preservation, maintenance and protection of historic sites, buildings
10 and monuments.

11 * Sec. 9. AS 29.15 is amended by adding a new section to read:

12 Sec. 29.15.205. HISTORIC SITES, BUILDINGS AND MONUMENTS. The
13 board of trustees may provide for the preservation, maintenance and
14 protection of historic sites, buildings and monuments.

15 * Sec. 10. AS 29.20 is amended by adding a new section to read:

16 Sec. 29.20.065. HISTORIC SITES, BUILDINGS AND MONUMENTS. The
17 board of trustees of a city of the third class may provide for the
18 preservation, maintenance and protection of historic sites, buildings
19 and monuments.

20 * Sec. 11. AS 29.25 is amended by adding a new section to read:

21 Sec. 29.25.305. ZONING EXCEPTIONS FOR HISTORIC SITES, BUILDINGS
22 AND MONUMENTS. Exceptions to the zoning ordinances provided for under
23 sec. 300 of this chapter and other ordinances regulating building
24 requirements and specifications may be made in order to provide for
25 the preservation, maintenance and protection of historic sites,
26 buildings and monuments.

27 * Sec. 12. AS 29.10 is amended by adding a new section to read:

28 Sec. 29.10.344. EXEMPTION OF HISTORIC SITES, BUILDINGS AND
29 MONUMENTS. In levying, assessing and collecting taxes for school and

1 city purposes, the council or assembly may by ordinance classify and
2 exempt from taxation historic sites, buildings and monuments.
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