

HSCR 1

B. B. B. -

should have been

sent in 2.1

on 2.1

The person who sent

it was then

by the

file
no action

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 10, 1980

SUBJECT: Consideration of Executive Orders
TO: Senator Robert H. Ziegler, Sr.
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether it would be proper for the joint committee which must consider executive orders under Rule 48(d) to consist of different standing committees from each house.

Section 23 of Article III of the Constitution provides:

"SECTION 23. The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor."

The procedure for compliance with this mandate is set out in Rule 48(d) which provides:

"(d) A special concurrent resolution is employed with the legislature is considering disapproval of an executive order of the governor laid before the legislature under provisions of Sec. 23, Art. III, of the State Constitution. This resolution must be considered by a joint committee and may be adopted by a majority of the membership of the legislature in joint session without recourse to three readings."

Senator Robert H. Ziegler, Sr.

Page 2

March 10, 1980

I find nothing specifying how the joint committee is to be constituted. In the absence of requirements concerning the constitution of the joint committee, the matter lies in the discretion of the presiding officer.

In my opinion, there is nothing to prevent the presiding officer of each house designating different standing committees to function as the required joint committee.

BGB:jdn

COMMITTEE REPORT

(9)

HOUSE

3/4/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HOUSE SPECIAL CONCURRENT RES. NO. 1

"Disapproving Executive Order No. 47."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

(7)

COMMITTEE REPORT

HOUSE

3/4

2/29/80

FURTHER: JUDICIARY

Date: March 4, 1980

Mr. Speaker:

The Committee on COMMERCE has had HOUSE SPECIAL CONCURRENT RES. NO. 1

"Disapproving Executive Order NO. 47."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without ~~any~~ recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

John M. ...
Calvin ...
Robert H. B. ...

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

~~Robert H. B. ...~~ *Amended*
... do not pass.

...
CHAIRMAN

82.33
Brodley

Introduced: 2/29/99
Referred: Commerce and Judiciary

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 HOUSE SPECIAL CONCURRENT RESOLUTION NO. 1

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 Disapproving Executive Order No. 47.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS the governor, under authority of art. III, sec. 23 of the Con-
8 stitution of the State of Alaska, has proposed the transfer of the recording
9 function and the Uniform Commercial Code filing function from the Department
10 of Commerce and Economic Development to the Department of Natural Resources
11 by Executive Order No. 47; and

12 WHEREAS the governor has submitted Executive Order No. 47 to the pre-
13 siding officer of each house of the legislature as required by AS 24.30.-
14 130(b); and

15 WHEREAS art. III, sec. 23 of the Constitution of the State of Alaska
16 provides that unless disapproved within 60 days of a regular session by
17 resolution concurred in by a majority of the members in joint session, an
18 executive order becomes effective at a date thereafter designated by the
19 governor; and

20 WHEREAS it is not in the best interests of the state to transfer the
21 recording function and the Uniform Commercial Code filing function as pro-
22 posed in Executive Order No. 47;

23 BE IT RESOLVED by the Alaska State Legislature that Executive Order No.
24 47 is disapproved.

8233
Bradley

ALASKA STATE LEGISLATURE	
ELEVENTH Legislature SECOND... Session	
SPECIAL HOUSE CONCURRENT RES. NO. ..1.....	
By ..THE COMMERCE COMMITTEE..	
"Disapproving Executive Order No. 47."	
Executive Order No. 47	
Introduced in the House . 2/29....., 19. 80	

HISTORY IN THE HOUSE																													
1980	Read first time and referred to Committee on																												
Feb 29	Commerce and Judiciary																												
	Reported back with recommendation that																												
	Read second time and																												
	Read third time and																												
	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">PASS</td> <td style="text-align: center;">Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> <tr> <td colspan="2" style="text-align: center;">Reconsideration</td> </tr> <tr> <td style="text-align: center;">PASS</td> <td style="text-align: center;">Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> <tr> <td colspan="2">Reported correctly engrossed</td> </tr> <tr> <td colspan="2">Signed by Speaker</td> </tr> <tr> <td colspan="2">Sent to Senate</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	Reported correctly engrossed		Signed by Speaker		Sent to Senate	
PASS	Effective Date																												
Yeas	Yeas																												
Nays	Nays																												
Absent	Absent																												
Excused	Excused																												
Reconsideration																													
PASS	Effective Date																												
Yeas	Yeas																												
Nays	Nays																												
Absent	Absent																												
Excused	Excused																												
Reported correctly engrossed																													
Signed by Speaker																													
Sent to Senate																													
CHIEF CLERK OF THE HOUSE																													

HISTORY IN THE SENATE																													
19	Read first time and referred to Committee on																												
	Reported back with recommendation that																												
	Read second time and																												
	Read third time and																												
	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">PASS</td> <td style="text-align: center;">Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> <tr> <td colspan="2" style="text-align: center;">Reconsideration</td> </tr> <tr> <td style="text-align: center;">PASS</td> <td style="text-align: center;">Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> <tr> <td colspan="2">Reported correctly engrossed</td> </tr> <tr> <td colspan="2">Signed by President</td> </tr> <tr> <td colspan="2">Returned to House</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	Reported correctly engrossed		Signed by President		Returned to House	
PASS	Effective Date																												
Yeas	Yeas																												
Nays	Nays																												
Absent	Absent																												
Excused	Excused																												
Reconsideration																													
PASS	Effective Date																												
Yeas	Yeas																												
Nays	Nays																												
Absent	Absent																												
Excused	Excused																												
Reported correctly engrossed																													
Signed by President																													
Returned to House																													
SECRETARY OF THE SENATE																													

HISTORY IN THE HOUSE	
19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.

Letter

1/14/80
Referred: Commerce and Judiciary

EXECUTIVE ORDER NO. 47

Under the authority of Article III, Section 23 of the Constitution of the State of Alaska, and in accordance with AS 24.30.130(b), I order the following:

* Section 1. Findings. As governor, I find that it would be in the best interests of efficient administration to transfer the recording function and the Uniform Commercial Code filing function from the Department of Commerce and Economic Development to the Department of Natural Resources.

* Sec. 2. AS 44.37.020 is amended to read:

Sec. 44.37.020. DUTIES OF DEPARTMENT WITH RESPECT TO NATURAL RESOURCES. (a) The Department of Natural Resources shall administer the state program for the conservation and development of natural resources, including forests, parks, and recreational areas, lands, waters, agriculture, soil conservation and minerals (including petroleum and natural gas), but excluding commercial fisheries, sport fish, game, and fur-bearing animals in their natural state.

(b) The Department of Natural Resources shall administer and maintain a recording system established under the laws of this state.

* Sec. 3. AS 44.37 is amended by adding a new section to read:

Sec. 44.37.025. RECORDING. (a) The Department of Natural Resources shall adopt regulations, establishing, modifying, or discontinuing recording districts or precincts and prescribing the records to be maintained and the instruments to be recorded.

(b) The department shall engage and compensate recorders and deputy recorders, prescribe and account for recording fees, and do all other things necessary to maintain the recording system established under the laws of this state.

(c) The department, with the concurrence of the administrative director of courts, may appoint judicial employees to record documents

1 in locations where the department has no employees available to serve
2 as recorders.

3 * Sec. 4. AS 45.05.734(e) is amended to read:

4 (e) The requirements of AS 45.05.768(a)(1) and (2), 45.05.772(b),
5 (c), and (e), and 45.05.780 [SECS. 768(a)(1) AND (2), 772(b), (c), AND
6 (e) AND 780 OF THIS CHAPTER] do not apply to a security interest in
7 personal property of any description created by a deed of trust or
8 mortgage made by a corporation primarily engaged in the business of a
9 common carrier by rail, the furnishing of telephone or telegraph
10 service, the transmission of oil, gas or petroleum products by pipeline,
11 or the production, transmission or distribution of electricity, steam,
12 gas, or water, but this security interest may be perfected under
13 AS 45.05.690 -- 45.05.794 [SECS. 690-794 OF THIS CHAPTER] by filing
14 the deed of trust or mortgage in the office of the commissioner of the
15 Department of Natural Resources [COMMERCE AND ECONOMIC DEVELOPMENT].
16 When filed, the instrument remains effective until terminated, without
17 the need for filing a continuation statement. Assignments and releases
18 of the instrument may also be filed in the office of the commissioner
19 of the Department of Natural Resources [COMMERCE AND ECONOMIC DEVELOP-
20 MENT]. This commissioner is a filing officer for the foregoing pur-
21 poses, and the uniform fee for filing, indexing and furnishing filing
22 data under this subsection is \$10.

23 * Sec. 5. AS 45.05.768(a)(3) is amended to read:

24 (3) in all other cases, in the office of the Department of
25 Natural Resources [COMMERCE AND ECONOMIC DEVELOPMENT].

26 * Sec. 6. AS 44.33.020(22) and 44.33.025 are repealed.

27 * Sec. 7. Sec. 3, ch. 118 SLA 1976 is amended to read:

28 Sec. 3. The recording districts established by the supreme court
29 in effect on January 1, 1977 shall remain in effect until regulations

1 establishing, modifying, or discontinuing recording districts or
2 precincts have been adopted by the Department of Natural Resources
3 [COMMERCE AND ECONOMIC DEVELOPMENT].

4 * Sec. 8. This order takes effect July 1, 1980.
5

6 DATED: January 14, 1980
7 Juneau, Alaska

8 S/ JSH
9 Jay S. Hammond
10 Governor
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

COMMITTEE COPY

#47

January 14, 1980

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under art. III, sec. 23 of the Alaska Constitution, I am transmitting to you Executive Order No. 47, dated January 14, 1980, which would transfer the recording function and the Uniform Commercial Code (UCC) filing function from the Department of Commerce and Economic Development to the Department of Natural Resources. Under that constitutional provision, the legislature has 60 days of a regular session, or a full session if of shorter duration, to disapprove this executive order.

In conjunction with this order, I will also be submitting to the House Commerce Committee and to the Senate Judiciary Committee amendments to HB 35 and SB 20, respectively, which would transfer the responsibility for prescribing uniform filing fees under art. 9 (secured transactions) of the UCC from the administrative director of the courts to the Department of Natural Resources. (The bills presently would make this transfer from the administrative director to the Department of Commerce and Economic Development.) This transfer has the approval of the administrative director of courts. The bills and order are separate because it is felt that, since the administrative director of the courts is outside the executive branch, the reorganization powers of the governor set out in art. III, sec. 23 cannot be invoked to accomplish this particular reassignment of functions.

Historically, the real property records have been maintained by the court system in this state, and the Uniform Commercial Code filing system for secured transactions has been administered by the Department of Administration (even though the administrative director of courts was responsible for setting filing fees). In 1976, the responsibility for maintaining the real

property records was transferred to the Department of Administration by ch. 118 SLA 1976. In 1978, the Department of Administration transferred the handling of UCC filing to the Department of Commerce and Economic Development, Division of Banking & Securities, under a reimbursable services agreement. Last year, Executive Order No. 40 statutorily established both of these functions in the Department of Commerce and Economic Development. Because the two functions involve similar operations and information storage, it makes sense to assign both to the same department.

Since the time I submitted Executive Order No. 40 to you and the period for legislative disapproval expired, further analysis of these functions and further progress on the computer technology being developed within the Department of Natural Resources urge a transfer to the latter.

Alaska's land recording system is intended to serve as a depository and information source for records of land transactions throughout the state. Using the recording system, private title companies and prospective land purchasers obtain needed information about property ownership. In turn, title insurance is usually required for financing and often required for property sale. Thus, the state recording system is an important link in the smooth workings of the land market and, particularly, in the accessibility of financing for property development.

The state is divided into 32 recording districts, and deeds, plats, and other documents of conveyance, can be recorded at 15 different locations. However, in actuality, the recording system is used primarily in the urban parts of Alaska. Many people in rural Alaska have little or no knowledge of the recording system and its benefits.

The volume of land conveyances expected under the Alaska Native Claims Settlement Act is enormous. In addition to the 44 million acres which are being conveyed to village and regional corporations and Native groups and individuals, Section 14(c) of the Act requires recipient village corporations to reconvey title to existing land occupants. One analyst has determined that more than 150,000 separate documents will be issued as part of the Settlement Act conveyance process alone. In addition, the state's land disposals, together with disposals by municipalities and Native corporations, will place significant acreage in private hands during the next decade.

In response to this letter, the Department of Natural Resources is developing an automated system (ALARS - Alaska Land And Resource System) of land information collection which will provide a land administration data base and a resource information data base. The principal features of the land base are tracking of all disposal cases, maintenance of the land bank, revenue accounting for disposed lands, land classification, title administration, monitoring of municipal selections, survey tracking, and appraisals. The resource base contains resource information, a geoprocessor, which manipulates resource information, and an assessment system for the evaluation of resources.

The ALARS system will be centrally automated and access to the information will be via direct or dial-up computer terminal. Clearly, it is in the interest of the state to provide access to ALARS for the greatest number of people and, for this reason, the department proposes integrating the Recorder's Office into the ALARS structure. Integration will place title and non-title land information in one system, easing access to these complementary types of information and reducing overlap and confusion to users.

The new provisions in secs. 2 and 3 of the order are identical to those being repealed in sec. 6, except for the difference in departments.

The effective date provided in the order and in the amendments being submitted for HB 35 and SB 20, is July 1, 1980.

Sincerely,

s/ JSH

Jay S. Hammond
Governor