

Original sponsors: Bennett, Parr and  
Fahrenkamp

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state agen-  
7 cies, and to administration of the Alaska Coastal Man-  
8 agement program; and providing for an effective date."

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

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employment  
19 and higher prices;

20 (3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews involved  
23 in the permit process, and by requiring state agencies to process permit ap-  
24 plications in an expeditious manner, the social, economic, and environmental  
25 health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

29 \* Sec. 2. AS 44.62 is amended by adding new sections to read:



1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
12 an appeal of a permit issued by operation of this subsection, the  
13 record shall be considered in the light most favorable to the applicant,  
14 and the permit shall be accorded a presumption of regularity.

15 (d) A state agency may not condition the issuance of a permit  
16 upon the issuance of a permit from another governmental agency.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application that does not contain suffi-  
19 cient information concerning the project's compliance with the agency's  
20 statutes and regulations, the agency shall notify the applicant within  
21 15 days after receipt of a completed permit application for a class I  
22 permit, and within 30 days after receipt for a class II permit.

23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
28 made, the time period specified in AS 44.62.632 is suspended from the  
29 date of request to the date of full compliance with the request.

1 Subsequent requests for additional information may be made, but must  
2 relate only to new issues raised by the response to the initial noti-  
3 fication. Subsequent requests do not extend the time periods specified  
4 in AS 44.62.632.

5 (d) Nothing in this section grants a resource agency the authority  
6 to request information beyond the authority given to it by other sta-  
7 tutes.

8 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead  
9 agency that is solely responsible for issuing coastal management consis-  
10 tency determinations under AS 46.40 and for preparing and submitting  
11 state comments on federal permit applications. The lead agency is that  
12 resource agency that has principal responsibility for authorizing the  
13 overall activity, including instances where an activity requires permits  
14 from more than one resource agency. For classes of activities for  
15 which no agency with principal responsibility exists the governor shall  
16 designate a resource agency to be a lead agency for each class by  
17 administrative order no later than October 1, 1982.

18 (b) In performing its functions under this section, the lead  
19 agency shall consult with other resource agencies and with coastal  
20 resource districts under AS 46.40. The lead agency shall consider  
21 documented facts, data, opinion, conclusions, or recommendations sub-  
22 mitted by the commenting agency and the coastal resource districts with  
23 an approved district coastal management program, within their areas of  
24 expertise, but may, in its discretion, reach contrary opinions, conclu-  
25 sions or recommendations according to the evidence received. The lead  
26 agency shall give substantive consideration to the documented facts and  
27 data, and to the professional judgments and recommendations substan-  
28 tiated by the facts and data that are submitted by the commenting  
29 agencies and the coastal resource districts with an approved district

1 coastal management program, within their primary areas of expertise. A  
2 professional judgment or recommendation is adequately substantiated  
3 under this subsection if it is based on documented facts or data reason-  
4 ably relied on by experts in the field. The lead agency shall then  
5 balance competing factors in reaching its final decision. No resource  
6 agency other than the lead agency has primary expertise in the balancing  
7 of competing factors.

8 (c) Except as required by federal law no state agency other than  
9 the lead agency may comment to a federal permitting agency.

10 (d) For activities involving a disposal of interest in land and a  
11 certification under sec. 401 of the Clean Water Act (33 U.S.C. sec.  
12 1341), the lead agency shall be the Department of Natural Resources.

13 (e) For activities involving a plan of operation approval under a  
14 previous disposal of an interest in land and a certificate under sec.  
15 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall  
16 be the Department of Natural Resources.

17 Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or  
18 state agency that receives a request for comment in connection with a  
19 permit application or plan review being processed by a resource agency  
20 shall submit these comments in accordance with the following schedule:

21 (1) comments on class I permits shall be submitted within 15  
22 days after the agency's receipt of the request;

23 (2) comments on class II permits and federal permits shall  
24 be submitted within 30 days after the agency's receipt of the request;

25 (3) when under AS 44.62.633, the requesting agency has  
26 extended the time periods specified in AS 44.62.632, that agency may  
27 extend the time period specified in this section; however, comments  
28 submitted under this paragraph must be submitted no later than 30 days  
29 before the date on which the lead agency must issue a final decision.

1           Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform proce-  
2 dural regulations adopted under AS 44.62.632(b) must provide for an  
3 administrative appeal from a final decision on a permit application.  
4 The administrative appeal is to the head of the resource agency in-  
5 volved. Administrative appeals conducted under this section are not  
6 subject to the procedures in AS 44.62.330 - 44.62.630.

7           (b) The administrative appeal must be resolved within 45 days  
8 after the final decision on a permit application, or, if a hearing is  
9 held on the administrative appeal, within 65 days after the final  
10 decision on the permit application.

11           (c) An appeal taken from a decision granting a permit may, but  
12 need not, stay the issuance of the permit.

13           (d) The head of the agency may summarily dismiss an appeal before  
14 the time established in this section, and the dismissal is the final  
15 agency action on the matter.

16           (e) In an appeal from the denial or conditioning of a permit the  
17 head of the agency may, if he determines that the public interest would  
18 be served, grant the permit or remove conditions of the permit until  
19 the appeal is determined.

20           Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
21 review by the superior court of a final decision issued under AS 44.-  
22 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
23 superior court in accordance with the applicable Rules of Appellate  
24 Procedure. The review is governed by the provisions of AS 44.62.-  
25 560(b) - (e) and AS 44.62.570.

26           (b) An appeal taken under this section should have preference on  
27 the calendar of civil actions before the court and should be decided  
28 without unnecessary delay.

29 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

1 (c). As used in AS 44.62.632 - 44.62.638,

2 (1) "date of receipt" means the date on which a state agency  
3 actually receives a completed application filed in accordance with  
4 agency regulations and at a place identified as appropriate for filing  
5 in the agency's regulations;

6 (2) "permit" means a permit, license, certification, consis-  
7 tency determination, or other authorization or approval issued by a  
8 resource agency as a written document that is required to be obtained  
9 or is solicited from a state agency before the construction or opera-  
10 tion of a project; "permit"

11 (A) does not include the approval of a unit agreement,  
12 a unit development plan, or a unit exploration plan, or conveyances  
13 of interest in state land or water;

14 (B) does include all authorizations and approvals,  
15 whether proprietary or regulatory, necessary to undertake a project  
16 under a previously conveyed property interest;

17 (3) "project" means a new activity or expansion or addition  
18 to an existing activity for which permits are required before construc-  
19 tion or operation; "project" does not include pursuing a trade or  
20 profession, providing public health service, or operating a financial  
21 institution;

22 (4) "resource agency" includes the Department of Natural  
23 Resources, the Department of Environmental Conservation, and the Depart-  
24 ment of Fish and Game with respect to permits issued for the protection  
25 of fish habitat or the regulation of state sanctuaries, refuges, and  
26 critical habitat areas.

27 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

MSG 82-00021818 PRTY 1 04/17/82 18:11:29 ORIG: LA08 IN= 0009 OUT= 0009  
FROM: CANDY/ANCHORGE TO: JUNEAU T/C  
TARGET: LJ01 SUBJ: HOUSE FINANCE T/C PAGE 0001

SPEAKERS:

JIM DERIGO/ARCO, P.O. BOX 360 265-6534  
PATRICK M. ANDERSON/MUNICIPALITY OF ANCHORAGE  
POUCH 6-650, ANCHORAGE 99502 243-7044  
ETHEL H. NELSON, P.O. BOX 4-1579, ANC. 99509 278-9611  
PAUL LOWE/SIERRA CLUB, 1603 ATKINSON DRIVE, ANC. 99504  
BOB SUTHERLAND, P.O. BOX 80871, COLLEGE, AK 99708 474-7074  
DAVID FINKELSTEIN, 3911 PETERKIN AVENUE, 99504 272-9317  
PATRICI RUMLEY, 6106 PROSPERITY DRIVE, ANC. 99504 333-6894  
OBSERSERS:  
DANIEL G. RODGERS/ARCO, P.O. BOX 360, ANC.  
STEPHAN M. WILLIAMS/ARCO  
W.P. METZ, 4610 EDINBURGH, ANC 99502 243-7044  
STEVE ELLIS/CHEVRON, 1001 W. THIRD, #400, ANC 99501 279-3581

MORE \_ NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021818 PRTY 1 04/17/82 18:11:29 ORIG: LA08 IN= 0009 OUT= 0009  
FROM: CANDY/ANCHORGE TO: JUNEAU T/C  
TARGET: LJ01 SUBJ: HOUSE FINANCE T/C PAGE 0002

JAMES M. POSEY/ARCO, P.O. BOX 360, ANC 99510  
DAVE HARBOUR, SRA BOX 62-R, ANC 99507 349-2787  
SHEHLA ANJUM, 3201 C STREET, SUITE 602, ANC 99503 276-4374  
JUDE HANZLER/RURAL CAP, 327 EAGLE ST., ANC 279-2511  
JACK HESSION, 545 E. 4TH AVENUE, #5, ANC 99501 274-2318  
ERIC MYERS, 3911 PETERKIN AVENUE, ANC 99504 279-6719  
THOMAS M. DILLON, SRA BOX 599-D, ANC 99507 345-5894  
HENRY MITCHELL, 805 W. 3RD, ANC 277-5845  
D.E. GLASS, 1381 HILLCREST DRIVE, #201 99503  
MATT ZENCEY, 1850 KUSKOKWIM, ANC 99508 277-3096  
PEG KEHRER/AKPIRG, BOX 1093, ANC 99510, 278-3661  
MILTON BYRD, SRA BOX 1423E, ANC 99502 279-1471  
JEFF EUSTIS, TRUSTEES FOR AK, 833 GAMBELL ST., SUITE B, ANC 99501 276-42444  
JOHN J. DURKIN, BOX 8-752, ANC 99508 279-0930  
TOM FINK, 6359 COLGAK DRIVE, ANC 265-6532  
JEFF PARKER, 545 E. 4TH, ANC 99501 274-2318

BACK \_ NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021816 PRTY 1 04/17/82 18:09:38 ORIG: LR00 IN= 0012 OUT= 0010  
FROM: FLORENCE IN BARROW TO: TIM, JUNEAU  
TARGET: LJ01 SUBJ: (H) FINANCE T/C ON SB84 4/14/82 PAGE 0001

LIST OF PARTICIPANTS AND OBSERVERS FROM BARROW:

PARTICIPANTS:

1. MICHAEL I. JEFFERY, REPRESENTING CITY OF KAKTOVIK, ALASKA LEGAL SERVICES  
P.O. BOX 309, BARROW, ALASKA PH. 852 - 2311
2. MAYOR EUGENE BROWER, NORTH SLOPE BOROUGH, BARROW, ALASKA 99723 PH. 852-2611

OBSERVERS:

1. RALPH ANDERSON, NORTH SLOPE BOROUGH, BOX 69, BARROW, ALASKA 99723 - 852-2611
2. REBECCA REYNOLDS, NSB. BOX 69, BARROW, ALASKA 99723 852 - 2611
3. HAROLD CURRAN, NSB. BOX 69, BARROW, ALASKA 99723 852-2611

MSG 82-00021766 PRTY 1 04/17/82 15:49:20 ORIG: LS00 IN= 0005 OUT= 0043  
FROM: THERESA IN SITKA TO: T/C MODERATOR  
TARGET: LJ01 SUBJ: 4PM T/C STATE REFORM PERMIT SYSTEM PAGE 0001

SITKA HAS ONE HERE TO PARTICIPATE:

1. KENT HANSON, P.O.B. 4464 MT.EDGE CUMBE, AK 99835 747-6989

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021774 PRTY 1 04/17/82 16:10:53 ORIG: LI00 IN= 0002 OUT= 0039  
FROM: ANNA MAY/DILLINGHAM TO: JUNEAU LIO  
TARGET: LJ01 SUBJ: 4-17-82 H.FIN.COMM. ON SB84 PAGE 0001

PARTICIPATE

GREG PETERS OF BRISTOL BAY C.R.S.A. BOARD, AND BRISTOL BAY NATIVE ASSCC.  
BOX 189, DILLINGHAM, AK. PHONE 842-5257

OBSERVE

ELLYN DERMAN BOX 2894, DILLINGHAM, AK. 99576 PHONE 842-5699

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021775 PRTY 1 04/17/82 16:12:43 ORIG: LF01 IN= 0004 OUT= 0038  
FROM: ANNIE IN FAIRBANKS TO: JUNEAU T/C  
TARGET: LJ01 SUBJ: HOUSE FINANCE PERMIT T/C PAGE 0001

HERE TO TESTIFY:

1. RUDY VETTER, BOX 342, FBX 99707
2. JAMES V DREW, 4848 PALO VERDE, FBX 99701
3. DAVID BENTON, 700 W 19TH AVE. FBX 99503
4. TOM OWEN, 3747 ERICKSON, FBX 99701

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021776 PRTY 1 04/17/82 16:14:06 ORIG: LB00 IN= 0005 OUT= 0037  
FROM: HELEN/BETHEL TO: JUNEAU INFORMATION  
TARGET: LJ01 SUBJ: SB 84 PERMIT REFORM T/C 4/17/82 PAGE 0001

BETHEL HAS TWO PARTICIPANTS, THEY ARE:  
1. JANET SHANTZ Y.K. CRSA BOARD, BOX 1169 BETHEL, AK. 543-2856 TO TESTIFY.  
2. NORMAN COHEN NUNAM KITLUTSISTI BOX 267, BETHEL, AK. 543-2956 TO OBSERVE ONLY.  
THE SPEAKER FEW MINUTES AGO WAS JANET SHANTZ.

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021790 PRTY 1 04/17/82 16:43:38 ORIG: LR00 IN= 0010 OUT= 0026  
FROM: FLORENCE IN BARROW TO: TIM, JUNEAU  
TARGET: LJ01 SUBJ: (H) FIN T/C ON SB 84 - 4/14/82 PAGE 0001

BARROW WOULD LIKE TO HAVE AS OUR NEXT PARTICIPANT:  
MAYOR EUGENE BROWER, NORTH SLOPE BOROUGH, BOX 69, BARROW, ALASKA 99723

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021784 PRTY 1 04/17/82 16:28:06 ORIG: LR00 IN= 0009 OUT= 0030  
FROM: FLORENCE IN BARROW TO: TIM JUNEAU  
TARGET: LJ01 SUBJ: (H) FIN T/C ON SB 84 4/14/82 PAGE 0001

WHO TESTIFY:  
1. MICHAEL JEFFERY  
2. HAROLD CURRAN, NORTH SLOPE BOROUGH, BOX 69, BARROW, AK 99723  
MAY WANT TO TESTIFY:  
1. RALPH ANDERSON

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021782 PRTY 1 04/17/82 16:21:38 ORIG: LR00 IN= 0008 OUT= 0032  
FROM: FLORENCE IN BARROW TO: TIM, JUNEAU  
TARGET: LJ01 SUBJ: (H) FIN ON SB84 4/17/82 PAGE 0001

PARTICIPANTS IN BARROW:  
WHO WOULD LIKE TO TESTIFY:  
MICHAEL I. JEFFERY, FOR CITY OF KAKTOVIK, ALASKA LEGAL SERVICES,  
P.O. BOX 309, BARROW, AK  
WHO WOULD LIKE TO TESTIFY AS AN OBSERVER, MAY WANT TO TESTIFY:  
RALPH ANDERSON, NORTH SLOPE BOROUGH, BOX 69, BARROW, ALASKA 99723

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021803 PRTY 1 04/17/82 17:31:15 ORIG: LF01 IN= 0008 OUT= 0017  
FROM: MAXINE/FBX TO: JUNO T/C  
TARGET: LJ01 SUBJ: HOUSE FIN. T/C 4/17 SB 84 PAGE 0001

TO TESTIFY IN FAIRBANKS

RUDY VETTER, BOX 342, FAIRBANKS, 99707 PH456-7269  
JAMES V. DREW, 4848 PALO VERDE, FAIRBANKS 99701 PH. 479-3947  
DAVID BENTON, 700 W 18TH AVE. FBX 99703 PH. 276-5159  
(MR. BENTON COULDN'T WAIT)  
TOM OWEN, 3747 ERICKSON, FAIRBANKS 99701 PH. 479-2461  
JAMES A. MESSER, C OF C, BOX 870, FAIRBANKS 99707 PH. 452-3300  
DONALD STEIN, AK MINERS ASSOC., 105 DUNBAR AVE., FAIRBANKS 99701 PH. 456-7642  
JOHN M RETTERER, BOX 73662, FAIRBANKS 99707 PH. 456-7171, 452-5988  
(OUR OFFICE SENDING DOWN WRITTEN TESTIMONY FOR MR. RETTERER)

OBSERVERS:

JACK WRIGHT, BOX 55717, N. POLE 99705 PH. 488-6108  
CLYDE GERAGHTY, BOX 507, FAIRBANKS 99707 PH. 452-5191

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021798 PRTY 1 04/17/82 17:06:36 ORIG: LB00 IN= 0010 OUT= 0021  
FROM: HELEN/BETHEL TO: TIM/JUNEAU  
TARGET: LJ01 SUBJ: ADDITIONAL PARTICIPANT PAGE 0001

BETHELS ADDITIONAL PARTICIPANT HAROLD SPARCKS WOULD LIKE TO TESTIFY INSTEAD OF  
OBSERVE. THANK YOU.

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021794 PRTY 1 04/17/82 17:01:47 ORIG: LB00 IN= 0007 OUT= 0023  
FROM: HELEN/BETHEL TO: TIM/JUNEAU  
TARGET: LJ01 SUBJ: ADDITIONAL OBSERVOR PAGE 0001

BETHEL HAS ONE MORE ADDITIONAL OBSERVER:

3. HAROLD SPARCK, YK CRSA BOARD, BOX 267, BETHEL, AK. 543-2856 JUST TO OBSERVE.

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021791 PRTY 1 04/17/82 16:42:34 ORIG: LB00 IN= 0006 OUT= 0025  
FROM: HELEN/BETHEL TO: TIM/JUNEAU  
TARGET: LJ01 SUBJ: (H) FIN T/C ON SB 84 4/17/82 PAGE 0001

BETHEL HAS TWO PARTICIPANTS THEY ARE:

1. JANET SHANTZ Y.K. CRSA BOARD, BOX 169 BETHEL, AK. 543-2856 TO TESTIFY.
  2. NORMAN COHEN NUNAM KITLUTSISTI BOX 267, BETHEL, AK. 543-2956 TO OBSERVE ONLY.
- THE SPEAKER FEW MINUTES AGO WAS JANET SHANTZ.

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021790 PRY 1 04/17/82 16:43:38 ORIG: LR00 IN= 0010 OUT= 0026  
FROM: FLORENCE IN BARROW TO: TIM, JUNEAU  
TARGET: LJ01 SUBJ: (H) FIN T/C ON SB 84 - 4/14/82 PAGE 0001

BARROW WOULD LIKE TO HAVE AS OUR NEXT PARTICIPANT:  
MAYOR EUGENE BROWER, NORTH SLOPE BOROUGH, BOX 69, BARROW, ALASKA 99723

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021784 PRY 1 04/17/82 16:28:06 ORIG: LR00 IN= 0009 OUT= 0030  
FROM: FLORENCE IN BARROW TO: TIM JUNEAU  
TARGET: LJ01 SUBJ: (H) FIN T/C ON SB 84 4/14/82 PAGE 0001

TO TESTIFY: J

1. MICHAEL JEFFERY
  2. HAROLD CURRAN, NORTH SLOPE BOROUGH, BOX 69, BARROW, AK 99723
- MAY WANT TO TESTIFY:
3. RALPH ANDERSON

NXT MSG U/R/S \_ PREV MSG U/R/S \_ RESEND \_ CANCEL \_

MSG 82-00021782 PRY 1 04/17/82 16:21:38 ORIG: LR00 IN= 0008 OUT= 0032  
FROM: FLORENCE IN BARROW TO: TIM, JUNEAU  
TARGET: LJ01 SUBJ: (H) FIN ON SB84 4/17/82 PAGE 0001

PARTICIPANTS IN BARROW:

HERE TO TESTIFY:

MICHAEL I. JEFFERY, FOR CITY OF KAKTOVIK, ALASKA LEGAL SERVICES,  
P.O. BOX 309, BARROW, AK

HERE AS AN OBSERVER, MAY WANT TO TESTIFY:

RALPH ANDERSON, NORTH SLOPE BOROUGH, BOX 69, BARROW, ALASKA 99723

4/17/82

COPIES to  
ALL FINANCE  
MEMBERS

STATEMENT SUBMITTED BY MIKE NISHIMOTO AT THE HOUSE FINANCE COMMITTEE  
TELECONFERENCE ON 2D HOUSE CS FOR CS FOR SENATE BILL NO. 84.

My name is Mike Nishimoto. I ask that this statement be made a part of your hearing record for the proposed house substitute of Senate Bill 84.

I agree with sponsors of the bill that permits can be processed more efficiently. But I do not believe that delays are all caused by the resource agencies. Applicants and agencies must share the responsibilities in making the permit process more efficient. Delays also occur when applicants do not provide accurate information on their projects. Project plans are vague and not described adequately enough to allow agencies to evaluate the project. In some instances the applicant would modify his project and sometimes change project locations two or three times and yet expect timely approval of their permits.

Applicants don't plan the timing of submitting their applications. An application submitted in early winter cannot be evaluated until the next spring when a site inspection can be made. If there are potential problems with a fish run or bird migration then these events must occur before an evaluation can be made. However, if an applicant plans his project, he would be resolving potential conflicts in advance of formally submitting his application. Early notification of project plans even in the conceptual stages gives agencies an opportunity to plan site inspections before permits are submitted. They need not make a special more costly trip to inspect this one site but incorporate it as part of their summer field schedule.

Early project planning can reduce most delays. Making people aware of agency policies can also help reduce conflicts and hence delays. The proposal to reduce permit processing time by mandating short review times--often inadequate review periods-- will not work if it is not accompanied by substantial effort in improving the planning process. This act must also require serious pre-permit consultation as a prerequisite to any reduction in the permit review period. If there is not enough time for agencies to collect sufficient biological information, a credible biologist would review a project under the worse case basis. If a biologist submits to political pressure then the result could be litigation by conservation groups. It leads to greater delays and provides no benefit to the applicant or the public. Therefore, I suggest that this bill be revised to incorporate changes as described above and in the specific comments that follow.

#### Specific Comments

Page 2, Lines 15-20. Permit Classification. This subparagraph should be modified to provide criteria to guide State agencies in classifying their permits. The heart of this act lies with the classification of the permits. A class I permit must be restricted to categories of projects that have not created environmental problems in the past. An agency would not have the time to conduct an in-depth case by case analysis within the proposed time frame.

Page 2, lines 21-29. Other Regulatory Requirements. Often decisions cannot be made quickly because applications are submitted in the winter or other periods when fish and wildlife are not active in the area. This may not be interpreted as a complex problem, but it should be recognized as a valid cause of delaying decisions. This delay can be avoided if applicants would recognize these factors and submit applications accordingly. Applicants should take some responsibility in the permit process and not place all the burden on an agency. Furthermore, this act should encourage pre-permit consultations so problems would be resolved when applications are submitted.

Page 3, lines 11-14. Other Regulatory Requirements etc. The last sentence of the subparagraph is confusing and should be reworded. What is meant by "presumption of regularity"?

Page 3, lines 15-16. Other Regulatory Requirements etc. This sentence is also confusing. Apparently this means that an agency cannot stipulate that a permit would be approved if the applicant also receives approval of permits required by a federal or local agency.

Page 4, lines 1-4. Additional Information. This section should clearly state that additional requests can be made (still with the time period suspended) if the applicant did not adequately provide information that an agency originally requested. This would plug loopholes where applicants would submit only token data so they would have complied to an agency's request and also realizing that there would be no future time suspensions to the comment period for additional information.

Page 4, lines 8-17. Lead Agency. To comply with the Fish and Wildlife Coordination Act, ADF&G must make recommendations to the Corps or other agencies issuing federal permits. The lead agency on federal permits should be ADF&G and the Alaska Department of Environmental Conservation (if Section 401 permits are required). The Clean Water Act requires a water quality certification from ADEC. There must also be an independent body such as the Coastal Policy Council and its staff (Office of Coastal Management) who would have oversight responsibilities over actions taken by lead agencies on consistency determinations. This body should evaluate actions of lead agencies either annually or twice a year. The evaluation should become a public document and lead agencies must be required to correct any deficiencies identified by the Coastal Policy Council. The Council or the Office of Coastal Management should also arbitrate conflicts between a lead agency and commenting agency.

Page 5, lines 1-7. Lead Agency. A procedure for balancing the competing factors should be included under this section. It should at least include a written document that describes the rationale used in reaching a decision. These findings should be made a public document.

Page 5, lines 8-9. Lead Agency. This requirement further emphasizes that on Corps permits ADEC and ADF&G must be the lead agency to comply with the Fish and Wildlife Coordination Act and the Clean Water Act respectively.

Page 5, lines 10-12. Lead Agency. If land disposal requires Section 401 certification, it infers that other federal permits would also be required. This means that ADF&G must comment to the federal agency under the Fish and Wildlife Coordination Act. Thus, either ADF&G should be the lead agency or there must be co-lead agencies. Same comments apply to subparagraph (e).

Page 5, lines 23-25. Comment Period. All Class II permits should be required to be publicized through a public notice (at least in a local newspaper) to solicit comments by the public. If resource agencies plan to take action in the public interest then the public should have a chance to express their views of a particular proposal. There should also be uniform guidelines for requiring public hearings.

Page 5, lines 25-29. Comment Period. A coastal resource district or state agency requested to comment on a project by a lead agency should be provided an opportunity to request time extensions. The rationale for accepting or rejecting these request should be documented and be available to the public.

Page 6, lines 1-6. Administrative appeal. This section should include procedures in making an appeal. There should be two types of appeal -- one for conflicts among State agencies and another for the public. In agency appeals the Office of Coastal Management should serve as arbitrators.

Page 6, lines 13-15. Administrative appeal. Criteria should be established for accepting or rejecting an appeal. Decisions on appeals should be a public document.

Page 6, lines 16-19. During a appeal no agency action should be made on a permit. To take action during an appeal defeats the purpose of that process. The applicant must demonstrate why an agency's action would not be in the public interest. However, if this subparagraph is to be retained then to be fair, the subparagraph should state that on appeals from permit issuance, the head of the agency may deny a permit if he determines that it is in the public interest. If such action is reasonable on denials then it should be reasonable for permit issuance.

*Mike Rubino*



COMMITTEE REPORT

HOUSE

2/24  
Rules

(5)

FURTHER:

1/11/82

Date: Feb. 19, 1982

Mr. Speaker: (Taken from calendar 1/11/82) ~~reference to~~  
The Committee on LABOR & COMMERCE has had <sup>CS</sup> HCS/SB 84(2d Rules)amH

"An Act relating to the granting of land use authorizations by state agents."

under consideration and ~~the majority of the committee~~ reports it back with the following recommendations:

do pass  do not pass

~~do pass with attached amendments(s)~~

replace with CS for <sup>2d H</sup> CS FOR SENATE BILL #84 (L+C)  same title  new title

and recommends it do pass

AND attaches a "Letter of Intent"  New Fiscal Note

reports it back without recommendation

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*[Signature]*  
*[Signature]*  
*[Signature]*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*[Signature]* Do Not Pass until Amended  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Signature]*  
*[Signature]*  
CHAIRMAN

HCS SB 84(2d Rules) amH

HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO 84(2d Rules) amH (relating to the granting of land  
use authorization by state agents) lacking the necessary  
three-fourths vote to advance to third reading the same day  
(page 2585 of the <sup>JUNE 24</sup> 1981 House Journal) was automatically before  
the House in third reading and read the third time.

Amendment No. 5 by Fanning adopted 6/24/81 Page 2583

Page 5, Line 24:

Delete the second "and" and insert "all"

*Return L & C. [Signature]*

H O U S E

am #1 by Clocksen - failed  
am #2 by Clocksen - failed  
am #3 by Clocksen - wld  
am #4 by Clocksen - wld  
am #5 by Fanning - adopted  
am #6 by Metcalfe - failed

ENGROSS: \_\_\_\_\_

ENROLL: \_\_\_\_\_

HB # \_\_\_\_\_

HCS

CS SB # 841 (2d Rules) am #1

HJR # \_\_\_\_\_

SJR # \_\_\_\_\_

HCR # \_\_\_\_\_

SCR # \_\_\_\_\_

HR # \_\_\_\_\_

DATE PASSED 6/24/81

ROLL CALL: YEAS: \_\_\_\_\_

EFFECTIVE DATE: YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_

EXCUSED: \_\_\_\_\_

AMENDMENT #1

OFFERED IN THE HOUSE:

By: Clocks

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_  
*HCS CS* SENATE BILL No. 84 (2d Rules)

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 2 - Line 5 - Delete <sup>" "</sup>30 and insert "45".

Page 2 - Line 9 - Delete <sup>" "</sup>65 and insert "90".

*Forled*

AMENDMENT # 2

OFFERED IN THE HOUSE:

By: Clocks in

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. 84 (2d Reading)

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 3 - Delete lines 9 - 16.

*Failed*

AMENDMENT #3

OFFERED IN THE HOUSE:

By: Clocks in

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. 84 (2d. (Rules))

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 5 <sup>line 22</sup>  
^ - Delete Section 4.

 W/D

A M E N D M E N T #4

OFFERED IN THE HOUSE:

By: Clocksin

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. 84 (2d Reading)

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 3 - Line 11 - <sup>" "</sup>Delete 30 and insert "45".

Page 3 - Line 12 - <sup>" "</sup>Delete 65 and insert "90".

*W/D*

AMENDMENT #5

OFFERED IN THE HOUSE:

By: Fanning

To: HCS CS SB

HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. 84

PAGE: 5

LINE: 24

ln 24 delete the second { "and" }  
insert in its place, the word "all"

Adopted

AMENDMENT

#6

OFFERED IN THE HOUSE:

BY: Alcalá

TO: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. HCS CSSB 84

PAGE: 1 Andrew H

LINE: \_\_\_\_\_ (2nd Rules)

Delete all material,  
insert the content  
of CSSB 84 (Res)

Failed

HOUSE

*in 2nd  
fil 6/24*

*held*

ENGROS: \_\_\_\_\_

ENROLL: \_\_\_\_\_

HB # \_\_\_\_\_

OS SB # 84(Res)

HJR # \_\_\_\_\_

SJR # \_\_\_\_\_

HCR # \_\_\_\_\_

SCR # \_\_\_\_\_

HR # \_\_\_\_\_

DATE PASSED \_\_\_\_\_

ROLL CALL: YEAS: \_\_\_\_\_

EFFECTIVE DATE: YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_

EXCUSED: \_\_\_\_\_

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 22, 1981

SUBJECT: CSSB 84 (Rules) -- Permits

TO: Representative John G. Fuller  
Chairman, House Rules Committee

FROM: Billy G. Berrier *BGB*  
Director  
Division of Legal Services

The draft submitted raises many questions of style and substance. Since these are related here, I have made only changes clearly needed for style except for the change in the title which is constitutionally required under the descriptive title requirement.

A more important problem is that Sec. 4 of the bill is a clear violation of the single subject rule. Substantive law governing who has preference rights to leases of state land is not related to the process by which permits are granted which is otherwise the subject of the bill.

BGB:ljb

Enclosure

COMMITTEE REPORT  
HOUSE

6/23  
On  
today  
121 people  
calendar

FURTHER:

(5)

Date: June 23, 1981

Mr. Speaker:

The Committee on Rules has had ~~W~~ <sup>(see)</sup> CSSB 84 ~~(R1s)~~

"An Act relating to the processing of permits by state agencies; ~~to surface leasing of land; and to administration of the Alaska coastal management program;~~ and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>H</sup>CS for CSSB 84(2d R1s)  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

John Bell

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

R. L. E. P. O. D. No Rec.  
A. D. Smith No Rec.  
J. F. Hayes No Rec.

John Bell  
CHAIRMAN

Being drafted

COMMITTEE REPORT

HOUSE

6/22  
On  
today's  
calendar

FURTHER:

(5)

Date: June 22, 1981

Mr. Speaker:

The Committee on RULES has had CSSB 84(Res)

"An Act relating to the processing of permits by state agencies; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>#</sup> CS for CSSB 84 (Rules)  same title  
 new title
- and recommends do pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

John G. Haller  
Joe T. Hayes  
Patrick W. O'Connell  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

R. D. E. Pelloni No Rec  
P. J. Smith  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

John G. Haller  
 CHAIRMAN

COMMITTEE REPORT

HOUSE

6/21  
Rule

6/21/81

FURTHER:

(9)

Date: 6/21/81

Mr. Speaker

The Committee on FINANCE has had CSSB 84(Res)

"An Act relating to the processing of permits by state agencies; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends w/ attached amendment
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without <sup>individual</sup> recommendation <sub>out</sub>
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

James G. ... do pass  
Robert B. ...  
Joe Montgomery  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

David Cuddy no rec  
John S. ... no rec  
... - Do Not Pass  
... - Do Not Pass  
... no rec  
Vernon ... No Rec.

Robert B. ...  
 CHAIRMAN

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Finance Committee

To: CS HOUSE BILL No. 84 (Res)

SENATE BILL No. \_\_\_\_\_

PAGE: 2

LINE: 5

after "timē" add ", or unless the agency makes a written finding stating why more time is required and sets a deadline for issuance or denial of the permit"

Berri

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 2/24/82  
Referred: Rules

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state  
7 agencies, and to administration of the Alaska Coastal  
8 Management program."

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

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employ-  
19 ment and higher prices;

20 (3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews in-  
23 volved in the permit process, and by requiring state agencies to process  
24 permit applications in an expeditious manner, the social, economic, and  
25 environmental health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

29 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

1 ARTICLE 8A. PERMIT PROCESSING.

2 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
3 agency shall by regulation classify each of the permits issued by that  
4 agency within one of the two following categories:

5 (1) class I permits, for which the state agency must issue a  
6 final decision within 30 days after the date of receipt of a completed  
7 permit application; and

8 (2) class II permits, for which, because of a necessary  
9 public notice or interagency review period, a final decision cannot be  
10 issued within 30 days; a final decision on a class II permit must be  
11 issued within 65 days after the date of receipt of a completed permit  
12 application, unless a public hearing is held on the permit, in which  
13 case a final decision must be issued within 75 days of the date of  
14 receipt.

15 (b) Final regulations classifying its permits, and uniform proce-  
16 dural regulations providing for the processing of these permits, shall  
17 be adopted by each state resource agency by October 1, 1982, following  
18 appropriate notice and hearing. Permits applied for after October 1,  
19 1982 must be issued in accordance with the time periods specified in  
20 (a) of this section, and the provisions of the implementing regulations.

21 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
22 ING. (a) Upon a finding by the head of a resource agency that a  
23 permit being considered involves unusually complex issues so that the  
24 agency cannot render a final decision within the time period specified  
25 in AS 44.62.632(a), the head of the agency may prescribe a time period  
26 within which the final decision will be made. The finding of the head  
27 of the agency may be appealed by the applicant to the superior court  
28 under the Appellate Rules of Procedure. The time period may not be  
29 extended more than 120 days beyond the time period specified in AS 44.-

1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
12 an appeal of a permit issued by operation of this subsection, the  
13 record shall be considered in the light most favorable to the applicant,  
14 and the permit shall be accorded a presumption of regularity.

15 (d) A state agency may not condition the issuance of a permit  
16 upon the issuance of a permit from another governmental agency.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application that does not contain suffi-  
19 cient information concerning the project's compliance with the agency's  
20 statutes and regulations, the agency shall notify the applicant within  
21 15 days after receipt of a completed permit application for a class I  
22 permit, and within 30 days after receipt for a class II permit.

23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
28 made, the time period specified in AS 44.62.632 is suspended from the  
29 date of request to the date of full compliance with the request.

1 Subsequent requests for additional information may be made, but must  
2 relate only to new issues raised by the response to the initial noti-  
3 fication. Subsequent requests do not extend the time periods specified  
4 in AS 44.62.632.

5 (d) Nothing in this section grants a resource agency the authority  
6 to request information beyond the authority given to it by other sta-  
7 tutes.

8 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead  
9 agency that is solely responsible for issuing coastal management consis-  
10 tency determinations under AS 46.40 and for preparing and submitting  
11 state comments on federal permit applications. The lead agency is that  
12 resource agency that has principal responsibility for authorizing the  
13 overall activity, including instances where an activity requires permits  
14 from more than one resource agency. For classes of activities for  
15 which no agency with principal responsibility exists the governor shall  
16 designate a resource agency to be a lead agency for each class by  
17 administrative order no later than October 1, 1982. In performing its  
18 functions under this section, the lead agency shall consult with other  
19 resource agencies and with coastal resource districts under AS 46.40.

20 (b) Substantive consideration shall be given to the documented  
21 factual statements or data submitted by resource agencies and to the  
22 office of coastal management within their primary areas of expertise,  
23 and to the documented factual statements or data submitted by coastal  
24 resource districts made under an approved district coastal management  
25 program. The lead agency shall consider opinions, conclusions or  
26 recommendations submitted by the commenting agency, but may, in its  
27 discretion, reach contrary opinions, conclusions or recommendations  
28 according to the evidence received. The lead agency shall then balance  
29 competing factors in reaching its final decision. No resource agency

1 other than the lead agency has primary expertise in the balancing of  
2 competing factors.

3 (c) Except as required by federal law no state agency other than  
4 the lead agency may comment to a federal permitting agency.

5 (d) For activities involving a disposal of interest in land and a  
6 certification under sec. 401 of the Clean Water Act (33 U.S.C. sec.  
7 1341), the lead agency shall be the Department of Natural Resources.

8 (e) For activities involving a plan of operation approval under a  
9 previous disposal of an interest in land and a certificate under sec.  
10 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall  
11 be the Department of Natural Resources.

12 Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or  
13 state agency that receives a request for comment in connection with a  
14 permit application or plan review being processed by a resource agency  
15 shall submit these comments in accordance with the following schedule:

16 (1) comments on class I permits shall be submitted within 15  
17 days after the agency's receipt of the request;

18 (2) comments on class II permits and federal permits shall  
19 be submitted within 30 days after the agency's receipt of the request;

20 (3) when under AS 44.62.633, the requesting agency has  
21 extended the time periods specified in AS 44.62.632, that agency may  
22 extend the time period specified in this section; however, comments  
23 submitted under this paragraph must be submitted no later than 30 days  
24 before the date on which the lead agency must issue a final decision.

25 Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform proce-  
26 dural regulations adopted under AS 44.62.632(b) must provide for an  
27 administrative appeal from a final decision on a permit application.  
28 The administrative appeal is to the head of the resource agency in-  
29 volved. Except as provided in this section the procedure is conducted

1 under AS 44.62.330 - 44.62.630.

2 (b) The administrative appeal must be resolved within 45 days  
3 after the final decision on a permit application, or, if a hearing is  
4 held on the administrative appeal, within 65 days after the final  
5 decision on the permit application.

6 (c) An appeal taken from a decision granting a permit may, but  
7 need not, stay the issuance of the permit.

8 (d) The head of the agency may summarily dismiss an appeal before  
9 the time established in this section, and the dismissal is the final  
10 agency action on the matter.

11 (e) In an appeal from the denial or conditioning of a permit the  
12 head of the agency may, if he determines that the public interest would  
13 be served, grant the permit or remove conditions of the permit until  
14 the appeal is determined.

15 Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
16 review by the superior court of a final decision issued under AS 44.-  
17 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
18 superior court in accordance with the applicable Rules of Appellate  
19 Procedure. The review is governed by the provisions of AS 44.62.-  
20 560(b) - (e) and AS 44.62.570.

21 (b) An appeal taken under this section should have preference on  
22 the calendar of civil actions before the court and should be decided  
23 without unnecessary delay.

24 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

25 (c) As used in AS 44.62.632 - 44.62.638,

26 (1) "date of receipt" means the date on which a state agency  
27 actually receives a completed application filed in accordance with  
28 agency regulations and at a place identified as appropriate for filing  
29 in the agency's regulations;

1 (2) "permit" means a permit, license, certification, consis-  
2 tency determination, or other authorization or approval issued by a  
3 resource agency as a written document that is required to be obtained  
4 or is solicited from a state agency before the construction or opera-  
5 tion of a project; "permit"

6 (A) does not include the approval of a unit agreement,  
7 a unit development plan, or a unit exploration plan, or conveyances  
8 of interest in state land or water;

9 (B) does include all authorizations and approvals,  
10 whether proprietary or regulatory, necessary to undertake a project  
11 under a previously conveyed property interest;

12 (3) "project" means a new activity or expansion or addition  
13 to an existing activity for which permits are required before construc-  
14 tion or operation; "project" does not include pursuing a trade or  
15 profession, providing public health service, or operating a financial  
16 institution;

17 (4) "resource agency" includes the Department of Natural  
18 Resources, the Department of Environmental Conservation, and the Depart-  
19 ment of Fish and Game with respect to permits issued for the protection  
20 of fish habitat or the regulation of state sanctuaries, refuges, and  
21 critical habitat areas.  
22  
23  
24  
25  
26  
27  
28  
29

Original sponsors: Bennett, Parr and  
Fahrenkamp

Revised: 6/23/81  
For Today's Supplemental  
Calendar

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 84 (2d Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the granting of land use authoriza-  
7 tions by state agents."

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

9 \* Section 1. FINDINGS. The legislature finds that

10 (1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies, by the complexity of the permitting process, and by the number of  
13 agencies involved in the permitting process;

14 (2) the uncertainties created by the lack of specific time  
15 limits, the proliferation of agency reviews, the number of agencies involved  
16 in the permit process, and unjustified agency requirements upon the process-  
17 ing of permit applications have cost Alaskans millions of dollars in lost  
18 employment and higher prices;

19 (3) the public interest has not been advanced by protracted delay  
20 in the processing of permit applications by state agencies;

21 (4) by reducing the number of agencies and agency reviews in-  
22 volved in the permit process, and by requiring state agencies to process  
23 permit applications in an expeditious manner, the social, economic, and  
24 environmental health and well-being of Alaska citizens will be promoted; and

25 (5) there are many administrative orders and similar documents  
26 that have been promulgated by the executive branch relating to interagency  
27 review that conflict and overlap, retarding the permit issuing process.

28 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

29 ARTICLE 8A. PERMIT PROCESSING.

COMMITTEE COPY

1           Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
2 agency shall by regulation classify each of the permits issued by that  
3 agency within one of the two following categories:

4           (1) class I permits, for which the state agency must issue a  
5 final, pre-adjudicatory decision within 30 days after the date of  
6 receipt of a completed application; and

7           (2) class II permits, for which, because of a necessary or  
8 appropriate public notice or interagency review period, a final, pre-  
9 adjudicatory decision cannot be issued until 65 days after the date of  
10 receipt of a completed application.

11           (b) Final regulations classifying its permits, and uniform proce-  
12 dural regulations providing for the processing of these permits, shall  
13 be adopted by each state resource agency by October 1, 1981. Permits  
14 applied for after this date must be issued in accordance with the time  
15 periods specified in (a) of this section, and the provisions of the  
16 implementing regulations. Regulations adopted under this section may  
17 be revised.

18           Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
19 ING. (a) An applicant and a resource agency may agree to waive a time  
20 limit required by regulation for the classification of the applicable  
21 permit.

22           (b) Upon a finding by the head of a resource agency that a permit  
23 being considered involves unusually complex issues so that the agency  
24 cannot render a final, pre-adjudicatory decision within the time period  
25 specified in AS 44.62.632(a), the head of the agency may prescribe a  
26 time period within which the final, pre-adjudicatory decision will be  
27 made. The finding of the head of the agency may be appealed to the  
28 superior court under the Appellate Rules of Procedure.

29           (c) The time period specified in AS 44.62.632(a) may be extended

1 by a maximum of 20 days if a public hearing is held on a permit appli-  
2 cation.

3 (d) The time period specified in AS 44.62.632(a) may be extended  
4 if necessary to facilitate joint processing of a permit application  
5 through memorandum of understanding by state and federal agencies, and  
6 strict adherence to the time periods established in AS 44.62.632(a)  
7 would pose an irreconcilable conflict with a federal statute or regula-  
8 tion.

9 (e) Subject to (a) - (d) of this section and AS 44.62.634, fail-  
10 ure of a resource agency to make a final, pre-adjudicatory decision  
11 within 30 days after the receipt of a completed application for a class  
12 I permit, or within 65 days after the receipt of a completed applica-  
13 tion for a class II permit, constitutes approval of the application.  
14 In an appeal of a permit issued by operation of this subsection, the  
15 record shall be construed in a light most favorable to the applicant,  
16 and the permit shall be accorded a presumption of regularity.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application form which does not contain  
19 sufficient information concerning the project's compliance with the  
20 agency's statutes and regulations, the agency shall notify the appli-  
21 cant within 15 days after receipt of a completed application for a  
22 class I permit, and within 30 days after receipt for a class II permit.  
23 The notification must specify all information that the agency believes  
24 at the time to be necessary to determine compliance of the project with  
25 the agency's statutes and regulations.

26 (b) The initial and any subsequent notification must specify  
27 those particular facts or issues concerning the proposal that require  
28 more information than is provided on a completed application form.  
29 Subsequent requests for additional information must be made within the

1 permit deadline as extended, and may be made only with respect to new  
2 issues raised by the response to the initial notification.

3 (c) If a timely request under this section is made, the time per-  
4 iod specified in AS 44.62.632 is suspended from the date of request to  
5 the date of full compliance with the request.

6 Sec. 44.62.635. LEAD AGENCY. There are established lead agencies  
7 which are solely responsible for issuing coastal management consistency  
8 determinations under AS 46.40 and for preparing and submitting state  
9 comments on federal permit applications. The lead agency may vary for  
10 classes of activities, but shall be that agency that has principal  
11 responsibility for authorizing the overall activity. For classes of  
12 activities for which no agency with principal responsibility exists the  
13 governor shall designate a lead agency by administrative order no later  
14 than October 1, 1981. In performing its functions under this section,  
15 the lead agency shall consult with other resource agencies and with  
16 coastal resource districts under AS 46.40. The lead agency shall  
17 balance competing factors in reaching its decision. Great weight shall  
18 be given to the comments of resource agencies within their primary area  
19 of expertise, and also to the comments of coastal resource districts  
20 with approved coastal management plans, unless the district's recom-  
21 mendation would result in the arbitrary or unreasonable restriction or  
22 exclusion of uses of state concern as that term is defined in AS 46.40.-  
23 070(c).

24 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

25 (c) As used in AS 44.62.632 - 44.62.635,

26 (1) "date of receipt" means the date on which a state agency  
27 actually receives a completed application filed in accordance with  
28 agency regulations and at a place identified as appropriate for filing  
29 in the agency's regulations;

1 (2) "final, pre-adjudicatory decision" means that decision  
2 of a state agency, or its staff that forms the basis for a timely re-  
3 quest for an adjudicatory hearing or administrative appeal, and that  
4 becomes the agency's final decision if an adjudicatory hearing or man-  
5 datory administrative appeal is not timely requested;

6 (3) "permit" means a permit, license, certification, consis-  
7 tency determination, plan review, or other authorization or approval  
8 issued by a resource agency as a written document that is required to  
9 be obtained or is solicited from a state agency before the construction  
10 or operation of a project; "permit" does not include conveyances of in-  
11 terest in state land or water, but does include all authorizations and  
12 approvals, whether proprietary or regulatory, necessary to undertake a  
13 project under a previously conveyed property interest;

14 (4) "project" means a new activity or expansion or addition  
15 to an existing activity for which permits are required before construc-  
16 tion or operation; and

17 (5) "resource agency" includes the Department of Natural  
18 Resources, the Department of Environmental Conservation, the Alaska  
19 Coastal Policy Council, and the Department of Fish and Game with respect  
20 to permits issued for the protection of fish habitat or the regulation  
21 of state sanctuaries, refuges, and critical habitat areas.

22 \* Sec. 4. AS 38.05.075 is repealed and reenacted to read:

23 Sec. 38.05.075. SURFACE LEASING PROCEDURE. (a) Except as pro-  
24 vided in AS 38.05.068, 38.05.082, and (b) - (e) of this section, and <sup>all</sup>  
25 leasing shall be conducted by public auction, to the highest pre-quali-  
26 fied bidder, as determined by the director. An aggrieved pre-qualified  
27 bidder may appeal to the commissioner by a letter postmarked within  
28 five days after the director's determination. Lease auctions shall be  
29 conducted by the director or his representative, and the successful

1 pre-qualified bidder shall deposit at the auction the first year's  
2 rental or that percentage of it that the commissioner shall require.  
3 The director may require a deposit for any survey and appraisal costs  
4 reasonably incurred by another pre-qualified bidder acting in accor-  
5 dance with the department's regulations. If a bidder making a deposit  
6 of survey or appraisal costs is determined to be the highest pre-quali-  
7 fied bidder under this subsection, his deposit shall be paid to the un-  
8 successful bidder who incurred those costs. The director or his repre-  
9 sentative shall immediately issue a receipt to the successful pre-qual-  
10 ified bidder containing a description of the land or interest leased,  
11 the total price bid, the terms of the lease, and the amount, if any, to  
12 be paid for the survey or appraisal. The receipt shall be immediately  
13 acknowledged by the bidder. If the receipt is not acknowledged by the  
14 bidder in accordance with this subsection, the director may re-offer  
15 the land in accordance with this section. The lease, on a form ap-  
16 proved by the attorney general, shall be signed by the successful  
17 bidder within 30 days after the auction, and shall thereafter be signed  
18 by the director, after approval by the commissioner.

19 (b) When a valid existing grazing lease is cancelled to permit  
20 state selection of the land under lease, the lessee of the land has a  
21 preference right to lease the land without competitive bidding for a  
22 term equal to the unexpired term originally granted in the cancelled  
23 federal lease, and upon terms no less favorable to the lessee than  
24 those contained in the cancelled federal lease.

25 (c) A littoral owner or lessee has a preference right to acquire,  
26 without competitive bidding, a lease for tide and submerged land di-  
27 rectly adjacent to his upland parcel if

28 (1) lease of the tide or submerged land is sought solely for  
29 the purpose of facilitating water transport of material extracted,

1 harvested, produced, or processed on the adjacent uplands;

2 (2) the proposed use of the tide and submerged land is com-  
3 patible with the classification of this land and the adjacent uplands;

4 (3) there is no competing interest for a higher and better  
5 use of the subject tide and submerged land;

6 (4) where the land was formed by isostatic rebound, granting  
7 of a lease would not violate the state's irrevocable trust respon-  
8 sibilities; and

9 (5) issuance of the lease will not interfere with prior ex-  
10 isting rights.

11 (d) The annual rental for a lease issued under (c) of this sec-  
12 tion shall be determined by an appraisal conducted under AS 38.05.310.  
13 If the adjacent upland ownership interest is less than fee simple, the  
14 term of the lease acquired under (c) of this section may not exceed the  
15 unexpired term of the upland interest. Termination of a less-than-fee  
16 upland interest before its normal expiration, for any reason, shall  
17 terminate the lease acquired under (c) of this section.

18 (e) The department shall, in conformity with AS 38.05.345, re-  
19 quire pre-qualification of bidders for a lease to be issued under  
20 AS 38.05.070. If, as a result of pre-qualification, the director de-  
21 termines that there is only one qualified bidder for the lease, he may  
22 issue a lease to that bidder at the appraised value as determined by  
23 AS 38.05.310, without competitive bidding. Notwithstanding AS 38.05.-  
24 345, disposal shall occur as soon as practicable following completion  
25 of survey and appraisal, and notice of any auction shall be made per-  
26 sonally or by registered mail to all pre-qualified bidders.

27 \* Sec. 5. AS 44.19.162 is amended to read:

28 Sec. 44.19.162. COUNCIL STAFF. The council shall utilize the  
29 staff of the office of coastal management within the Department of

1 Community and Regional Affairs [DIVISION OF POLICY DEVELOPMENT AND  
2 PLANNING] in discharging its powers and duties. The commissioner  
3 [COORDINATOR OF THE OFFICE], with the concurrence of the council, may  
4 contract with or employ personnel or consultants he considers necessary  
5 to carry out the powers and duties of the council.

6 \* Sec. 6. AS 46.35 is amended by adding a new section to read:

7 Sec. 46.35.025. PRE-APPLICATION CONFERENCE. (a) A person con-  
8 sidering the submission of a permit coordination request under AS 46.-  
9 35.030, or a master application under AS 46.35.035, may request a per-  
10 mit requirement information center established under AS 46.35.160 to  
11 hold a pre-application conference.

12 (b) The department will invite to the conference appropriate fed-  
13 eral, state, and local agencies. The conference will be held no later  
14 than 30 days after receipt of a request under (a) of this section.

15 (c) The purpose of a pre-application conference is to enable a  
16 potential applicant and appropriate federal, state, and local agencies  
17 to discuss the nature of the proposed activity, tentative or possible  
18 agency concerns over the activity, and permits that may be required.

19 \* Sec. 7. AS 46.35.030 is amended to read:

20 Sec. 46.35.030. PERMIT COORDINATION REQUEST [MASTER APPLICATION].

21 (a) A person proposing a project which requires the issuance of one or  
22 more permits may at his sole discretion submit a permit coordination  
23 request [MASTER APPLICATION] to the department requesting the issuance  
24 of all permits and documents covered by this chapter [NECESSARY BEFORE  
25 THE CONSTRUCTION AND OPERATION OF THE PROJECT IN THE STATE]. The  
26 request [MASTER APPLICATION] shall be on a form established by the  
27 department and shall contain sufficient information as to the location  
28 and the nature of the project, including discharge of wastes and use of  
29 or interference with natural resources of the state.

1 (b) Upon receipt of a properly completed request [MASTER APPLICA-  
2 TION], the department shall immediately forward a copy of the request  
3 [APPLICATION] to each agency administering a permit covered by this  
4 chapter [ALL HEADS OF EXECUTIVE DEPARTMENTS OF THE STATE] and the chief  
5 elected official of all municipalities in which a portion of the project  
6 is proposed to be constructed, together with the date by which the  
7 agency shall respond to the request [MASTER APPLICATION].

8 (c) Each agency notified shall respond in writing to the depart-  
9 ment by the specified date, not exceeding 15 days from receipt, as de-  
10 termined by the department, advising

11 (1) whether the agency has permit jurisdiction over [AN IN-  
12 TEREST IN] the request [MASTER APPLICATION]; and

13 (2) if the response to (1) of this subsection is affirma-  
14 tive, the permit program under the agency's jurisdiction to which the  
15 project described in the request [MASTER APPLICATION] is pertinent [;  
16 AND

17 (3) WHETHER, IN RELATION TO THE MASTER APPLICATION, A PUBLIC  
18 HEARING AS PROVIDED IN AS 46.35.050 and 46.35.060 WOULD BE IN THE  
19 PUBLIC INTEREST].

20 (d) Each notified agency which (1) responds within the specified  
21 date that it does not have permit jurisdiction over the project de-  
22 scribed in the request [AN INTEREST IN THE MASTER APPLICATION]; or (2)  
23 does not respond as required within the specified date, may not subse-  
24 quently require a permit of the applicant for the project described in  
25 the request [MASTER APPLICATION] unless the request [MASTER APPLICA-  
26 TION] contained false, misleading, or deceptive information, or other  
27 information or lack of information which would reasonably lead an agen-  
28 cy to misjudge its interest in the project [MASTER APPLICATION].

29 (e) The department shall submit application forms relating to

1 permit programs identified in affirmative responses under (c) of this  
2 section to the applicant with a direction to complete and return them  
3 to the department within a reasonable time as specified by the depart-  
4 ment.

5 (f) When the applications, properly completed, have been returned  
6 to the department, each of the applications shall be transmitted to the  
7 appropriate state agency for the performance of its responsibilities of  
8 decision making in accordance with the procedures of this chapter, and  
9 any applicable permit deadline shall begin on the date of receipt of a  
10 completed application by the permitting agency.

11 \* Sec. 8. AS 46.35 is amended by adding new sections to read:

12 Sec. 46.35.035. MASTER APPLICATION. (a) The department shall  
13 periodically develop master applications on a commercial or industrial  
14 activity basis.

15 (b) A master application developed under this section serves as  
16 the application form for each permit that is generally required for the  
17 commercial or industrial activity.

18 (c) When a person submits a master application developed under  
19 this section, AS 46.35.030 does not apply. The master application  
20 shall be served on the office of the department specified in regulation  
21 and any applicable permit deadline shall begin on the date of receipt  
22 of a complete application by the appropriate office of the department.

23 (d) The use of the master application procedures established in  
24 this chapter is at the sole discretion of the applicant.

25 Sec. 46.35.051. PERMIT PROCEDURES. (a) Permits sought under  
26 AS 46.35.030 or 46.35.035 shall be processed in one consolidated pro-  
27 ceeding. The proceeding shall be governed by those procedures that  
28 would otherwise be applicable to a permit being sought and that provide  
29 for the greatest degree of public participation and interagency review.

1 The decisional deadline applicable to the procedure used shall apply to  
2 each final decision made under AS 46.35.070. If the holding of a  
3 public hearing is discretionary under the applicable procedure, a  
4 majority of the permitting agencies shall determine whether to hold a  
5 public hearing under applicable criteria.

6 (b) Any change in the application or coordination request made  
7 during the pendency of proceedings under AS 46.35.030 or this section  
8 which is either jurisdictional or would result in significant new ad-  
9 verse impacts from the project shall be treated as the filing of a new  
10 application or coordination request.

11 \* Sec. 9. AS 46.35.070 is repealed and reenacted to read:

12 Sec. 46.35.070. FINAL DECISION. Each permitting agency shall  
13 forward its final decision to the department within the deadline estab-  
14 lished under AS 46.35.051(a). As soon as all final decisions are re-  
15 ceived by the department, the department shall incorporate them, with-  
16 out modification, into one document and transmit it to the applicant  
17 either personally or by registered mail.

18 \* Sec. 10. AS 46.35.080 is amended to read:

19 Sec. 46.35.080. WITHDRAWAL OF AGENCY FROM PARTICIPATION. (a) A  
20 state agency participating in a consolidated proceeding [RESPONDING AF-  
21 FIRMATIVELY UNDER AS 46.35.030(b)] may withdraw from participation  
22 as to one or more permits [IN THE PROCESSING PROVIDED IN AS 46.35.030 -  
23 46.35.070] at any time, by written notification to the department, if  
24 it subsequently appears to the state agency that it does not have [HAS  
25 NO] permit [PROGRAMS UNDER ITS] jurisdiction [APPLICABLE TO THE PRO-  
26 JECT].

27 (b) A decision by a state agency to withdraw from the proceeding  
28 is irreversible, and the state agency may not subsequently require the  
29 [A] permit of the applicant for the project described in the master ap-

1 plication unless the master application contained false, misleading, or  
2 deceptive information, or other information or lack of information  
3 which would reasonably lead an agency to misjudge its interest in the  
4 permit coordination request or master application.

5 \* Sec. 11. AS 46.35.090(a) is amended to read:

6 (a) A person aggrieved by a final decision issued under AS 46.35.-  
7 070 [AS 46.35.070(d)] may file a notice of appeal with the commissioner  
8 requesting an adjudicatory hearing within 15 [30] days of receipt  
9 [TRANSMITTAL] of the final decision by [TO] the person. A failure to  
10 file a timely notice of appeal constitutes a waiver of the person's  
11 right to review the final decision, unless the failure was due to cir-  
12 cumstances beyond the applicant's control.

13 \* Sec. 12. AS 46.35.110 is amended to read:

14 Sec. 46.35.110. APPLICATION. Notwithstanding any other provi-  
15 sions of regulation or statute relating to the processing of applica-  
16 tion for permits, the procedures set out in this chapter are exclusive  
17 for permits sought under AS 46.35.030 and applications filed under  
18 AS 46.35.035 [AS 46.35.030]. The procedures of this chapter are in  
19 lieu of any procedures otherwise provided by law or regulation, and are  
20 to be followed by a state agency in ruling upon those applications.

21 \* Sec. 13. AS 46.35.130(a) is amended to read:

22 (a) No permit for a project filed under AS 46.35.030 or 46.35.035  
23 may be issued unless the application has provided a certification from  
24 the appropriate local government that the project is in compliance with  
25 the zoning ordinances and associated comprehensive plans administered  
26 by the local government regarding the project. If the local government  
27 has no such ordinances or plans, the local government shall certify that  
28 fact. A local government may accept applications for certification  
29 under this section and shall rule upon them within 30 days. A local

1 government may impose stipulations of performance in its approval, but,  
2 upon certification, the local government may not change the zoning  
3 ordinances as to the proposed project until the procedures of this  
4 chapter, including an appeal, are completed.

5 \* Sec. 14. AS 46.35.170 is amended by adding a new subsection to read:

6 (c) The department may enter into memoranda of understanding with  
7 federal agencies for the full or partial processing of related federal  
8 permits under the procedures established by this chapter.

9 \* Sec. 15. AS 46.35 is amended by adding a new section to read:

10 Sec. 46.35.175. RELATION TO SURFACE LEASING PROCEDURE. When a  
11 project requires a surface lease under AS 38.05.075 in addition to per-  
12 mits covered by this chapter,

13 (1) application for the surface lease shall be coordinated  
14 under AS 46.35.030 or, when applicable, subsumed in the master applica-  
15 tion submitted under AS 46.35.035;

16 (2) the determination required under AS 38.05.035(a)(14)  
17 shall be consolidated in the proceeding conducted under AS 46.35.051,  
18 and the procedure for making that determination shall govern the con-  
19 solidated proceeding; and

20 (3) AS 46.35.040 applies if there is more than one pre-  
21 qualified bidder.

22 \* Sec. 16. AS 46.35.200(4) is repealed and reenacted to read:

23 (4) "permit" means a permit, license, certification, consis-  
24 tency determination, plan review, or other authorization or approval  
25 issued as a written document that is required to be obtained from ei-  
26 ther the Department of Fish and Game, Department of Environmental Con-  
27 servation, Department of Natural Resources, or Office of the Governor,  
28 division of policy development and planning; "permit" does not include  
29 disposals of an interest in state land or water, but does include all

1 authorizations and approvals, whether proprietary or regulatory, neces-  
2 sary to undertake a project under a previously conveyed property inter-  
3 est; the department, by regulation and with the consent of the permit-  
4 ting agency, may delete a permit from the coverage of this chapter if  
5 its inclusion unduly complicates consolidated review, and may add addi-  
6 tional permits issued by other agencies;

7 \* Sec. 17. AS 46.35.050, 46.35.060, and 46.35.090(b) are repealed.  
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For J. J. J. Sup

Original sponsors: Bennett, Parr and  
Fahrenkamp

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; to surface leasing of land; and to admini-  
8 stration of the Alaska coastal management program; and  
9 providing for an effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that

12 (1) the orderly development of state resources is being unneces-  
13 sarily delayed by the length of time required to obtain permits from state  
14 agencies, by the complexity of the permitting process, and by the number of  
15 agencies involved in the permitting process;

16 (2) the uncertainties created by the lack of specific time limits,  
17 the proliferation of agency reviews, the number of agencies involved in the  
18 permit process, and unjustified agency requirements upon the processing of  
19 permit applications have cost Alaskans millions of dollars in lost employ-  
20 ment and higher prices;

21 (3) the public interest has not been advanced by protracted delay  
22 in the processing of permit applications by state agencies;

23 (4) by reducing the number of agencies and agency reviews in-  
24 volved in the permit process, and by requiring state agencies to process  
25 permit applications in an expeditious manner, the social, economic, and  
26 environmental health and well-being of Alaska citizens will be promoted; and

27 (5) there are many administrative orders and similar documents  
28 that have been promulgated by the executive branch relating to interagency  
29 review that conflict and overlap, retarding the permit issuing process.

1 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

2 ARTICLE 8A. PERMIT PROCESSING.

3 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
4 agency shall by regulation classify each of the permits issued by that  
5 agency within one of the two following categories:

6 (1) class I permits, for which the state agency must issue a  
7 final, pre-adjudicatory decision within 30 days after the date of  
8 receipt of a completed application; and

9 (2) class II permits, for which, because of a necessary or  
10 appropriate public notice or interagency review period, a final, pre-  
11 adjudicatory decision cannot be issued until 65 days after the date of  
12 receipt of a completed application.

13 (b) Final regulations classifying its permits, and uniform proce-  
14 dural regulations providing for the processing of these permits, shall  
15 be adopted by each state resource agency by October 1, 1981, after  
16 which time permits must be issued in accordance with the time periods  
17 specified in (a) of this section. Regulations adopted under this sec-  
18 tion may be revised.

19 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
20 ING. (a) An applicant and a resource agency may agree to waive a time  
21 limit required by regulation for the classification of the applicable  
22 permit.

23 (b) Upon a finding by the head of a resource agency that a permit  
24 being considered by the agency is so complex that the agency cannot  
25 render a final, pre-adjudicatory decision within the time period speci-  
26 fied in AS 44.62.632(a), the head of the agency may prescribe a time  
27 period within which the final, pre-adjudicatory decision will be made.  
28 The finding of the head of the agency is subject to judicial review.

29 (c) The time period specified in AS 44.62.632(a) may be extended

1 by a maximum of 20 days if a public hearing is held on a permit appli-  
2 cation.

3 (d) The time period specified in AS 44.62.632(a) may be extended  
4 if necessary to facilitate joint processing of a permit application  
5 through memorandum of understanding by state and federal agencies.

6 (e) Subject to (a) - (d) of this section and AS 44.62.634, fail-  
7 ure of a resource agency to make a final, pre-adjudicatory decision  
8 within 30 days after the receipt of a completed application for a class  
9 I permit, or within 65 days after the receipt of a completed applica-  
10 tion for a class II permit, constitutes approval of the application.

11 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
12 cy receives a completed permit application form which does not contain  
13 sufficient information concerning the project's compliance with the  
14 agency's statutes and regulations, the agency shall notify the appli-  
15 cant within 15 days of receipt of a completed application for a class I  
16 permit, and within 30 days of receipt for a class II permit. The noti-  
17 fication must specify all information that the agency believes at that  
18 time to be necessary to determine compliance of the project with the  
19 agency's statutes and regulations.

20 (b) The initial and any subsequent notification must specify  
21 those particular facts or issues concerning the proposal that require  
22 more information than is provided on a completed application form.  
23 Subsequent requests for additional information must be made within the  
24 permit deadline as extended, and may be made only with respect to new  
25 issues raised by the response to the initial notification.

26 (c) If a timely request under this section is made, the time per-  
27 iod specified in AS 44.62.632 is tolled from the date of request to the  
28 date of full compliance with the request.

29 Sec. 44.62.635. LEAD AGENCY DESIGNATION. (a) On or before Octo-

ber 1, 1981, the governor shall, by administrative order, designate a lead agency for the preparation and submission of a single state position on federal permit applications. The lead agency may vary according to the nature of the activity proposed. No other state agency may comment on the federal permit application except through advisory comment to the lead agency. The lead agency has the ultimate authority with respect to the substance of the state's comments, but must consult with other affected agencies, and shall give great weight to the comments of other agencies within those agencies' primary area of expertise.

(b) The administrative order required in (a) of this section must not conflict with applicable federal law.

\* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

(c) As used in AS 44.62.632 - 44.62.635,

(1) "date of receipt" means the date on which a state agency actually receives a completed application filed in accordance with agency regulations and at a place identified as appropriate for filing in the agency's regulations;

(2) "final, pre-adjudicatory decision" means that decision of a state agency, or its staff that forms the basis for a timely request for an adjudicatory hearing or administrative appeal, and that becomes the agency's final decision if an adjudicatory hearing or mandatory administrative appeal is not timely requested;

(3) "permit" means a permit, license, certification, consistency determination, plan review, or other authorization or approval issued by a resource agency as a written document that is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit" does not include conveyances of interest in state land or water, but does include all authorizations and

1       approvals, whether proprietary or regulatory, necessary to undertake a  
2       project under a previously conveyed property interest;

3               (4) "project" means a new activity or expansion or addition  
4       to an existing activity for which permits are required before construc-  
5       tion or operation; and

6               (5) "resource agency" includes the Department of Natural  
7       Resources, the Department of Environmental Conservation, the Alaska  
8       Coastal Policy Council, and the Department of Fish and Game with respect  
9       to permits issued for the protection of fish habitat or the regulation  
10      of state sanctuaries, refuges, and critical habitat areas.

11   \* Sec. 4. AS 38.05.075 is repealed and reenacted to read:

12               Sec. 38.05.075. SURFACE LEASING PROCEDURE. (a) Except as pro-  
13      vided in AS 38.05.068, 38.05.082, and (b) - (c) of this section, and  
14      leasing shall be conducted by public auction, to the highest pre-quali-  
15      fied bidder, as determined by the director. An aggrieved pre-qualified  
16      bidder may appeal to the commissioner by a letter postmarked within five  
17      days after the director's determination. Lease auctions shall be con-  
18      ducted by the director or his representative, and the successful  
19      pre-qualified bidder shall deposit at the auction the first year's  
20      rental or that percentage of it that the commissioner shall require.  
21      The director may require a deposit for any survey and appraisal costs  
22      reasonably incurred by another pre-qualified bidder acting in accor-  
23      dance with the department's regulations. If a bidder making a deposit  
24      of survey or appraisal costs is determined to be the highest pre-quali-  
25      fied bidder under this subsection, his deposit shall be paid to the un-  
26      successful bidder who incurred those costs. The director or his repre-  
27      sentative shall immediately issue a receipt to the successful pre-quali-  
28      fied bidder containing a description of the land or interest leased,  
29      the total price bid, the terms of the lease, and the amount, if any, to

1 be paid for the survey or appraisal. The receipt shall be immediately  
2 acknowledged by the bidder. If the receipt is not acknowledged by the  
3 bidder in accordance with this subsection, the director may re-offer  
4 the land in accordance with this section. The lease, on a form approved  
5 by the attorney general, shall be signed by the successful bidder  
6 within 30 days after the auction, and shall thereafter be signed by the  
7 director, after approval by the commissioner.

8 (b) When a valid existing grazing lease is cancelled to permit  
9 state selection of the land under lease, the lessee of the land has a  
10 preference right to lease the land without competitive bidding for a  
11 term equal to the unexpired term originally granted in the cancelled  
12 federal lease, and upon terms no less favorable to the lessee than  
13 those contained in the cancelled federal lease.

14 (c) A littoral owner or lessee has a preference right to acquire,  
15 without competitive bidding, a lease for tide and submerged land di-  
16 rectly adjacent to his upland parcel if

17 (1) lease of the tide or submerged land is sought solely for  
18 the purpose of facilitating water transport of material extracted,  
19 harvested, produced, or processed on the adjacent uplands;

20 (2) the proposed use of the tide and submerged land is com-  
21 patible with the classification of this land and the adjacent uplands;

22 (3) there is no competing interest for a higher and better  
23 use of the subject tide and submerged land;

24 (4) where the land was formed by isostatic rebound, granting  
25 of a lease would not violate the state's irrevocable trust respon-  
26 sibilities; and

27 (5) issuance of the lease will not interfere with prior ex-  
28 isting rights.

29 (d) The annual rental for a lease issued under (c) of this sec-

1 tion shall be determined by an appraisal conducted under AS 38.05.310.  
2 if the adjacent upland ownership interest is less than fee simple, the  
3 term of the lease acquired under (c) of this section may not exceed the  
4 unexpired term of the upland interest. Termination of a less-than-fee  
5 upland interest before its normal expiration, for any reason, shall  
6 terminate the lease acquired under (c) of this section.

7 (e) The department shall, in conformity with AS 38.05.345, re-  
8 quire pre-qualification of bidders for a lease to be issued under  
9 AS 38.05.079. If, as a result of pre-qualification, the director de-  
10 termines that there is only one qualified bidder for the lease, he may  
11 issue a lease to that bidder at the appraised value as determined by  
12 AS 38.05.310, without competitive bidding. Notwithstanding AS 38.05.-  
13 345, disposal shall occur as soon as practicable following completion  
14 of survey and appraisal, and notice of any auction shall be made per-  
15 sonally or by registered mail to all pre-qualified bidders.

16 \* Sec. 5. AS 44.19.162 is amended to read:

17 Sec. 44.19.162. COUNCIL STAFF. The council shall utilize the  
18 staff of the office of coastal management within the Department of En-  
19 vironmental Conservation [DIVISION OF POLICY DEVELOPMENT AND PLANNING]  
20 in discharging its powers and duties. The commissioner [COORDINATOR OF  
21 THE OFFICE], with the concurrence of the council, may contract with or  
22 employ personnel or consultants he considers necessary to carry out the  
23 powers and duties of the council.

24 \* Sec. 6. AS 46.35 is amended by adding a new section to read:

25 Sec. 46.35.025. PRE-APPLICATION CONFERENCE. (a) A person con-  
26 sidering the submission of a permit coordination request under AS 46.-  
27 35.030, or a master application under AS 46.35.035, may request a per-  
28 mit requirement information center established under AS 46.35.160 to  
29 hold a pre-application conference.

1 (b) The department will invite to the conference appropriate fed-  
2 eral, state, and local agencies. The conference will be held no later  
3 than 30 days after receipt of a request under (a) of this section.

4 (c) The purpose of a pre-application conference is to enable a  
5 potential applicant and appropriate federal, state, and local agencies  
6 to discuss the nature of the proposed activity, tentative or possible  
7 agency concerns over the activity, and permits that may be required.

8 \* Sec. 7. AS 46.35.030 is amended to read:

9 Sec. 46.35.030. PERMIT COORDINATION REQUEST [MASTER APPLICATION].

10 (a) A person proposing a project which requires the issuance of one or  
11 more permits may submit a permit coordination request [MASTER APPLICA-  
12 TION] to the department requesting the issuance of all permits and doc-  
13 uments covered by this chapter [NECESSARY BEFORE THE CONSTRUCTION AND  
14 OPERATION OF THE PROJECT IN THE STATE]. The request [MASTER APPLICA-  
15 TION] shall be on a form established by the department and shall con-  
16 tain sufficient information as to the location and the nature of the  
17 project, including discharge of wastes and use of or interference with  
18 natural resources of the state.

19 (b) Upon receipt of a properly completed request [MASTER APPLICA-  
20 TION], the department shall immediately forward a copy of the request  
21 [APPLICATION] to each agency administering a permit covered by this  
22 chapter [ALL HEADS OF EXECUTIVE DEPARTMENTS OF THE STATE] and the chief  
23 elected official of all municipalities in which a portion of the project  
24 is proposed to be constructed, together with the date by which the  
25 agency shall respond to the request [MASTER APPLICATION].

26 (c) Each agency notified shall respond in writing to the depart-  
27 ment by the specified date, not exceeding 15 days from receipt, as de-  
28 termined by the department, advising

29 (1) whether the agency has permit jurisdiction over [AN IN-

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1 TEREST IN] the request [MASTER APPLICATION]; and

2 (2) if the response to (1) of this subsection is affirma-  
3 tive, the permit program under the agency's jurisdiction to which the  
4 project described in the request [MASTER APPLICATION] is pertinent [,  
5 AND

6 (3) WHETHER, IN RELATION TO THE MASTER APPLICATION, A PUBLIC  
7 HEARING AS PROVIDED IN AS 46.35.050 and 46.35.060 WOULD BE IN THE  
8 PUBLIC INTEREST].

9 (d) Each notified agency which (1) responds within the specified  
10 date that it does not have permit jurisdiction over the project de-  
11 scribed in the request [AN INTEREST IN THE MASTER APPLICATION]; or (2)  
12 does not respond as required within the specified date, may not subse-  
13 quently require a permit of the applicant for the project described in  
14 the request [MASTER APPLICATION] unless the request [MASTER APPLICA-  
15 TION] contained false, misleading, or deceptive information, or other  
16 information or lack of information which would reasonably lead an agen-  
17 cy to misjudge its interest in the project [MASTER APPLICATION].

18 (e) The department shall submit application forms relating to  
19 permit programs identified in affirmative responses under (c) of this  
20 section to the applicant with a direction to complete and return them  
21 to the department within a reasonable time as specified by the depart-  
22 ment.

23 (f) When the applications, properly completed, have been returned  
24 to the department, each of the applications shall be transmitted to the  
25 appropriate state agency for the performance of its responsibilities of  
26 decision making in accordance with the procedures of this chapter, and  
27 any applicable permit deadline shall begin on the date of receipt of a  
28 completed application by the permitting agency.

29 \* Sec. 8. AS 46.35 is amended by adding new sections to read:

1           Sec. 46.35.035. MASTER APPLICATION. (a) The department shall  
2 periodically develop master applications on a commercial or industrial  
3 activity basis.

4           (b) A master application developed under this section serves as  
5 the application form for each permit that is generally required for the  
6 commercial or industrial activity.

7           (c) When a person submits a master application developed under  
8 this section, AS 46.35.030 does not apply. The master application  
9 shall be served on the office of the department specified in regulation  
10 and any applicable permit deadline shall begin on the date of receipt  
11 of a complete application by the appropriate office of the department.

12           Sec. 46.35.051. PERMIT PROCEDURES. (a) Permits sought under  
13 AS 46.35.030 or 46.35.035 shall be processed in one consolidated pro-  
14 ceeding. The proceeding shall be governed by those procedures that  
15 would otherwise be applicable to a permit being sought and that provide  
16 for the greatest degree of public participation and interagency review.  
17 The decisional deadline applicable to the procedure used shall apply to  
18 each final decision made under AS 46.35.070. If the holding of a  
19 public hearing is discretionary under the applicable procedure, a  
20 majority of the permitting agencies shall determine whether to hold a  
21 public hearing under applicable criteria.

22           (b) Any change in the application or coordination request made  
23 during the pendency of proceedings under AS 46.35.030 or this section  
24 which is either jurisdictional or would result in significant new ad-  
25 verse impacts from the project shall be treated as the filing of a new  
26 application or coordination request.

27 \* Sec. 9. AS 46.35.070 is repealed and reenacted to read:

28           Sec. 46.35.070. FINAL DECISION. Each permitting agency shall  
29 forward its final decision to the department within the deadline estab-

1 lished under AS 46.35.051(a). As soon as all final decisions are re-  
2 ceived by the department, the department shall incorporate them, with-  
3 out modification, into one document and transmit it to the applicant  
4 either personally or by registered mail.

5 \* Sec. 10. AS 46.35.080 is amended to read:

6 Sec. 46.35.080. WITHDRAWAL OF AGENCY FROM PARTICIPATION. (a) A  
7 state agency participating in a consolidated proceeding [RESPONDING AF-  
8 FIRMATIVELY UNDER AS 46.35.030(b)] may withdraw from participation  
9 as to one or more permits [IN THE PROCESSING PROVIDED IN AS 46.35.030 -  
10 46.35.070] at any time, by written notification to the department, if  
11 it subsequently appears to the state agency that it does not have [HAS  
12 NO] permit [PROGRAMS UNDER ITS] jurisdiction [APPLICABLE TO THE PRO-  
13 JECT].

14 (b) A decision by a state agency to withdraw from the proceeding  
15 is irreversible, and the state agency may not subsequently require the  
16 [A] permit of the applicant for the project described in the master ap-  
17 plication unless the master application contained false, misleading, or  
18 deceptive information, or other information or lack of information  
19 which would reasonably lead an agency to misjudge its interest in the  
20 permit coordination request or master application.

21 \* Sec. 11. AS 46.35.090(a) is amended to read:

22 (a) A person aggrieved by a final decision issued under AS 46.35.-  
23 070 [AS 46.35.070(d)] may file a notice of appeal with the commissioner  
24 requesting an adjudicatory hearing within 15 [30] days of receipt  
25 [TRANSMITTAL] of the final decision by [TO] the person. A failure to  
26 file a timely notice of appeal constitutes a waiver of the person's  
27 right to review the final decision, unless the failure was due to cir-  
28 cumstances beyond the applicant's control.

29 \* Sec. 12. AS 46.35.110 is amended to read:

1           Sec. 46.35.110. APPLICATION. Notwithstanding any other provi-  
2 sions of regulation or statute relating to the processing of applica-  
3 tion for permits, the procedures set out in this chapter are exclusive  
4 for permits sought under AS 46.35.030 and applications filed under  
5 AS 46.35.035 [AS 46.35.030]. The procedures of this chapter are in  
6 lieu of any procedures otherwise provided by law or regulation, and are  
7 to be followed by a state agency in ruling upon those applications.

8 \* Sec. 13. AS 46.35.130(a) is amended to read:

9           (a) No permit for a project filed under AS 46.35.030 or 46.35.035  
10 may be issued unless the application has provided a certification from  
11 the appropriate local government that the project is in compliance with  
12 the zoning ordinances and associated comprehensive plans administered  
13 by the local government regarding the project. If the local government  
14 has no such ordinances or plans, the local government shall certify that  
15 fact. A local government may accept applications for certification  
16 under this section and shall rule upon them within 30 days. A local  
17 government may impose stipulations of performance in its approval, but,  
18 upon certification, the local government may not change the zoning  
19 ordinances as to the proposed project until the procedures of this  
20 chapter, including an appeal, are completed.

21 \* Sec. 14. AS 46.35.170 is amended by adding a new subsection to read:

22           (c) The department may enter into memoranda of understanding with  
23 federal agencies for the full or partial processing of related federal  
24 permits under the procedures established by this chapter.

25 \* Sec. 15. AS 46.35 is amended by adding a new section to read:

26           Sec. 46.35.175. RELATION TO SURFACE LEASING PROCEDURE. When a  
27 project requires a surface lease under AS 38.05.075 in addition to per-  
28 mits covered by this chapter,

29           (1) application for the surface lease shall be coordinated

1 under AS 46.35.030 or, when applicable, subsumed in the master applica-  
2 tion submitted under AS 46.35.035;

3 (2) the determination required under AS 38.05.035(a)(14)  
4 shall be consolidated in the proceeding conducted under AS 46.35.051,  
5 and the procedure for making that determination shall govern the con-  
6 solidated proceeding; and

7 (3) AS 46.35.040 applies if there is more than one pre-quali-  
8 fied bidder.

9 \* Sec. 16. AS 46.35.200(4) is repealed and reenacted to read:

10 (4) "permit" means a permit, license, certification, consis-  
11 tency determination, plan review, or other authorization or approval  
12 issued as a written document that is required to be obtained from ei-  
13 ther the Department of Fish and Game, Department of Environmental Con-  
14 servation, Department of Natural Resources, or Office of the Governor,  
15 division of policy development and planning; "permit" does not include  
16 disposals of an interest in state land or water, but does include all  
17 authorizations and approvals, whether proprietary or regulatory, neces-  
18 sary to undertake a project under a previously conveyed property inter-  
19 est; the department, by regulation and with the consent of the permit-  
20 ting agency, may delete a permit from the coverage of this chapter if  
21 its inclusion unduly complicates consolidated review, and may add addi-  
22 tional permits issued by other agencies;

23 \* Sec. 17. AS 46.35.050, 46.35.060, and 46.35.090(b) are repealed.

24 \* Sec. 18. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).

Original sponsors: Bennett, Parr and  
Fahrenkavp

Offered: 4/14/81  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 84 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; and providing for an effective date."

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

9 \* Section 1. FINDINGS. The legislature finds that

10 (1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies, by the complexity of the permitting process, and by the number of  
13 agencies involved in the permitting process;

14 (2) the uncertainties created by the lack of specific time limits,  
15 the proliferation of agency reviews, the number of agencies involved in the  
16 permit process, and unjustified agency requirements upon the processing of  
17 permit applications have cost Alaskans millions of dollars in lost employ-  
18 ment and higher prices;

19 (3) the public interest has not been advanced by protracted delay  
20 in the processing of permit applications by state agencies;

21 (4) by requiring state agencies to process permit applications in  
22 an expeditious manner within a reasonable period of time, the state will  
23 promote the social, economic, and environmental health and well-being of its  
24 citizens.

25 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

26 ARTICLE 8A. ISSUANCE OF PERMITS.

27 Sec. 44.62.632. TIME LIMIT ON THE PROCESSING OF PERMITS. (a)

28 Upon receipt of a permit application or receipt of a federal agency  
29 request for state review of an application for a federal permit, the

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1 responsible state agency shall issue a final decision granting, denying,  
2 or reasonably conditioning the issuance of the permit, or issue a final  
3 response to the federal agency's request for state review, within the  
4 following time periods, unless the applicant and the agency mutually  
5 agree to a different period of time:

6 (1) any time period specifically required by state law;

7 (2) 60 days if a time period is not specifically required by  
8 state law and a public notice, public hearing, or comment period is  
9 specifically required by state law in connection with the permit appli-  
10 cation;

11 (3) 30 days if (1) or (2) of this subsection do not apply.

12 (b) The final decision on a permit application under (a) of this  
13 section shall include the following information:

14 (1) conclusions of the state agency which support its deci-  
15 sion concerning the permit application, including the factual basis and  
16 statutory authority for any conditions or stipulations to which the  
17 permit is subject; and

18 (2) the granting, conditional granting, or denial of the  
19 permit by the state agency.

20 (c) The final decision under (a) of this section must bear a fair  
21 and substantial relation to the object of the law under which the state  
22 agency is empowered to act.

23 (d) A permit may not be denied because of the lack of any other  
24 permit, and may not be conditioned upon the acquisition of any other  
25 permit.

26 (e) A permit application which has not been approved or rejected  
27 by the responsible state agency within the time period specified in (a)  
28 of this section is approved as submitted. The permit is approved on  
29 the last day on which the state agency could have announced a final

1 decision under (a) of this section.

2 Sec. 44.62.534. DEFECTIVE APPLICATIONS; NOTICE TO APPLICANT. (a)

3 If a state agency receives a permit application requesting a permit  
4 which the agency believes it does not have authority to issue, or which  
5 it believes is unnecessary, it shall notify the applicant within 10  
6 days after its receipt of the application. A notice given under this  
7 subsection is the final agency decision.

8 (b) If a state agency receives a permit application which it  
9 believes does not contain sufficient information concerning the location  
10 and nature of the project to allow the agency to determine whether the  
11 project complies with state law, the agency shall notify the applicant  
12 within 10 days after its receipt of the application. The notice must  
13 specify all information the agency requires to determine whether the  
14 project complies with state law.

15 Sec. 44.62.635. REVIEW BY THE COMMISSIONER OR BOARD. A state  
16 agency's final decision issued under AS 44.52.632 may be reviewed by  
17 the commissioner or board of the issuing agency at the request of the  
18 applicant. The applicant is entitled to a review de novo if requested  
19 in the original request for review; otherwise the review is a review on  
20 the record. The request must be filed with the commissioner or board  
21 within 30 days of the applicant's receipt of the decision. The commis-  
22 sioner or board shall issue a decision within 10 days of receipt of the  
23 request if the review is a review on the record. If the applicant has  
24 requested a hearing de novo, the hearing shall be held within 30 days  
25 of receipt of the request, and the decision of the commissioner or  
26 board shall be made within 30 days of the conclusion of the hearing.  
27 Unless the agency decision is confirmed in its entirety, the commis-  
28 sioner or board shall issue a written decision setting out the findings  
29 and conclusions in full.

1           Sec. 44.62.636. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
2 review by the superior court of a final decision issued by a state  
3 agency under AS 44.62.632 or 44.62.634 or of a decision of the commis-  
4 sioner or board issued under AS 44.62.635, may be had by filing a  
5 notice of appeal in the superior court in accordance with the applicable  
6 rules of appellate procedure. The right to appeal is not affected by  
7 the failure to seek reconsideration or further review under AS 44.62.-  
8 635. The review shall be governed by the provisions of AS 44.62.560-  
9 (b) - (e) and 44.62.570.

10           (b) On an appeal by an applicant to the superior court, the  
11 agency which issued the final decision has the burden of proving that  
12 the decision is in accordance with AS 44.62.632 and 44.62.634.

13           (c) An appeal taken under this section has preference on the  
14 calendar of civil actions before the court and shall be decided without  
15 unnecessary delay.

16 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

17           (c) In AS 44.62.632 - 44.62.634,

18           (1) "permit" means a permit, license, certification, consis-  
19 tency determination, comments on pending permit applications before  
20 other governmental entities (including environmental impact statement  
21 comments), plan review, or other authorization or approval issued as a  
22 written document which is required to be obtained or is solicited from  
23 a state agency before the construction or operation of a project;  
24 "permit" does not include

25           (A) conveyances of interest in state land or water, but  
26 does include all authorizations and approvals, whether proprietary  
27 or regulatory, necessary to undertake a project under a previously  
28 conveyed property interest; and

29           (B) the provision of financial assistance;

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1 (2) "permit application" includes the following documents:

2 (A) a document requesting the issuance of a permit  
3 which contains sufficient information concerning the location and  
4 nature of a project to allow the state agency to which it is  
5 directed to determine compliance of the project with state law;

6 (B) a document submitted to a state agency by a govern-  
7 mental entity which solicits comments in connection with a permit  
8 being processed by that governmental entity;

9 (3) "project" means a new activity or expansion or addition  
10 to an existing activity for which permits are required before construc-  
11 tion or operation; "project" does not include pursuing a trade or pro-  
12 fession, providing public health service, or operating a financial  
13 institution;

14 (4) "state agency" means a state department, commission,  
15 board, or other agency of the state; "state agency" includes a local or  
16 regional air pollution control authority established under AS 46.03.210  
17 and a coastal resource district and coastal resource service board  
18 established under AS 46.40.010 - 46.40.210.

19 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
20 070(c).

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST Session

SENATE ... BILL ... NO. 84 ...

By BENNETT, PARR AND FAHRENKAMP

"An Act relating to the processing of permits by state agencies and to approval of Alaska coastal management programs; establishing the Permit Reform Commission; and providing for an effective date."

Introduced in the Senate 1/15/ 81

HISTORY IN THE SENATE

19 81	Read first time and referred to Committee on
1 15	Resources and Finance
4 13	Reported back with recommendation that <i>Resources w/ (A) (Res), 2 do not pass, 1 moved to Finance</i>
4 21	<i>in House - to Rules</i>
5 4	<i>Rules: Calendar</i>
5 5	Read second time and <i>C.S. (Res) adj. (available)</i>
5 5	Read third time and
5 5	<b>PASS</b> Effective Date Yeas 15 Yeas Nays 2 Nays <i>same</i> Absent 1 Absent Excused 2 Excused
	Reconsideration <b>PASS</b> Effective Date Yeas Yeas Nays Nays Absent Absent Excused Excused
5 5	Reported correctly engrossed
5 5	Signed by President
5 5	Sent to House
	<i>Ray Mulligan</i> SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 81	Read first time and referred to Committee on
May 6	<i>Finance</i>
June 21	Reported back with recommendation that <i>Finance a/m, 2 do not pass, 1 no rec, 3 do pass, 20 Rules</i>
June 22	<i>Rules - HCS (Plu) 3 do pass, 2 no rec - for 7 days calendar</i>
June 23	<i>Rules - HCS (20 Rules) today's</i>
June 27	Read second time and <i>Returned to Rules</i>
June 27	<i>held one day</i>
June 29	<i>amended, failed to advance to 3rd</i>
	Read third time and
	<b>PASS</b> Effective Date Yeas Yeas Nays Nays Absent Absent Excused Excused
	Reconsideration <b>PASS</b> Effective Date Yeas Yeas Nays Nays Absent Absent Excused Excused
	Reported correctly engrossed
	Signed by Speaker
	Returned to Senate
	CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

HOUSE CS FOR CS FOR SENATE BILL NO. 84 (RULES)

"An Act relating to the processing of permits by state agencies; to surface leasing of land; and to administration of the Alaska coastal management programs; and providing for an effective date."

This Bill would place time limits on processing applications for a State license or permit for a new project and would standardize some aspects of permit processing.

During the last legislative session, former versions of the Bill (House Bill No. 999 and CS for Senate Bill No. 548) were discussed in several work sessions. It was determined, at that time, that the provisions of the Bills should not apply to permit processing for public service and certain other programs. The exemptions were accomplished in the definition of a "project." The provisions of the Bill would apply to permit issuance to new projects. Project was defined to exclude "pursuing a trade or profession, providing a regulated public or health service, or operating a financial institution."

House CS for CS for Senate Bill No. 84 (Rules) contains the same exemptions in the definition of a "project." It is, therefore, our understanding that the provisions of this Bill would not apply to the following permit or licensure activities of the Department of Health and Social Services:

Child Foster Home Licensing	AS 47.35.010-080
Child Day Care Home Licensing	AS 47.35.010-080
Adult Foster Home Licensing	AS 47.35.010-080
Child Day Care Center Home Licensing	AS 47.35.010-080
Residential Child Care Facility Licensing	AS 47.35.010-090
Adult Residential Care Facility Licensing	AS 47.35.010-090
Child Placement Agency Licensing	AS 47.35.100
Certificate of Need	AS 18.07.010
Health Facility Certification and Licensing	AS 18.20.010
Health Facility Construction	AS 18.20.080

With the understandings contained in this position paper, the Department has no objection to passage of this Bill.

RECOMMENDED BY: John R. Pugh  
John R. Pugh, Director  
Division of Family and Youth Services

DATE: 3/1/82

RECOMMENDED BY: Phoebe A. Lindsey  
Phoebe Lindsey, Director  
Division of State Health Planning and Development

DATE: 3-1 82

APPROVED BY: Helen D. Beirne  
Helen D. Beirne  
Commissioner

DATE: 3-1-82

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS CSSB 84 (Rules)  
Title "An Act relating to the processing of permits by state agencies..."  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services  
Program Category Affected \_\_\_\_\_  
BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
400 COMMODITIES		-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	-0-
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS		-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)		-0-	-0-	-0-	-0-	-0-
		-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See: Fiscal Note Preparation Instruction, Section III)

Senate Bill No. 84 has no fiscal impact on the Department of Health and Social Services.

IV. DATE

3/1/82

PREPARED BY

John R. Pugh, Director

AGENCY Division of Family and Youth Services

PHONE 465-3170

Original: Legislative Finance  
cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

*JCP*

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. 2nd HCC CSSB 84 (L&C)

Title An act relating to Processing Permits by State Agencies

Requested by House Finance

Date 3/17/82

II. FISCAL DETAIL

Agency Affected See below - various

Program Category Affected NRMEC

BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		738.9	646.4	544.1		
200 TRAVEL		40.2	43.4	46.9		
300 CONTRACTUAL		188.0	203.0	219.3		
400 COMMODITIES		42.8	46.2	49.9		
500 EQUIPMENT		32.4	0	0		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>1,042.3</b>	<b>939.0</b>	<b>860.2</b>		

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		1,042.3	939.0	860.2		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		23	19	16		
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This fiscal note combines the attached fiscal notes from the following four agencies:

	FY 83 Fiscal Note	Positions
Natural Resources	519.3	13
Fish & Game	135.9	2
Public Safety	86.3	2
Env. Conservation	300.8	6
	<u>1,042.3</u>	<u>23</u>

Eight percent inflation factor was used for future years. The note was also adjusted to reflect Natural Resources estimated decrease in positions required to 9 PFT in FY 84 and 6 PFT in FY 85.

IV. DATE 3/17/82

PREPARED BY Bob Grogan

AGENCY Legislative Finance

Original: Legislative Finance

PHONE 1 65-3795

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

FISCAL IMPACT SB 84 - FY 84 & FY 85

FY 84

DMEM	156.8 (3 PFT)
DTS	<u>222.1 (6 PFT)</u>
	378.9 (9 PFT) plus inflation

FY 85

DMEM	156.8 (3 PFT)
DTS	<u>109.9 (3 PFT)</u>
	266.7 (6 PFT) plus inflation

3/16/82

Bob,

The attached fiscal note was prepared by Budget and Management without the benefit of DNR's DTS figures for FY 84 and FY 85. Accordingly, Budget and Management simply extrapolated those costs based on the FY 83 costs. We expect, however, for the costs to decrease substantially over the two year period, with the manpower requirement in DTF dropping from 10 in FY 83 to 6 in FY 84 and 3 in FY 85. Thus, the fiscal note should be revised downward to reflect these more accurate estimates. (Attached).

My apologies for our oversight in not providing Budget and Management with these figures earlier.

Mary  
Mary Halloran

**MEMORANDUM**  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF TECHNICAL SERVICES

State of Alaska

to: Mary Halloran  
Special Assistant  
Commissioner's Office

DATE: March 11, 1982

FILE NO: 1150

TELEPHONE NO: 265-4194

FROM: *JCB* Joseph C. Burch, Deputy Director  
Division of Technical Services

SUBJECT: Senate Bill 84  
(2nd HCS CSSB 84[L & C])  
FY 84 & 85 Fiscal Impact

Analysis

This portion of the fiscal note assumes the following for FY '84 & FY '85 in addition to the original assumptions:

ALARS (LAS) is operational by January 1, 1983.

	<u>DTS</u>	
	<u>1984</u>	<u>1985</u>
100	176.1 (6 PFT)	85.8 (3 PFT)
200	-0-	-0-
300	24.0	12.0
400	22.0	12.1
500	<u>-0-</u>	<u>-0-</u>
	222.1	109.9

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. 2nd HCC CSSB 84 (L&C)  
 Title An act relating to Processing Permits by State Agencies  
 Requested by Jerry Reinwand Date 3/3/82

II. FISCAL DETAIL  
 Agency Affected See below - various  
 Program Category Affected NRMEC  
 BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		738.9	798.0	861.8	930.8	1,005.2
200 TRAVEL		40.2	43.4	46.9	50.6	54.7
300 CONTRACTUAL		188.0	203.0	219.3	236.8	255.8
400 COMMODITIES		42.8	46.2	49.9	53.9	58.2
500 EQUIPMENT		32.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		1,042.3	1,090.6	1,177.9	1,272.1	1,373.9

FUNDING (Thousands of Dollars)

GENERAL FUND		1,042.3	1,090.6	1,177.9	1,272.1	1,272.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		23	23	23	23	23
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This fiscal note combines the attached fiscal notes from the following four agencies:

	FY83 Fiscal Note	Positions
Natural Resources	519.3	13
Fish & Game	135.9	2
Public Safety	86.3	2
Env. Conservation	300.8	6
	<u>1,042.3</u>	<u>23</u>

Eight percent inflation factor was used for future years.

IV. DATE 3/3/82 PREPARED BY Jeff Morrison  
 AGENCY Budget and Management  
 Original: Legislative Finance PHONE 465-2213  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

FEB 25 1982

FISCAL NOTE

BUDGET AND MANAGEMENT

I. REQUEST

Bill/Resolution No. SB 84  
 Title An Act relating to processing of permits by state agencies  
 Requested by House Labor & Commerce Date 2-19-82

II. FISCAL DETAIL

Agency Affected Department of Natural Resources  
 Program Category Affected NRMEC  
 BRU, Program, or Subprogram(s) Affected Regulations Implementation  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES			366.0			
200 TRAVEL			11.0			
300 CONTRACTUAL			94.5			
400 COMMODITIES			33.8			
500 EQUIPMENT			14.0			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>			<b>519.3</b>			

FUNDING (Thousands of Dollars)

GENERAL FUNDS			519.3			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME			13.0			
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attachment.

IV. DATE February 19, 1982 PREPARED BY *[Signature]*  
 AGENCY Natural Resources  
 PHONE 465-2400

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

	DTS	DMEM	DI.&W	DRD	TOTAL
100	267.4	97.6	1.0	-0-	366.0
200	-0-	4.0	5.0	2.0	11.0
300	40.0	50.0	0.5	4.0	94.5
400	32.6	1.2	-0-	-0-	33.8
500	10.0	4.0	-0-	-0-	14.0
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	350.0	156.8	6.5	6.0	519.3

SENATE BILL 84 (2nd HCS CSSB 84 (L&C))

III. ANALYSIS

This fiscal note assumes the following:

First, that the proposed Governor's Capital Budget item of \$890.0 for automated drafting is funded, thus reducing the amount of human labor which would otherwise be needed to comply with SB 84;

Second, that the Department of Natural Resources streamlines its mining location notice;

Third, that the federally funded positions supplied by the Coastal Zone Management program are approved by the Legislature and are continued within the Department of Natural Resources; and

Fourth, that the level of service offered for mining permits may be less than the current level.

A. Personal Services.

The permit reform program will require 13 new positions for FY 83: 10 positions for the Division of Technical Services and 3 positions for the Division of Minerals and Energy Management. The majority of these positions are required for the processing of mining claims and mining permits. The following would be added to Technical Services: 1 Land Management Officer II, 1 Land Management Officer I, 2 Drafting Technician IIIs, 4 Drafting Technician I/IIs, 1 Administrative Support Technician, Range 10 and 1 Administrative Support Technician, Range 8. The duties of these personnel will be to update the State's land status records, which are currently 30 to 100 days behind, so that mining claims can be adjudicated and mining permits issued within the deadlines established by SB 84.

With appropriate funding, the Department would endeavor to bring all land status records current by July 1983. As land records keeper for the entire state, the Division of Technical Services faces a volumetrically increasing workload caused by the transfer of approximately 13 million acres to the State every year from the federal government. Last year 12,325 land case files were processed by 25 full-time employees, approximately 500 case files per employee, but 3,027 case files were unprocessed at the end of the year. To that backlog, the Division estimates that another 3,693 case files will be unprocessed at the end of this fiscal year for a total of 6,720 case files or about 33% of the case files.

The duties of the new personnel for the Division of Minerals and Energy Management (1 Land Management Technician and 1 Land Management Officer I for mining, and 1 Land Management Officer I for oil and gas) would be to process the permits, in particular, to adjudicate the mining claims, and handle appeals as necessary.

B. Travel.

Travel would be limited to necessary public hearings on proposed regulations changes and implementation.

C. Contractual.

The contractual funds would be used to provide necessary newspaper publishing of notices and general overhead for operations such as telephone.

Department of Natural Resources  
Division of Technical Services

**POSTING MINING CLAIMS**

**TO**

**STATE LAND RECORDS**



**ACCOMPLISHMENTS AND NEEDS  
SOLUTION ALTERNATIVES**

December 18, 1981

*Estimated Workload Increase  
(not including Mining)*

**OTHER RECORDS WORKLOAD**

REQUESTED MINING CLAIM PROJECT BUDGET DOES NOT INCLUDE OTHER RECORDS WORKLOAD WHICH CANNOT BE PROCESSED BY PRESENT STAFF :

**JUL COAL NEW ITEM**

DMEM will start issuing COAL PROSPECTING PERMITS in the spring of 1982

**MAR**

Present applications (EST. 2,000,000 acres)	450
F/Y 83 application projection (EST 500,000 acres)	<u>100</u>
Total applications	<u>550</u>

Records Impact thru F/Y 83 (Serial register, Historical Index Status plat, and automated) 1.5 man years

**DE-2 WATER RIGHTS**

3. NAVIGABILITY

4. INCREASED TA'S AND PATENTS

5. INCREASED CLASSIFICATIONS

6. INCREASED MINERAL CLOSING ORDERS

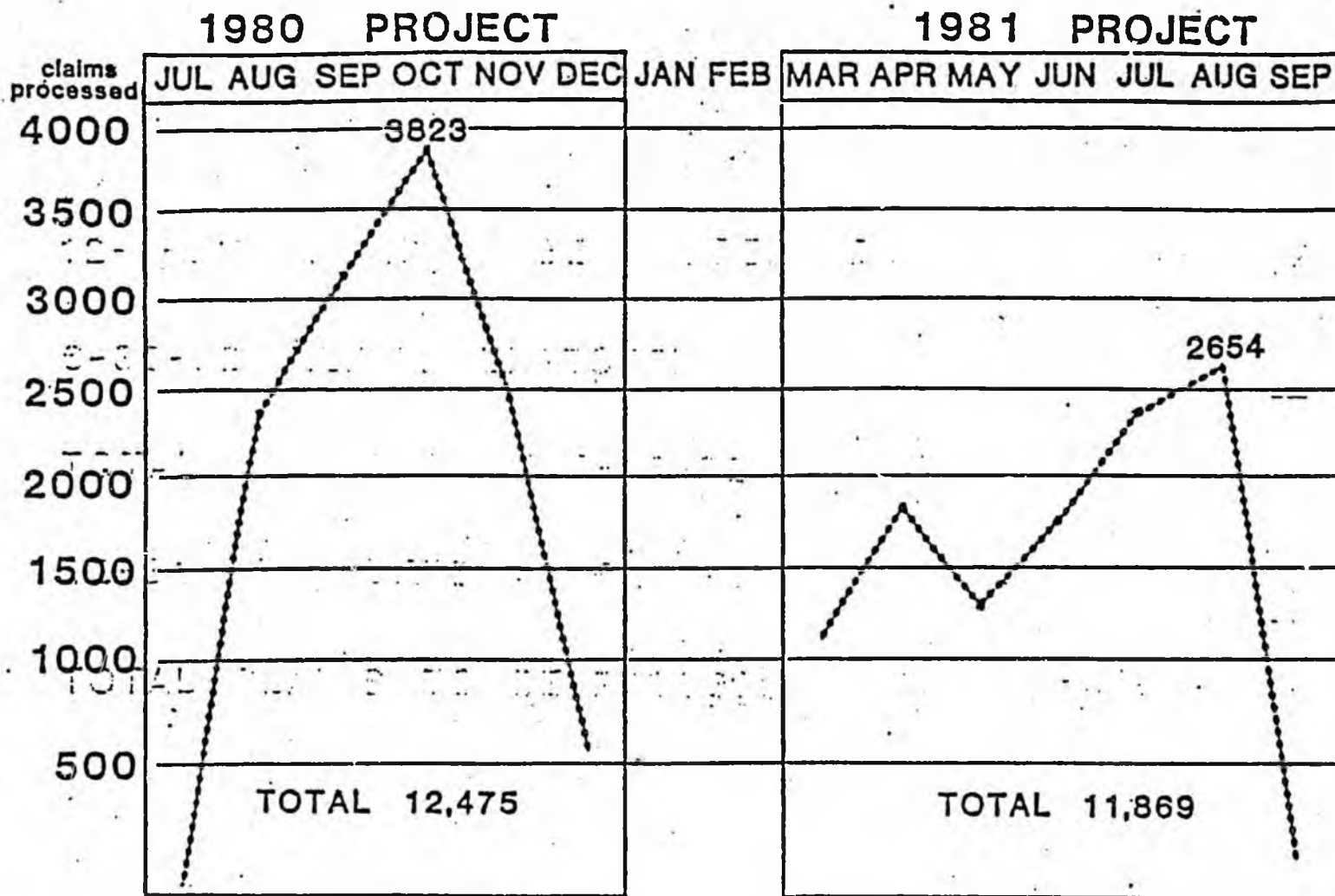
7. NATIVE LAND CORRIDORS

8. RECORDS AUDIT

ETC ETC

# MINING CLAIMS DRAFTED PER MONTH

## JOINT D MEM/DTS MINING CLAIMS PROJECTS 1980 & 1981



TOTAL TWO PROJECTS 24,344  
TEAM AVERAGE 2400 PER MONTH

High peaks due to efficiency in plotting blocks of several hundred adjacent claims.

Valleys due generally to nonpermanent personnel staffing problems.

NOTE: In addition to drafting, each mining claim requires one serial register entry, one historical index entry, and two automated entries.

# MINING CLAIM WORKLOAD

JULY 1, 1980 - DEC 1, 1981

( FIGURES ROUNDED )

JUL 1, 1980	NOT PROCESSED ( BEGIN 1980 PROJECT )	6,000
MAR 1, 1981	FILED 7-1-80 TO 3-1-81	<u>+ 14,500</u>
	CLAIMS TO BE PROCESSED	20,500
	LESS CLAIMS PROCESSED 1980 PROJECT	<u>- 12,500</u>
2.	NOT PROCESSED	8,000
DEC 1, 1981	FILED 3-1-81 TO 11-30-81	<u>+ 15,500</u>
	CLAIMS TO BE PROCESSED	23,500
	LESS CLAIMS PROCESSED 1981 PROJECT	<u>- 12,000</u>
	NOT PROCESSED	11,500
<hr/>		
<u>RECAP</u>	7-1-80 TO 12-1-81	
	CLAIMS TO BE PROCESSED	36,000
	PROCESSED	<u>- 24,500</u>
	NOT PROCESSED 12-1-81	11,500

# MINING CLAIM PROJECTION

12-1-81 TO 6-30-83

12-1-81 CLAIMS TO BE PROCESSED	11,500
6-30-82 FILINGS EXPECTED	10,000
TOTAL CLAIMS THRU 6-30-82	21,500
12-31-82 ADDITIONAL FILINGS EXPECTED	17,000
TOTAL CLAIMS TO BE PROCESSED BY 12-31-82	38,500
6-30-83 ADDITIONAL FILINGS EXPECTED	15,000
TOTAL CLAIMS WORKLOAD THROUGH FISCAL YEAR 1983	53,500

## \*IMPACT FACTOR, D-2 ADJUSTMENT :

20,000,000 acres will be selected by mid-February 1982. 13,000,000

acres presently selected will be relinquished. Estimated Impact 10,000

claims included above.

# SOLUTION OF MINING CLAIMS WORKLOAD ALTERNATIVES

**1. POST MINING CLAIMS WITH EXISTING PERSONNEL DURING FY 83 :**

	MAN YEARS
EXISTING PERSONNEL	24
REQUIRED FOR MINING CLAIMS	<u>-14</u>
AVAILABLE FOR REGULAR WORK	10

58% OF WORK NOW BEING DONE WILL NOT BE DONE

2. DO NOTHING (NO SOLUTION)
3. ISSUE MINERAL CLOSING ORDER (WOULD AFFECT ONLY CLAIMS AFTER DATE OF ORDER) (NO SOLUTION)
4. DO THE JOB:
  - (A) TWO TEAMS, EACH CONSISTING OF EIGHT NON-PERMANENT OR OTHER PERSONNEL TO PROCESS THE CALENDAR YEAR 1982 WORKLOAD
  - (B) ONE TEAM OF EIGHT PERMANENT PERSONNEL IN THE FY-83 BUDGET
  - (C) \$480,000 FOR F/Y 83 BUDGET
5. ANY COMBINATION OF THE ABOVE

# MINING CLAIMS WORKLOAD

## PERSONNEL REQUIREMENTS

### A. PROVEN BY EXPERIENCE OVER TWO PROJECTS:

#### 1. AN EFFICIENT TEAM

- 1 Drafting Technician II.
- 2 Drafting Technician III
- 1 Land Management Officer I - Checking
- 1 Clerk Typist III - Serial Register
- 1 Clerk Typist III - Historical Index
- 2 Data Entry Clerks III

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- 8 Persons Per Team

- 2. EACH TEAM WILL PROCESS - 2,400 CLAIMS PER MONTH  
(ROUNDED TO 30,000 PER YEAR)

### B. REQUIRED

- 1. TWO TEAMS, NONPERMANENT, SIX MONTHS EACH,  
TO PROCESS WORKLOAD THROUGH  
CALENDER YEAR 1982 ☆
- 2. ONE TEAM FOR PERMANENT F/Y 83. ☆☆

☆ Personnel procedures require approximately 6 month to get on board

☆☆ Personnel procedures require approximately 3 months to get on board

# COST

An efficient work unit consists of eight persons :

- 1 Land Management Officer
- 3 Drafters
- 2 Typists
- 2 Data Entry Clerks

They work as a team to record 2,400 mining claims per month on status plat, aerial register, historical index and automated records. Less than eight persons per unit will mean that one or more of the four record entries will not be made.

1. (A) Cost per unit for six month project utilizing non-permanent personnel (to post 15,000 mining claims)

Salary ☆	110,000 ☆
Equipment Rental	12,000
Commodities	16,000
	<hr/>
	\$138,000

- (B) Two units needed, to record 30,000 mining claims

2 X 138,000 \$276,000

2. Cost per unit for F/Y 83 permanent personnel

Salary	180,000 ☆☆
Equipment	12,000
Commodities	12,000
	<hr/>
	\$204,000

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204,000

Total Cost

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\$480,000

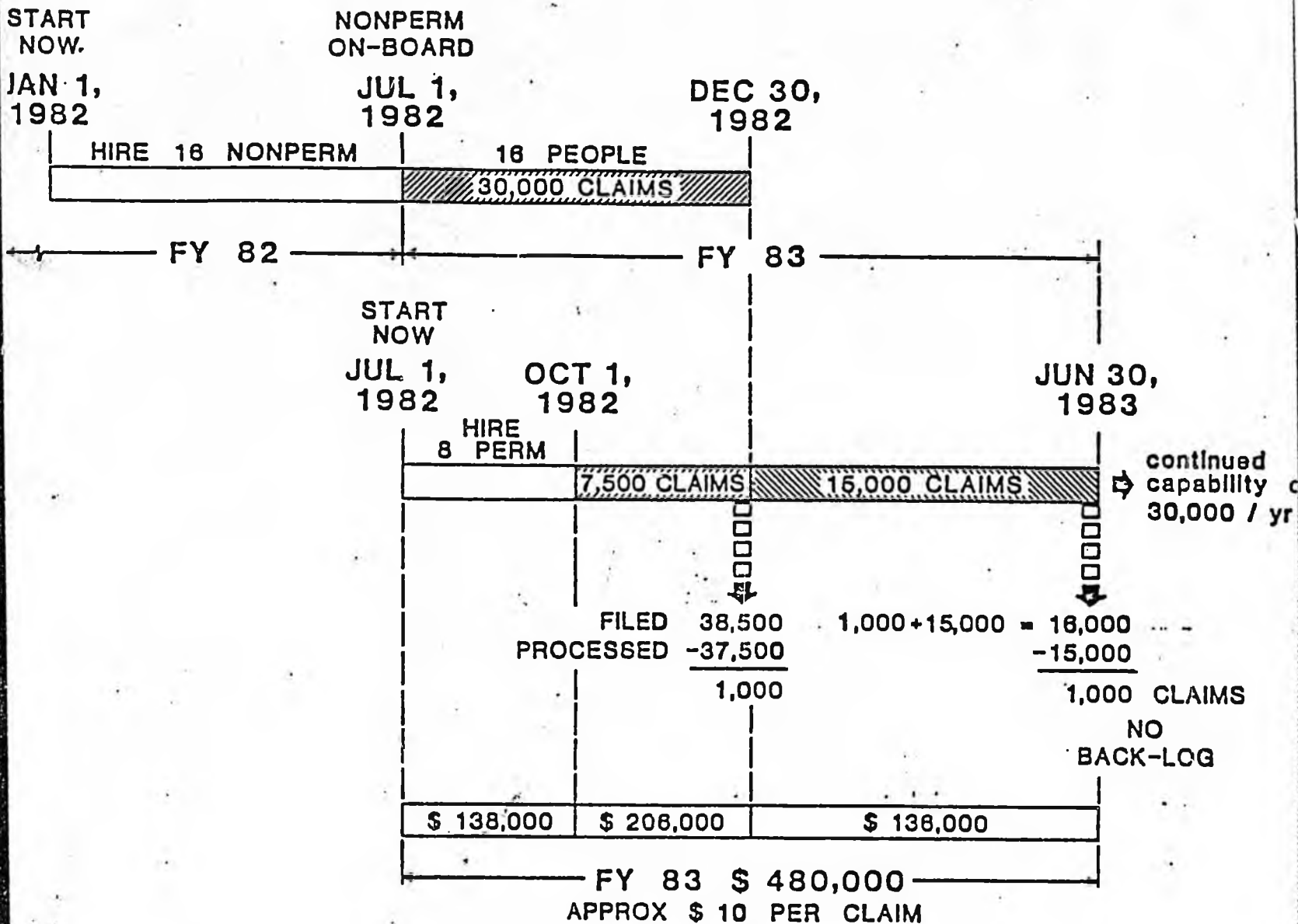
## NOTES

☆ Based on six months employment (non-permanent).

☆☆ It is assumed that permanent personnel authorized for F/Y 83 will not be available until October 1, 1982

# SUMMARY

## CALENDER YEAR



TOTAL MINING CLAIM PROGRAM BUDGET FOR FY 83 \$ 480,000

TOTAL RECORDS INCREMENTAL BUDGET SUBMITTED FOR DTS FY 83

- \$ 186,000

DEFICIT ( \$ 294,000 )

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. 2d House CS for CS for Senate Bill No. 84 (L&C)  
 Title An Act relating to processing of permits by State agencies, and to  
 Requested by Budget & Management Date 2/26/82  
administration of the Alaska Coastal Management program.

II. FISCAL DETAIL

Agency Affected Fish & Game  
 Program Category Affected NRMEC  
 BRU, Program, Or Subprogram(s) Affected Habitat Division  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		94.2				
200 TRAVEL		15.2				
300 CONTRACTUAL		23.0				
400 COMMODITIES		2.5				
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>135.9</b>				

FUNDING (Thousands of Dollars)

GENERAL FUND		135.9				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

N/A



IV. DATE 2/26/82 PREPARED BY Bruce Baker  
 AGENCY Alaska Department of Fish & Game  
 Original: Legislative Finance PHONE 465-4105  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
Bill/Resolution No. 2d House CS for CS for Senate Bill No. 84 (L & C)  
Title An act relating to processing of permits by state agencies  
Requested by Budget and Management Date 2/26/82

II. FISCAL DETAIL  
Agency Affected Department of Public Safety  
Program Category Affected Property Protection  
BRU, Program, Or Subprogram(s) Affected Fire Safety  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		67.9	73.4	79.2	85.6	92.4
200 TRAVEL		6.0	6.6	7.3	7.8	8.8
300 CONTRACTUAL		6.5	7.1	7.7	8.4	9.2
400 COMMODITIES		.5	.6	.7	.8	.9
500 EQUIPMENT		5.4				1.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		86.3	87.7	94.9	102.6	112.3

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		86.3	87.7	94.9	102.6	112.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Recurring Costs

Assuming Sec. 44.62.626 (Comment Period) of Sec. 2 of the bill would apply to our life and fire safety plan review and approval program in projects being reviewed by a resource agency and in order to comply with Sec. 2 of the bill if passed, it is estimated that the following additional positions would be needed, beginning FY 83.

One (1) Fire Protection Engineer, Range 19A, Anchorage

One (1) Clerk Typist II, Range 7B, Anchorage

IV. DATE 2/26/82 PREPARED BY Gary Crouse, Deputy Director  
AGENCY Public Safety, Fire Prevention  
Original: Legislative Finance PHONE 272-2406 (Anchorage)  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
33-001 (Rev. 12/81)

February 26, 1982

Recurring Costs

Personal services, travel, contractual, commodities and equipment costs are shown above. Inflation is calculated at 9% except for travel, to which a 10% inflation factor has been applied.

Expenditures FY 83 Breakdown

100	Fire Protection Engineer, Range 19A (Anchorage)	44.4
	Clerk Typist II, Range 7B (Anchorage)	<u>23.5</u>
		67.9
200	Instate travel expenses for the Fire Protection Engineer	6.0
300	Space expense for new positions. (200 sq. ft. x \$2.50 x 12)	6.0
	Telephone, Postage	.5
400	Normal office supplies	<u>.5</u>
		80.9

One Time Costs (Equipment)

500	Executive desk	.7
	Executive chair	.2
	Secretarial desk	.6
	Secretarial chair	.2
	Filing Cabinets - 5 drawers	.6
	Typewriter	1.3
	Plan Review Table	1.5
	Calculator	<u>.3</u>
		5.4

Replaced equipment should not be needed until FY 87 and is estimated at 1.0.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. 2nd HCS CSSB 84 (L & C)

Title An Act Relating to Processing Permits by State Agencies

Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Environmental Conservation

Program Category Affected NRMEC

BRU, Program, or Subprogram(s) Affected Environmental Quality Operations

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	210.8	227.6	245.9	265.5	286.8	309.7
200 TRAVEL	8.0	9.6	11.5	13.8	16.6	19.9
300 CONTRACTUAL	64.0	24.0	27.6	31.7	36.5	42.0
400 COMMODITIES	6.0	7.0	8.0	9.2	10.6	12.2
500 EQUIPMENT	12.0	-----	-----	-----	-----	-----
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>300.8</b>	<b>268.7</b>	<b>293.0</b>	<b>320.2</b>	<b>350.5</b>	<b>383.8</b>

FUNDING (Thousands of Dollars)

	300.8	268.7	293.0	320.2	350.5	383.8
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	6.0	6.0	6.0	6.0	6.0	6.0
FULL TIME						
PART TIME	---	---	---	---	---	---
TEMPORARY	---	---	---	---	---	---

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill will provide for two classes of permits and establish a definite time frame for processing. A permit would be automatically granted if processing was not completed within the specific time. Many applications require public participation through public notices and hearings, comments from other state and federal agencies, provision of additional technical information, and complex technical review. Appeal provisions are also provided.

To accomplish permit processing within the allotted time, additional technical staff and staff to track processing through, an automated tracking system is essential. Since extensive regulation revision must take place prior to October 1, 1982 a contract for legal services would be necessary.

IV. DATE March 1, 1982

PREPARED BY W.A. Publicover/W. Angst

AGENCY Environmental Conservation

PHONE 465-2696

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

The budget proposal reflects additional technical staff to process applications and clerical staff to maintain a system to track the application through the various reviews, public notices, public hearings, interagency comments, public comments, appeals and adjudicatory hearings in order to maintain the required schedule. An Environmental Engineer in each of our three regional offices would augment existing staff. A Clerk IV in each office would be responsible for keeping the application on track. A strong paper trail with adequate records of action would be required, especially where the applicant may appeal or seek review by the superior court.

Contractual services funds are required to cover costs of telephone, office space, telegraph, express and certified mail services, publication of public notices, transcription of hearings, and services of hearing officers. This would amount to \$24,000.

Since this bill will require extensive rewrite of 18 AAC 15 in an exceptionally short time to meet the October 1, 1982 deadline, legal services must be provided through contract. \$25,000 is required for this essential element of the bill.

A computerized tracking system is necessary to follow the several hundred permit applications through processing. This is the only way to keep track of the paper flow and ensure adherence to the required schedules. Developing new software and upgrading existing terminals would cost \$15,000.

Support funds for travel, office equipment, and commodities would also be required.

Breakdown of costs for FY 83:

	<u>Southeast Region</u>	<u>Central Region</u>	<u>Northern Region</u>	<u>Permit Section</u>	<u>TOTAL</u>
100	67.3	67.3	76.2	----	210.8
200	2.0	2.0	2.0	2.0	8.0
300	3.0	8.0	8.0	40.0	64.0
400	1.5	1.5	1.5	1.5	6.0
500	3.0	3.0	3.0	3.0	12.0
TOTAL	<u>81.8</u>	<u>81.8</u>	<u>90.7</u>	<u>46.5</u>	<u>300.8</u>
PFT	1-EE III Range 19	1-EE III Range 19	1-EE III Range 19	----	6
	1-CLK IV Range 09	1-CLK IV Range 09	1-CLK IV Range 09		

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 4/14/81  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 84 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; and providing for an effective date."

7

8

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

9

\* Section 1. FINDINGS. The legislature finds that

10

(1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies, by the complexity of the permitting process, and by the number of  
13 agencies involved in the permitting process;

14

(2) the uncertainties created by the lack of specific time limits,  
15 the proliferation of agency reviews, the number of agencies involved in the  
16 permit process, and unjustified agency requirements upon the processing of  
17 permit applications have cost Alaskans millions of dollars in lost employ-  
18 ment and higher prices;

19

(3) the public interest has not been advanced by protracted delay  
20 in the processing of permit applications by state agencies;

21

(4) by requiring state agencies to process permit applications in  
22 an expeditious manner within a reasonable period of time, the state will  
23 promote the social, economic, and environmental health and well-being of its  
24 citizens.

25

\* Sec. 2. AS 44.62 is amended by adding new sections to read:

26

ARTICLE 8A. ISSUANCE OF PERMITS.

27

Sec. 44.62.632. TIME LIMIT ON THE PROCESSING OF PERMITS. (a)

28

Upon receipt of a permit application or receipt of a federal agency  
29 request for state review of an application for a federal permit, the

1 responsible state agency shall issue a final decision granting, denying,  
2 or reasonably conditioning the issuance of the permit, or issue a final  
3 response to the federal agency's request for state review, within the  
4 following time periods, unless the applicant and the agency mutually  
5 agree to a different period of time:

6 (1) any time period specifically required by state law;

7 (2) 60 days if a time period is not specifically required by  
8 state law and a public notice, public hearing, or comment period is  
9 specifically required by state law in connection with the permit appli-  
10 cation;

11 (3) 30 days if (1) or (2) of this subsection do not apply.

12 (b) The final decision on a permit application under (a) of this  
13 section shall include the following information:

14 (1) conclusions of the state agency which support its deci-  
15 sion concerning the permit application, including the factual basis and  
16 statutory authority for any conditions or stipulations to which the  
17 permit is subject; and

18 (2) the granting, conditional granting, or denial of the  
19 permit by the state agency.

20 (c) The final decision under (a) of this section must bear a fair  
21 and substantial relation to the object of the law under which the state  
22 agency is empowered to act.

23 (d) A permit may not be denied because of the lack of any other  
24 permit, and may not be conditioned upon the acquisition of any other  
25 permit.

26 (e) A permit application which has not been approved or rejected  
27 by the responsible state agency within the time period specified in (a)  
28 of this section is approved as submitted. The permit is approved on  
29 the last day on which the state agency could have announced a final

1 decision under (a) of this section.

2 Sec. 44.62.634. DEFECTIVE APPLICATIONS; NOTICE TO APPLICANT. (a)  
3 If a state agency receives a permit application requesting a permit  
4 which the agency believes it does not have authority to issue, or which  
5 it believes is unnecessary, it shall notify the applicant within 10  
6 days after its receipt of the application. A notice given under this  
7 subsection is the final agency decision.

8 (b) If a state agency receives a permit application which it  
9 believes does not contain sufficient information concerning the location  
10 and nature of the project to allow the agency to determine whether the  
11 project complies with state law, the agency shall notify the applicant  
12 within 10 days after its receipt of the application. The notice must  
13 specify all information the agency requires to determine whether the  
14 project complies with state law.

15 Sec. 44.62.635. REVIEW BY THE COMMISSIONER OR BOARD. A state  
16 agency's final decision issued under AS 44.62.632 may be reviewed by  
17 the commissioner or board of the issuing agency at the request of the  
18 applicant. The applicant is entitled to a review de novo if requested  
19 in the original request for review; otherwise the review is a review on  
20 the record. The request must be filed with the commissioner or board  
21 within 30 days of the applicant's receipt of the decision. The commis-  
22 sioner or board shall issue a decision within 10 days of receipt of the  
23 request if the review is a review on the record. If the applicant has  
24 requested a hearing de novo, the hearing shall be held within 30 days  
25 of receipt of the request, and the decision of the commissioner or  
26 board shall be made within 30 days of the conclusion of the hearing.  
27 Unless the agency decision is confirmed in its entirety, the commis-  
28 sioner or board shall issue a written decision setting out the findings  
29 and conclusions in full.

1           Sec. 44.62.636. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
2 review by the superior court of a final decision issued by a state  
3 agency under AS 44.62.632 or 44.62.634 or of a decision of the commis-  
4 sioner or board issued under AS 44.62.635, may be had by filing a  
5 notice of appeal in the superior court in accordance with the applicable  
6 rules of appellate procedure. The right to appeal is not affected by  
7 the failure to seek reconsideration or further review under AS 44.62.-  
8 635. The review shall be governed by the provisions of AS 44.62.560-  
9 (b) - (a) and 44.62.570.

10           (b) On an appeal by an applicant to the superior court, the  
11 agency which issued the final decision has the burden of proving that  
12 the decision is in accordance with AS 44.62.632 and 44.62.634.

13           (c) An appeal taken under this section has preference on the  
14 calendar of civil actions before the court and shall be decided without  
15 unnecessary delay.

16 \* Sec. 3. AS 44.62.540 is amended by adding a new subsection to read:

17           (c) In AS 44.62.632 - 44.62.634,

18           (1) "permit" means a permit, license, certification, consis-  
19 tency determination, comments on pending permit applications before  
20 other governmental entities (including environmental impact statement  
21 comments), plan review, or other authorization or approval issued as a  
22 written document which is required to be obtained or is solicited from  
23 a state agency before the construction or operation of a project;  
24 "permit" does not include

25           (A) conveyances of interest in state land or water, but  
26 does include all authorizations and approvals, whether proprietary  
27 or regulatory, necessary to undertake a project under a previously  
28 conveyed property interest; and

29           (3) the provision of financial assistance;

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(2) "permit application" includes the following documents:

(A) a document requesting the issuance of a permit which contains sufficient information concerning the location and nature of a project to allow the state agency to which it is directed to determine compliance of the project with state law;

(B) a document submitted to a state agency by a governmental entity which solicits comments in connection with a permit being processed by that governmental entity;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "state agency" means a state department, commission, board, or other agency of the state; "state agency" includes a local or regional air pollution control authority established under AS 46.03.210 and a coastal resource district and coastal resource service board established under AS 46.40.010 - 46.40.210.

\* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 6/23/81  
For Today's Supplemental  
Calendar

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 84 (2d Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the granting of land use authoriza-  
7 tions by state agents."

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

9 \* Section 1. FINDINGS. The legislature finds that

10 (1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies, by the complexity of the permitting process, and by the number of  
13 agencies involved in the permitting process;

14 (2) the uncertainties created by the lack of specific time  
15 limits, the proliferation of agency reviews, the number of agencies involved  
16 in the permit process, and unjustified agency requirements upon the process-  
17 ing of permit applications have cost Alaskans millions of dollars in lost  
18 employment and higher prices;

19 (3) the public interest has not been advanced by protracted delay  
20 in the processing of permit applications by state agencies;

21 (4) by reducing the number of agencies and agency reviews in-  
22 volved in the permit process, and by requiring state agencies to process  
23 permit applications in an expeditious manner, the social, economic, and  
24 environmental health and well-being of Alaska citizens will be promoted; and

25 (5) there are many administrative orders and similar documents  
26 that have been promulgated by the executive branch relating to interagency  
27 review that conflict and overlap, retarding the permit issuing process.

28 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

29 ARTICLE 8A. PERMIT PROCESSING.

1        Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
2 agency shall by regulation classify each of the permits issued by that  
3 agency within one of the two following categories:

4            (1) class I permits, for which the state agency must issue a  
5 final, pre-adjudicatory decision within 30 days after the date of  
6 receipt of a completed application; and

7            (2) class II permits, for which, because of a necessary or  
8 appropriate public notice or interagency review period, a final, pre-  
9 adjudicatory decision cannot be issued until 65 days after the date of  
10 receipt of a completed application.

11           (b) Final regulations classifying its permits, and uniform proce-  
12 dural regulations providing for the processing of these permits, shall  
13 be adopted by each state resource agency by October 1, 1981. Permits  
14 applied for after this date must be issued in accordance with the time  
15 periods specified in (a) of this section, and the provisions of the  
16 implementing regulations. Regulations adopted under this section may  
17 be revised.

18        Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
19 ING. (a) An applicant and a resource agency may agree to waive a time  
20 limit required by regulation for the classification of the applicable  
21 permit.

22           (b) Upon a finding by the head of a resource agency that a permit  
23 being considered involves unusually complex issues so that the agency  
24 cannot render a final, pre-adjudicatory decision within the time period  
25 specified in AS 44.62.632(a), the head of the agency may prescribe a  
26 time period within which the final, pre-adjudicatory decision will be  
27 made. The finding of the head of the agency may be appealed to the  
28 superior court under the Appellate Rules of Procedure.

29           (c) The time period specified in AS 44.62.632(a) may be extended

1 by a maximum of 20 days if a public hearing is held on a permit appli-  
2 cation.

3 (d) The time period specified in AS 44.62.632(a) may be extended  
4 if necessary to facilitate joint processing of a permit application  
5 through memorandum of understanding by state and federal agencies, and  
6 strict adherence to the time periods established in AS 44.62.632(a)  
7 would pose an irreconcilable conflict with a federal statute or regula-  
8 tion.

9 (e) Subject to (a) - (d) of this section and AS 44.62.634, fail-  
10 ure of a resource agency to make a final, pre-adjudicatory decision  
11 within 30 days after the receipt of a completed application for a class  
12 I permit, or within 65 days after the receipt of a completed applica-  
13 tion for a class II permit, constitutes approval of the application.  
14 In an appeal of a permit issued by operation of this subsection, the  
15 record shall be construed in a light most favorable to the applicant,  
16 and the permit shall be accorded a presumption of regularity.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application form which does not contain  
19 sufficient information concerning the project's compliance with the  
20 agency's statutes and regulations, the agency shall notify the appli-  
21 cant within 15 days after receipt of a completed application for a  
22 class I permit, and within 30 days after receipt for a class II permit.  
23 The notification must specify all information that the agency believes  
24 at the time to be necessary to determine compliance of the project with  
25 the agency's statutes and regulations.

26 (b) The initial and any subsequent notification must specify  
27 those particular facts or issues concerning the proposal that require  
28 more information than is provided on a completed application form.  
29 Subsequent requests for additional information must be made within the

1 permit deadline as extended, and may be made only with respect to new  
2 issues raised by the response to the initial notification.

3 (c) If a timely request under this section is made, the time per-  
4 iod specified in AS 44.62.632 is suspended from the date of request to  
5 the date of full compliance with the request.

6 Sec. 44.62.635. LEAD AGENCY. There are established lead agencies  
7 which are solely responsible for issuing coastal management consistency  
8 determinations under AS 46.40 and for preparing and submitting state  
9 comments on federal permit applications. The lead agency may vary for  
10 classes of activities, but shall be that agency that has principal  
11 responsibility for authorizing the overall activity. For classes of  
12 activities for which no agency with principal responsibility exists the  
13 governor shall designate a lead agency by administrative order no later  
14 than October 1, 1981. In performing its functions under this section,  
15 the lead agency shall consult with other resource agencies and with  
16 coastal resource districts under AS 46.40. The lead agency shall  
17 balance competing factors in reaching its decision. Great weight shall  
18 be given to the comments of resource agencies within their primary area  
19 of expertise, and also to the comments of coastal resource districts  
20 with approved coastal management plans, unless the district's recom-  
21 mendation would result in the arbitrary or unreasonable restriction or  
22 exclusion of uses of state concern as that term is defined in AS 46.40.-  
23 070(c).

24 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

25 (c) As used in AS 44.62.632 - 44.62.635,

26 (1) "date of receipt" means the date on which a state agency  
27 actually receives a completed application filed in accordance with  
28 agency regulations and at a place identified as appropriate for filing  
29 in the agency's regulations;

1 (2) "final, pre-adjudicatory decision" means that decision  
2 of a state agency, or its staff that forms the basis for a timely re-  
3 quest for an adjudicatory hearing or administrative appeal, and that  
4 becomes the agency's final decision if an adjudicatory hearing or man-  
5 datory administrative appeal is not timely requested;

6 (3) "permit" means a permit, license, certification, consis-  
7 tency determination, plan review, or other authorization or approval  
8 issued by a resource agency as a written document that is required to  
9 be obtained or is solicited from a state agency before the construction  
10 or operation of a project; "permit" does not include conveyances of in-  
11 terest in state land or water, but does include all authorizations and  
12 approvals, whether proprietary or regulatory, necessary to undertake a  
13 project under a previously conveyed property interest;

14 (4) "project" means a new activity or expansion or addition  
15 to an existing activity for which permits are required before construc-  
16 tion or operation; and

17 (5) "resource agency" includes the Department of Natural  
18 Resources, the Department of Environmental Conservation, the Alaska  
19 Coastal Policy Council, and the Department of Fish and Game with respect  
20 to permits issued for the protection of fish habitat or the regulation  
21 of state sanctuaries, refuges, and critical habitat areas.

22 \* Sec. 4. AS 38.05.075 is repealed and reenacted to read:

23 Sec. 38.05.075. SURFACE LEASING PROCEDURE. (a) Except as pro-  
24 vided in AS 38.05.068, 38.05.082, and (b) - (e) of this section, and  
25 leasing shall be conducted by public auction, to the highest pre-quali-  
26 fied bidder, as determined by the director. An aggrieved pre-qualified  
27 bidder may appeal to the commissioner by a letter postmarked within  
28 five days after the director's determination. Lease auctions shall be  
29 conducted by the director or his representative, and the successful

1 pre-qualified bidder shall deposit at the auction the first year's  
2 rental or that percentage of it that the commissioner shall require.  
3 The director may require a deposit for any survey and appraisal costs  
4 reasonably incurred by another pre-qualified bidder acting in accor-  
5 dance with the department's regulations. If a bidder making a deposit  
6 of survey or appraisal costs is determined to be the highest pre-quali-  
7 fied bidder under this subsection, his deposit shall be paid to the un-  
8 successful bidder who incurred those costs. The director or his repre-  
9 sentative shall immediately issue a receipt to the successful pre-qual-  
10 ified bidder containing a description of the land or interest leased,  
11 the total price bid, the terms of the lease, and the amount, if any, to  
12 be paid for the survey or appraisal. The receipt shall be immediately  
13 acknowledged by the bidder. If the receipt is not acknowledged by the  
14 bidder in accordance with this subsection, the director may re-offer  
15 the land in accordance with this section. The lease, on a form ap-  
16 proved by the attorney general, shall be signed by the successful  
17 bidder within 30 days after the auction, and shall thereafter be signed  
18 by the director, after approval by the commissioner.

19 (b) When a valid existing grazing lease is cancelled to permit  
20 state selection of the land under lease, the lessee of the land has a  
21 preference right to lease the land without competitive bidding for a  
22 term equal to the unexpired term originally granted in the cancelled  
23 federal lease, and upon terms no less favorable to the lessee than  
24 those contained in the cancelled federal lease.

25 (c) A littoral owner or lessee has a preference right to acquire,  
26 without competitive bidding, a lease for tide and submerged land di-  
27 rectly adjacent to his upland parcel if

28 (1) lease of the tide or submerged land is sought solely for  
29 the purpose of facilitating water transport of material extracted,

1 harvested, produced, or processed on the adjacent uplands;

2 (2) the proposed use of the tide and submerged land is com-  
3 patible with the classification of this land and the adjacent uplands;

4 (3) there is no competing interest for a higher and better  
5 use of the subject tide and submerged land;

6 (4) where the land was formed by isostatic rebound, granting  
7 of a lease would not violate the state's irrevocable trust respon-  
8 sibilities; and

9 (5) issuance of the lease will not interfere with prior ex-  
10 isting rights.

11 (d) The annual rental for a lease issued under (c) of this sec-  
12 tion shall be determined by an appraisal conducted under AS 38.05.310.  
13 If the adjacent upland ownership interest is less than fee simple, the  
14 term of the lease acquired under (c) of this section may not exceed the  
15 unexpired term of the upland interest. Termination of a less-than-fee  
16 upland interest before its normal expiration, for any reason, shall  
17 terminate the lease acquired under (c) of this section.

18 (e) The department shall, in conformity with AS 38.05.345, re-  
19 quire pre-qualification of bidders for a lease to be issued under  
20 AS 38.05.070. If, as a result of pre-qualification, the director de-  
21 termines that there is only one qualified bidder for the lease, he may  
22 issue a lease to that bidder at the appraised value as determined by  
23 AS 38.05.310, without competitive bidding. Notwithstanding AS 38.05.-  
24 345, disposal shall occur as soon as practicable following completion  
25 of survey and appraisal, and notice of any auction shall be made per-  
26 sonally or by registered mail to all pre-qualified bidders.

27 \* Sec. 5. AS 44.19.162 is amended to read:

28 Sec. 44.19.162. COUNCIL STAFF. The council shall utilize the  
29 staff of the office of coastal management within the Department of

1 Community and Regional Affairs [DIVISION OF POLICY DEVELOPMENT AND  
2 PLANNING] in discharging its powers and duties. The commissioner  
3 [COORDINATOR OF THE OFFICE], with the concurrence of the council, may  
4 contract with or employ personnel or consultants he considers necessary  
5 to carry out the powers and duties of the council.

6 \* Sec. 6. AS 46.35 is amended by adding a new section to read:

7 Sec. 46.35.025. PRE-APPLICATION CONFERENCE. (a) A person con-  
8 sidering the submission of a permit coordination request under AS 46.-  
9 35.030, or a master application under AS 46.35.035, may request a per-  
10 mit requirement information center established under AS 46.35.160 to  
11 hold a pre-application conference.

12 (b) The department will invite to the conference appropriate fed-  
13 eral, state, and local agencies. The conference will be held no later  
14 than 30 days after receipt of a request under (a) of this section.

15 (c) The purpose of a pre-application conference is to enable a  
16 potential applicant and appropriate federal, state, and local agencies  
17 to discuss the nature of the proposed activity, tentative or possible  
18 agency concerns over the activity, and permits that may be required.

19 \* Sec. 7. AS 46.35.030 is amended to read:

20 Sec. 46.35.030. PERMIT COORDINATION REQUEST [MASTER APPLICATION].

21 (a) A person proposing a project which requires the issuance of one or  
22 more permits may at his sole discretion submit a permit coordination  
23 request [MASTER APPLICATION] to the department requesting the issuance  
24 of all permits and documents covered by this chapter [NECESSARY BEFORE  
25 THE CONSTRUCTION AND OPERATION OF THE PROJECT IN THE STATE]. The  
26 request [MASTER APPLICATION] shall be on a form established by the  
27 department and shall contain sufficient information as to the location  
28 and the nature of the project, including discharge of wastes and use of  
29 or interference with natural resources of the state.

1 (b) Upon receipt of a properly completed request [MASTER APPLICA-  
2 TION], the department shall immediately forward a copy of the request  
3 [APPLICATION] to each agency administering a permit covered by this  
4 chapter [ALL HEADS OF EXECUTIVE DEPARTMENTS OF THE STATE] and the chief  
5 elected official of all municipalities in which a portion of the project  
6 is proposed to be constructed, together with the date by which the  
7 agency shall respond to the request [MASTER APPLICATION].

8 (c) Each agency notified shall respond in writing to the depart-  
9 ment by the specified date, not exceeding 15 days from receipt, as de-  
10 termined by the department advising

11 (1) whether the agency has permit jurisdiction over [AN IN-  
12 TEREST IN] the request [MASTER APPLICATION]; and

13 (2) if the response to (1) of this subsection is affirma-  
14 tive, the permit program under the agency's jurisdiction to which the  
15 project described in the request [MASTER APPLICATION] is pertinent [;  
16 AND

17 (3) WHETHER, IN RELATION TO THE MASTER APPLICATION, A PUBLIC  
18 HEARING AS PROVIDED IN AS 46.35.050 and 46.35.060 WOULD BE IN THE  
19 PUBLIC INTEREST].

20 (d) Each notified agency which (1) responds within the specified  
21 date that it does not have permit jurisdiction over the project de-  
22 scribed in the request [AN INTEREST IN THE MASTER APPLICATION]; or (2)  
23 does not respond as required within the specified date, may not subse-  
24 quently require a permit of the applicant for the project described in  
25 the request [MASTER APPLICATION] unless the request [MASTER APPLICA-  
26 TION] contained false, misleading, or deceptive information, or other  
27 information or lack of information which would reasonably lead an agen-  
28 cy to misjudge its interest in the project [MASTER APPLICATION].

29 (e) The department shall submit application forms relating to

1 permit programs identified in affirmative responses under (c) of this  
2 section to the applicant with a direction to complete and return them  
3 to the department within a reasonable time as specified by the depart-  
4 ment.

5 (f) When the applications, properly completed, have been returned  
6 to the department, each of the applications shall be transmitted to the  
7 appropriate state agency for the performance of its responsibilities of  
8 decision making in accordance with the procedures of this chapter, and  
9 any applicable permit deadline shall begin on the date of receipt of a  
10 completed application by the permitting agency.

11 \* Sec. 8. AS 46.35 is amended by adding new sections to read:

12 Sec. 46.35.035. MASTER APPLICATION. (a) The department shall  
13 periodically develop master applications on a commercial or industrial  
14 activity basis.

15 (b) A master application developed under this section serves as  
16 the application form for each permit that is generally required for the  
17 commercial or industrial activity.

18 (c) When a person submits a master application developed under  
19 this section, AS 46.35.030 does not apply. The master application  
20 shall be served on the office of the department specified in regulation  
21 and any applicable permit deadline shall begin on the date of receipt  
22 of a complete application by the appropriate office of the department.

23 (d) The use of the master application procedures established in  
24 this chapter is at the sole discretion of the applicant.

25 Sec. 46.35.051. PERMIT PROCEDURES. (a) Permits sought under  
26 AS 46.35.030 or 46.35.035 shall be processed in one consolidated pro-  
27 ceeding. The proceeding shall be governed by those procedures that  
28 would otherwise be applicable to a permit being sought and that provide  
29 for the greatest degree of public participation and interagency review.

1 The decisional deadline applicable to the procedure used shall apply to  
2 each final decision made under AS 46.35.070. If the holding of a  
3 public hearing is discretionary under the applicable procedure, a  
4 majority of the permitting agencies shall determine whether to hold a  
5 public hearing under applicable criteria.

6 (b) Any change in the application or coordination request made  
7 during the pendency of proceedings under AS 46.35.030 or this section  
8 which is either jurisdictional or would result in significant new ad-  
9 verse impacts from the project shall be treated as the filing of a new  
10 application or coordination request.

11 \* Sec. 9. AS 46.35.070 is repealed and reenacted to read:

12 Sec. 46.35.070. FINAL DECISION. Each permitting agency shall  
13 forward its final decision to the department within the deadline estab-  
14 lished under AS 46.35.051(a). As soon as all final decisions are re-  
15 ceived by the department, the department shall incorporate them, with-  
16 out modification, into one document and transmit it to the applicant  
17 either personally or by registered mail.

18 \* Sec. 10. AS 46.35.080 is amended to read:

19 Sec. 46.35.080. WITHDRAWAL OF AGENCY FROM PARTICIPATION. (a) A  
20 state agency participating in a consolidated proceeding [RESPONDING AF-  
21 FIRMATIVELY UNDER AS 46.35.030(b)] may withdraw from participation  
22 as to one or more permits [IN THE PROCESSING PROVIDED IN AS 46.35.030 -  
23 46.35.070] at any time, by written notification to the department, if  
24 it subsequently appears to the state agency that it does not have [HAS  
25 NO] permit [PROGRAMS UNDER ITS] jurisdiction [APPLICABLE TO THE PRO-  
26 JECT].

27 (b) A decision by a state agency to withdraw from the proceeding  
28 is irreversible, and the state agency may not subsequently require the  
29 [A] permit of the applicant for the project described in the master ap-

1 plication unless the master application contained false, misleading, or  
2 deceptive information, or other information or lack of information  
3 which would reasonably lead an agency to misjudge its interest in the  
4 permit coordination request or master application.

5 \* Sec. 11. AS 46.35.090(a) is amended to read:

6 (a) A person aggrieved by a final decision issued under AS 46.35.-  
7 070 [AS 46.35.070(d)] may file a notice of appeal with the commissioner  
8 requesting an adjudicatory hearing within 15 [30] days of receipt  
9 [TRANSMITTAL] of the final decision by [TO] the person. A failure to  
10 file a timely notice of appeal constitutes a waiver of the person's  
11 right to review the final decision, unless the failure was due to cir-  
12 cumstances beyond the applicant's control.

13 \* Sec. 12. AS 46.35.110 is amended to read:

14 Sec. 46.35.110. APPLICATION. Notwithstanding any other provi-  
15 sions of regulation or statute relating to the processing of applica-  
16 tion for permits, the procedures set out in this chapter are exclusive  
17 for permits sought under AS 46.35.030 and applications filed under  
18 AS 46.35.035 [AS 46.35.030]. The procedures of this chapter are in  
19 lieu of any procedures otherwise provided by law or regulation, and are  
20 to be followed by a state agency in ruling upon those applications.

21 \* Sec. 13. AS 46.35.130(a) is amended to read:

22 (a) No permit for a project filed under AS 46.35.030 or 46.35.035  
23 may be issued unless the application has provided a certification from  
24 the appropriate local government that the project is in compliance with  
25 the zoning ordinances and associated comprehensive plans administered  
26 by the local government regarding the project. If the local government  
27 has no such ordinances or plans, the local government shall certify that  
28 fact. A local government may accept applications for certification  
29 under this section and shall rule upon them within 30 days. A local

1 government may impose stipulations of performance in its approval, but,  
2 upon certification, the local government may not change the zoning  
3 ordinances as to the proposed project until the procedures of this  
4 chapter, including an appeal, are completed.

5 \* Sec. 14. AS 46.35.170 is amended by adding a new subsection to read:

6 (c) The department may enter into memoranda of understanding with  
7 federal agencies for the full or partial processing of related federal  
8 permits under the procedures established by this chapter.

9 \* Sec. 15. AS 46.35 is amended by adding a new section to read:

10 Sec. 46.35.175. RELATION TO SURFACE LEASING PROCEDURE. When a  
11 project requires a surface lease under AS 38.05.075 in addition to per-  
12 mits covered by this chapter,

13 (1) application for the surface lease shall be coordinated  
14 under AS 46.35.030 or, when applicable, subsumed in the master applica-  
15 tion submitted under AS 46.35.035;

16 (2) the determination required under AS 38.05.035(a)(14)  
17 shall be consolidated in the proceeding conducted under AS 46.35.051,  
18 and the procedure for making that determination shall govern the con-  
19 solidated proceeding; and

20 (3) AS 46.35.040 applies if there is more than one pre-  
21 qualified bidder.

22 \* Sec. 16. AS 46.35.200(4) is repealed and reenacted to read:

23 (4) "permit" means a permit, license, certification, consis-  
24 tency determination, plan review, or other authorization or approval  
25 issued as a written document that is required to be obtained from ei-  
26 ther the Department of Fish and Game, Department of Environmental Con-  
27 servation, Department of Natural Resources, or Office of the Governor,  
28 division of policy development and planning; "permit" does not include  
29 disposals of an interest in state land or water, but does include all

1 authorizations and approvals, whether proprietary or regulatory, neces-  
2 sary to undertake a project under a previously conveyed property inter-  
3 est; the department, by regulation and with the consent of the permit-  
4 ting agency, may delete a permit from the coverage of this chapter if  
5 its inclusion unduly complicates consolidated review, and may add addi-  
6 tional permits issued by other agencies;

7 \* Sec. 17. AS 46.35.050, 46.35.060, and 46.35.090(b) are repealed.  
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CORRECTION

HOUSE CS FOR CS FOR SENATE BILL NO. 84(Rules)

Please discard Page 1 of this bill and insert this corrected page.

The Correction made:

HOUSE CS FOR CS FOR SENATE BILL NO. 84

to

HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Rules)

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 6/22/81  
For Today's Calendar

1 IN THE SENATE BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; to surface leasing of land; and to admini-  
8 stration of the Alaska coastal management program; and  
9 providing for an effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that

12 (1) the orderly development of state resources is being unneces-  
13 sarily delayed by the length of time required to obtain permits from state  
14 agencies, by the complexity of the permitting process, and by the number of  
15 agencies involved in the permitting process;

16 (2) the uncertainties created by the lack of specific time limits,  
17 the proliferation of agency reviews, the number of agencies involved in the  
18 permit process, and unjustified agency requirements upon the processing of  
19 permit applications have cost Alaskans millions of dollars in lost employ-  
20 ment and higher prices;

21 (3) the public interest has not been advanced by protracted delay  
22 in the processing of permit applications by state agencies;

23 (4) by reducing the number of agencies and agency reviews in-  
24 volved in the permit process, and by requiring state agencies to process  
25 permit applications in an expeditious manner, the social, economic, and  
26 environmental health and well-being of Alaska citizens will be promoted; and

27 (5) there are many administrative orders and similar documents  
28 that have been promulgated by the executive branch relating to interagency  
29 review that conflict and overlap, retarding the permit issuing process.

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 2/24/82  
Referred: Rules

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to processing of permits by state  
7 agencies, and to administration of the Alaska Coastal  
8 Management program."

9

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

10

\* Section 1. FINDINGS. The legislature finds that

11

(1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15

(2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employ-  
19 ment and higher prices;

20

(3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22

(4) by reducing the number of agencies and agency reviews in-  
23 volved in the permit process, and by requiring state agencies to process  
24 permit applications in an expeditious manner, the social, economic, and  
25 environmental health and well-being of Alaska citizens will be promoted; and

26

(5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

29

\* Sec. 2. AS 44.62 is amended by adding new sections to read:



1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
12 an appeal of a permit issued by operation of this subsection, the  
13 record shall be considered in the light most favorable to the applicant,  
14 and the permit shall be accorded a presumption of regularity.

15 (d) A state agency may not condition the issuance of a permit  
16 upon the issuance of a permit from another governmental agency.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application that does not contain suffi-  
19 cient information concerning the project's compliance with the agency's  
20 statutes and regulations, the agency shall notify the applicant within  
21 15 days after receipt of a completed permit application for a class I  
22 permit, and within 30 days after receipt for a class II permit.

23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
28 made, the time period specified in AS 44.62.632 is suspended from the  
29 date of request to the date of full compliance with the request.

1 Subsequent requests for additional information may be made, but must  
2 relate only to new issues raised by the response to the initial noti-  
3 fication. Subsequent requests do not extend the time periods specified  
4 in AS 44.62.632.

5 (d) Nothing in this section grants a resource agency the authority  
6 to request information beyond the authority given to it by other sta-  
7 tutes.

8 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead  
9 agency that is solely responsible for issuing coastal management consis-  
10 tency determinations under AS 46.40 and for preparing and submitting  
11 state comments on federal permit applications. The lead agency is that  
12 resource agency that has principal responsibility for authorizing the  
13 overall activity, including instances where an activity requires permits  
14 from more than one resource agency. For classes of activities for  
15 which no agency with principal responsibility exists the governor shall  
16 designate a resource agency to be a lead agency for each class by  
17 administrative order no later than October 1, 1982. In performing its  
18 functions under this section, the lead agency shall consult with other  
19 resource agencies and with coastal resource districts under AS 46.40.

20 (b) Substantive consideration shall be given to the documented  
21 factual statements or data submitted by resource agencies and to the  
22 office of coastal management within their primary areas of expertise,  
23 and to the documented factual statements or data submitted by coastal  
24 resource districts made under an approved district coastal management  
25 program. The lead agency shall consider opinions, conclusions or  
26 recommendations submitted by the commenting agency, but may, in its  
27 discretion, reach contrary opinions, conclusions or recommendations  
28 according to the evidence received. The lead agency shall then balance  
29 competing factors in reaching its final decision. No resource agency

1 other than the lead agency has primary expertise in the balancing of  
2 competing factors.

3 (c) Except as required by federal law no state agency other than  
4 the lead agency may comment to a federal permitting agency.

5 (d) For activities involving a disposal of interest in land and a  
6 certification under sec. 401 of the Clean Water Act (33 U.S.C. sec.  
7 1341), the lead agency shall be the Department of Natural Resources.

8 (e) For activities involving a plan of operation approval under a  
9 previous disposal of an interest in land and a certificate under sec.  
10 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall  
11 be the Department of Natural Resources.

12 Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or  
13 state agency that receives a request for comment in connection with a  
14 permit application or plan review being processed by a resource agency  
15 shall submit these comments in accordance with the following schedule:

16 (1) comments on class I permits shall be submitted within 15  
17 days after the agency's receipt of the request;

18 (2) comments on class II permits and federal permits shall  
19 be submitted within 30 days after the agency's receipt of the request;

20 (3) when under AS 44.62.633, the requesting agency has  
21 extended the time periods specified in AS 44.62.632, that agency may  
22 extend the time period specified in this section; however, comments  
23 submitted under this paragraph must be submitted no later than 30 days  
24 before the date on which the lead agency must issue a final decision.

25 Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform proce-  
26 dural regulations adopted under AS 44.62.632(b) must provide for an  
27 administrative appeal from a final decision on a permit application.  
28 The administrative appeal is to the head of the resource agency in-  
29 volved. Except as provided in this section the procedure is conducted

1 under AS 44.62.330 - 44.62.630.

2 (b) The administrative appeal must be resolved within 45 days  
3 after the final decision on a permit application, or, if a hearing is  
4 held on the administrative appeal, within 65 days after the final  
5 decision on the permit application.

6 (c) An appeal taken from a decision granting a permit may, but  
7 need not, stay the issuance of the permit.

8 (d) The head of the agency may summarily dismiss an appeal before  
9 the time established in this section, and the dismissal is the final  
10 agency action on the matter.

11 (e) In an appeal from the denial or conditioning of a permit the  
12 head of the agency may, if he determines that the public interest would  
13 be served, grant the permit or remove conditions of the permit until  
14 the appeal is determined.

15 Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
16 review by the superior court of a final decision issued under AS 44.-  
17 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
18 superior court in accordance with the applicable Rules of Appellate  
19 Procedure. The review is governed by the provisions of AS 44.62.-  
20 560(b) - (e) and AS 44.62.570.

21 (b) An appeal taken under this section should have preference on  
22 the calendar of civil actions before the court and should be decided  
23 without unnecessary delay.

24 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

25 (c) As used in AS 44.62.632 - 44.62.638,

26 (1) "date of receipt" means the date on which a state agency  
27 actually receives a completed application filed in accordance with  
28 agency regulations and at a place identified as appropriate for filing  
29 in the agency's regulations;

1 (2) "permit" means a permit, license, certification, consis-  
2 tency determination, or other authorization or approval issued by a  
3 resource agency as a written document that is required to be obtained  
4 or is solicited from a state agency before the construction or opera-  
5 tion of a project; "permit"

6 (A) does not include the approval of a unit agreement,  
7 a unit development plan, or a unit exploration plan, or conveyances  
8 of interest in state land or water;

9 (B) does include all authorizations and approvals,  
10 whether proprietary or regulatory, necessary to undertake a project  
11 under a previously conveyed property interest;

12 (3) "project" means a new activity or expansion or addition  
13 to an existing activity for which permits are required before construc-  
14 tion or operation; "project" does not include pursuing a trade or  
15 profession, providing public health service, or operating a financial  
16 institution;

17 (4) "resource agency" includes the Department of Natural  
18 Resources, the Department of Environmental Conservation, and the Depart-  
19 ment of Fish and Game with respect to permits issued for the protection  
20 of fish habitat or the regulation of state sanctuaries, refuges, and  
21 critical habitat areas.  
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20 COPIES  
→ FILE  
SB84

Original sponsors: Bennett, Parr and  
Fahrenkamp

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - SECOND SESSION  
5 A BILL.

6 For an Act entitled: "An Act relating to processing of permits by state agen-  
7 cies, and to administration of the Alaska Coastal Man-  
8 agement program; and providing for an effective date."

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

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employment  
19 and higher prices;

20 (3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews involved  
23 in the permit process, and by requiring state agencies to process permit ap-  
24 plications in an expeditious manner, the social, economic, and environmental  
25 health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

29 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

1 ARTICLE 8A. PERMIT PROCESSING.

2 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
3 agency shall by regulation classify each of the permits issued by that  
4 agency within one of the two following categories:

5 (1) class I permits, for which the state agency must issue a  
6 final decision within 30 days after the date of receipt of a completed  
7 permit application; and

8 (2) class II permits, for which, because of a necessary  
9 public notice or interagency review period, a final decision cannot be  
10 issued within 30 days; a final decision on a class II permit must be  
11 issued within 65 days after the date of receipt of a completed permit  
12 application, unless a public hearing is held on the permit, in which  
13 case a final decision must be issued within 75 days of the date of  
14 receipt.

15 (b) Final regulations classifying its permits, and uniform proce-  
16 dural regulations providing for the processing of these permits, shall  
17 be adopted by each state resource agency by October 1, 1982, following  
18 appropriate notice and hearing. Permits applied for after October 1,  
19 1982 must be issued in accordance with the time periods specified in  
20 (a) of this section, and the provisions of the implementing regulations.

21 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
22 ING. (a) Upon a finding by the head of a resource agency that a  
23 permit being considered involves unusually complex issues so that the  
24 agency cannot render a final decision within the time period specified  
25 in AS 44.62.632(a), the head of the agency may prescribe a time period  
26 within which the final decision will be made. The finding of the head  
27 of the agency may be appealed by the applicant to the superior court  
28 under the Appellate Rules of Procedure. The time period may not be  
29 extended more than 120 days beyond the time period specified in AS 44.-

1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
12 an appeal of a permit issued by operation of this subsection, the  
13 record shall be considered in the light most favorable to the applicant,  
14 and the permit shall be accorded a presumption of regularity.

15 (d) A state agency may not condition the issuance of a permit  
16 upon the issuance of a permit from another governmental agency.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application that does not contain suffi-  
19 cient information concerning the project's compliance with the agency's  
20 statutes and regulations, the agency shall notify the applicant within  
21 15 days after receipt of a completed permit application for a class I  
22 permit, and within 30 days after receipt for a class II permit.

23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
28 made, the time period specified in AS 44.62.632 is suspended from the  
29 date of request to the date of full compliance with the request.

1 Subsequent requests for additional information may be made, but must  
2 relate only to new issues raised by the response to the initial noti-  
3 fication. Subsequent requests do not extend the time periods specified  
4 in AS 44.62.632.

5 (d) Nothing in this section grants a resource agency the authority  
6 to request information beyond the authority given to it by other sta-  
7 tutes.

8 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead  
9 agency that is solely responsible for issuing coastal management consis-  
10 tency determinations under AS 46.40 and for preparing and submitting  
11 state comments on federal permit applications. The lead agency is that  
12 resource agency that has principal responsibility for authorizing the  
13 overall activity, including instances where an activity requires permits  
14 from more than one resource agency. For classes of activities for  
15 which no agency with principal responsibility exists the governor shall  
16 designate a resource agency to be a lead agency for each class by  
17 administrative order no later than October 1, 1982.

18 (b) In performing its functions under this section, the lead  
19 agency shall consult with other resource agencies and with coastal  
20 resource districts under AS 46.40. The lead agency shall consider  
21 documented facts, data, opinion, conclusions, or recommendations sub-  
22 mitted by the commenting agency and the coastal resource districts with  
23 an approved district coastal management program, within their areas of  
24 expertise, but may, in its discretion, reach contrary opinions, conclu-  
25 sions or recommendations according to the evidence received. The lead  
26 agency shall give substantive consideration to the documented facts and  
27 data, and to the professional judgments and recommendations substan-  
28 tiated by the facts and data that are submitted by the commenting  
29 agencies and the coastal resource districts with an approved district

1 coastal management program, within their primary areas of expertise. A  
2 professional judgment or recommendation is adequately substantiated  
3 under this subsection if it is based on documented facts or data reason-  
4 ably relied on by experts in the field. The lead agency shall then  
5 balance competing factors in reaching its final decision. No resource  
6 agency other than the lead agency has primary expertise in the balancing  
7 of competing factors.

8 (c) Except as required by federal law no state agency other than  
9 the lead agency may comment to a federal permitting agency.

10 (d) For activities involving a disposal of interest in land and a  
11 certification under sec. 401 of the Clean Water Act (33 U.S.C. sec.  
12 1341), the lead agency shall be the Department of Natural Resources.

13 (e) For activities involving a plan of operation approval under a  
14 previous disposal of an interest in land and a certificate under sec.  
15 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall  
16 be the Department of Natural Resources.

17 Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or  
18 state agency that receives a request for comment in connection with a  
19 permit application or plan review being processed by a resource agency  
20 shall submit these comments in accordance with the following schedule:

21 (1) comments on class I permits shall be submitted within 15  
22 days after the agency's receipt of the request;

23 (2) comments on class II permits and federal permits shall  
24 be submitted within 30 days after the agency's receipt of the request;

25 (3) when under AS 44.62.633, the requesting agency has  
26 extended the time periods specified in AS 44.62.632, that agency may  
27 extend the time period specified in this section; however, comments  
28 submitted under this paragraph must be submitted no later than 30 days  
29 before the date on which the lead agency must issue a final decision.

1           Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform proce-  
2 dural regulations adopted under AS 44.62.632(b) must provide for an  
3 administrative appeal from a final decision on a permit application.  
4 The administrative appeal is to the head of the resource agency in-  
5 volved. Administrative appeals conducted under this section are not  
6 subject to the procedures in AS 44.62.330 - 44.62.630.

7           (b) The administrative appeal must be resolved within 45 days  
8 after the final decision on a permit application, or, if a hearing is  
9 held on the administrative appeal, within 65 days after the final  
10 decision on the permit application.

11           (c) An appeal taken from a decision granting a permit may, but  
12 need not, stay the issuance of the permit.

13           (d) The head of the agency may summarily dismiss an appeal before  
14 the time established in this section, and the dismissal is the final  
15 agency action on the matter.

16           (e) In an appeal from the denial or conditioning of a permit the  
17 head of the agency may, if he determines that the public interest would  
18 be served, grant the permit or remove conditions of the permit until  
19 the appeal is determined.

20           Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
21 review by the superior court of a final decision issued under AS 44.-  
22 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
23 superior court in accordance with the applicable Rules of Appellate  
24 Procedure. The review is governed by the provisions of AS 44.62.-  
25 560(b) - (e) and AS 44.62.570.

26           (b) An appeal taken under this section should have preference on  
27 the calendar of civil actions before the court and should be decided  
28 without unnecessary delay.

29 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

1 (c) As used in AS 44.62.632 - 44.62.638,

2 (1) "date of receipt" means the date on which a state agency  
3 actually receives a completed application filed in accordance with  
4 agency regulations and at a place identified as appropriate for filing  
5 in the agency's regulations;

6 (2) "permit" means a permit, license, certification, consis-  
7 tency determination, or other authorization or approval issued by a  
8 resource agency as a written document that is required to be obtained  
9 or is solicited from a state agency before the construction or opera-  
10 tion of a project; "permit"

11 (A) does not include the approval of a unit agreement,  
12 a unit development plan, or a unit exploration plan, or conveyances  
13 of interest in state land or water;

14 (B) does include all authorizations and approvals,  
15 whether proprietary or regulatory, necessary to undertake a project  
16 under a previously conveyed property interest;

17 (3) "project" means a new activity or expansion or addition  
18 to an existing activity for which permits are required before construc-  
19 tion or operation; "project" does not include pursuing a trade or  
20 profession, providing public health service, or operating a financial  
21 institution;

22 (4) "resource agency" includes the Department of Natural  
23 Resources, the Department of Environmental Conservation, and the Depart-  
24 ment of Fish and Game with respect to permits issued for the protection  
25 of fish habitat or the regulation of state sanctuaries, refuges, and  
26 critical habitat areas.

27 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).



THIS  BILL  RESOLUTION

has been prepared by the staff of the Legal Services Division of the Legislative Affairs Agency in response to the request and at the direction of the sponsor. The staff has attempted to place it in proper legal and clerical form subject to any special limitations or instructions of the sponsor. Requests for bills and resolutions are kept confidential by the staff and any announcement of intent to have a document drafted or introduced is the prerogative and responsibility of the sponsoring member. The agency or its staff may not endorse or comment on policy matters involved in a bill or resolution. The substance and merits of a bill or resolution are the responsibility of the sponsor.

Delivered to sponsor: \_\_\_\_\_

Original sponsors: Bennett, Parr and  
Fahrenkamp

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state agen-  
7 cies, and to administration of the Alaska Coastal Man-  
8 agement program; and providing for an effective date."

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

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employment  
19 and higher prices;

20 (3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews involved  
23 in the permit process, and by requiring state agencies to process permit ap-  
24 plications in an expeditious manner, the social, economic, and environmental  
25 health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

29 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

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ARTICLE 8A. PERMIT PROCESSING.

Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource agency shall by regulation classify each of the permits issued by that agency within one of the two following categories:

(1) class I permits, for which the state agency must issue a final decision within 30 days after the date of receipt of a completed permit application; and

(2) class II permits, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days; a final decision on a class II permit must be issued within 65 days after the date of receipt of a completed permit application, unless a public hearing is held on the permit, in which case a final decision must be issued within 75 days of the date of receipt.

(b) Final regulations classifying its permits, and uniform procedural regulations providing for the processing of these permits, shall be adopted by each state resource agency by October 1, 1982, following appropriate notice and hearing. Permits applied for after October 1, 1982 must be issued in accordance with the time periods specified in (a) of this section, and the provisions of the implementing regulations.

Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESSING. (a) Upon a finding by the head of a resource agency that a permit being considered involves unusually complex issues so that the agency cannot render a final decision within the time period specified in AS 44.62.632(a), the head of the agency may prescribe a time period within which the final decision will be made. The finding of the head of the agency may be appealed by the applicant to the superior court under the Appellate Rules of Procedure. The time period may not be extended more than 120 days beyond the time period specified in AS 44.-

1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
12 an appeal of a permit issued by operation of this subsection, the  
13 record shall be considered in the light most favorable to the applicant,  
14 and the permit shall be accorded a presumption of regularity.

15 (d) A state agency may not condition the issuance of a permit  
16 upon the issuance of a permit from another governmental agency.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application that does not contain suffi-  
19 cient information concerning the project's compliance with the agency's  
20 statutes and regulations, the agency shall notify the applicant within  
21 15 days after receipt of a completed permit application for a class I  
22 permit, and within 30 days after receipt for a class II permit.

23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
28 made, the time period specified in AS 44.62.632 is suspended from the  
29 date of request to the date of full compliance with the request.

1 Subsequent requests for additional information may be made, but must  
2 relate only to new issues raised by the response to the initial noti-  
3 fication. Subsequent requests do not extend the time periods specified  
4 in AS 44.62.632.

5 (d) Nothing in this section grants a resource agency the authority  
6 to request information beyond the authority given to it by other sta-  
7 tutes.

8 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead  
9 agency that is solely responsible for issuing coastal management consis-  
10 tency determinations under AS 46.40 and for preparing and submitting  
11 state comments on federal permit applications. The lead agency is that  
12 resource agency that has principal responsibility for authorizing the  
13 overall activity, including instances where an activity requires permits  
14 from more than one resource agency. For classes of activities for  
15 which no agency with principal responsibility exists the governor shall  
16 designate a resource agency to be a lead agency for each class by  
17 administrative order no later than October 1, 1982.

18 (b) In performing its functions under this section, the lead  
19 agency shall consult with other resource agencies and with coastal  
20 resource districts under AS 46.40. The lead agency shall consider  
21 documented facts, data, opinion, conclusions, or recommendations sub-  
22 mitted by the commenting agency and the coastal resource districts with  
23 an approved district coastal management program, within their areas of  
24 expertise, but may, in its discretion, reach contrary opinions, conclu-  
25 sions or recommendations according to the evidence received. The lead  
26 agency shall give substantive consideration to the documented facts and  
27 data, and to the professional judgments and recommendations substan-  
28 tiated by the facts and data that are submitted by the commenting  
29 agencies and the coastal resource districts with an approved district

1 coastal management program, within their primary areas of expertise. A  
2 professional judgment or recommendation is adequately substantiated  
3 under this subsection if it is based on documented facts or data reason-  
4 ably relied on by experts in the field. The lead agency shall then  
5 balance competing factors in reaching its final decision. No resource  
6 agency other than the lead agency has primary expertise in the balancing  
7 of competing factors.

8 (c) Except as required by federal law no state agency other than  
9 the lead agency may comment to a federal permitting agency.

10 (d) For activities involving a disposal of interest in land and a  
11 certification under sec. 401 of the Clean Water Act (33 U.S.C. sec.  
12 1341), the lead agency shall be the Department of Natural Resources.

13 (e) For activities involving a plan of operation approval under a  
14 previous disposal of an interest in land and a certificate under sec.  
15 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall  
16 be the Department of Natural Resources.

17 Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or  
18 state agency that receives a request for comment in connection with a  
19 permit application or plan review being processed by a resource agency  
20 shall submit these comments in accordance with the following schedule:

21 (1) comments on class I permits shall be submitted within 15  
22 days after the agency's receipt of the request;

23 (2) comments on class II permits and federal permits shall  
24 be submitted within 30 days after the agency's receipt of the request;

25 (3) when under AS 44.62.633, the requesting agency has  
26 extended the time periods specified in AS 44.62.632, that agency may  
27 extend the time period specified in this section; however, comments  
28 submitted under this paragraph must be submitted no later than 30 days  
29 before the date on which the lead agency must issue a final decision.

1           Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform proce-  
2 dural regulations adopted under AS 44.62.632(b) must provide for an  
3 administrative appeal from a final decision on a permit application.  
4 The administrative appeal is to the head of the resource agency in-  
5 volved. Administrative appeals conducted under this section are not  
6 subject to the procedures in AS 44.62.330 - 44.62.630.

7           (b) The administrative appeal must be resolved within 45 days  
8 after the final decision on a permit application, or, if a hearing is  
9 held on the administrative appeal, within 65 days after the final  
10 decision on the permit application.

11           (c) An appeal taken from a decision granting a permit may, but  
12 need not, stay the issuance of the permit.

13           (d) The head of the agency may summarily dismiss an appeal before  
14 the time established in this section, and the dismissal is the final  
15 agency action on the matter.

16           (e) In an appeal from the denial or conditioning of a permit the  
17 head of the agency may, if he determines that the public interest would  
18 be served, grant the permit or remove conditions of the permit until  
19 the appeal is determined.

20           Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
21 review by the superior court of a final decision issued under AS 44.-  
22 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
23 superior court in accordance with the applicable Rules of Appellate  
24 Procedure. The review is governed by the provisions of AS 44.62.-  
25 560(b) - (e) and AS 44.62.570.

26           (b) An appeal taken under this section should have preference on  
27 the calendar of civil actions before the court and should be decided  
28 without unnecessary delay.

29 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

1 (c) As used in AS 44.52.632 - 44.62.638,

2 (1) "date of receipt" means the date on which a state agency  
3 actually receives a completed application filed in accordance with  
4 agency regulations and at a place identified as appropriate for filing  
5 in the agency's regulations;

6 (2) "permit" means a permit, license, certification, consis-  
7 tency determination, or other authorization or approval issued by a  
8 resource agency as a written document that is required to be obtained  
9 or is solicited from a state agency before the construction or opera-  
10 tion of a project; "permit"

11 (A) does not include the approval of a unit agreement,  
12 a unit development plan, or a unit exploration plan, or conveyances  
13 of interest in state land or water;

14 (B) does include all authorizations and approvals,  
15 whether proprietary or regulatory, necessary to undertake a project  
16 under a previously conveyed property interest;

17 (3) "project" means a new activity or expansion or addition  
18 to an existing activity for which permits are required before construc-  
19 tion or operation; "project" does not include pursuing a trade or  
20 profession, providing public health service, or operating a financial  
21 institution;

22 (4) "resource agency" includes the Department of Natural  
23 Resources, the Department of Environmental Conservation, and the Depart-  
24 ment of Fish and Game with respect to permits issued for the protection  
25 of fish habitat or the regulation of state sanctuaries, refuges, and  
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13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employment  
19 and higher prices;

20 (3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews involved  
23 in the permit process, and by requiring state agencies to process permit ap-  
24 plications in an expeditious manner, the social, economic, and environmental  
25 health and well-being of Alaska citizens will be promoted; and

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1 ARTICLE 8A. PERMIT PROCESSING.

2 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
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4 agency within one of the two following categories:

5 (1) class I permits, for which the state agency must issue a  
6 final decision within 30 days after the date of receipt of a completed  
7 permit application; and

8 (2) class II permits, for which, because of a necessary  
9 public notice or interagency review period, a final decision cannot be  
10 issued within 30 days; a final decision on a class II permit must be  
11 issued within 65 days after the date of receipt of a completed permit  
12 application, unless a public hearing is held on the permit, in which  
13 case a final decision must be issued within 75 days of the date of  
14 receipt.

15 (b) Final regulations classifying its permits, and uniform proce-  
16 dural regulations providing for the processing of these permits, shall  
17 be adopted by each state resource agency by October 1, 1982, following  
18 appropriate notice and hearing. Permits applied for after October 1,  
19 1982 must be issued in accordance with the time periods specified in  
20 (a) of this section, and the provisions of the implementing regulations.

21 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
22 ING. (a) Upon a finding by the head of a resource agency that a  
23 permit being considered involves unusually complex issues so that the  
24 agency cannot render a final decision within the time period specified  
25 in AS 44.62.632(a), the head of the agency may prescribe a time period  
26 within which the final decision will be made. The finding of the head  
27 of the agency may be appealed by the applicant to the superior court  
28 under the Appellate Rules of Procedure. The time period may not be  
29 extended more than 120 days beyond the time period specified in AS 44.-

1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
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23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
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29 date of request to the date of full compliance with the request.

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17 administrative order no later than October 1, 1982.

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22 mitted by the commenting agency and the coastal resource districts with  
23 an approved district coastal management program, within their areas of  
24 expertise, but may, in its discretion, reach contrary opinions, conclu-  
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27 data, and to the professional judgments and recommendations substan-  
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2 professional judgment or recommendation is adequately substantiated  
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5 balance competing factors in reaching its final decision. No resource  
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9 or is solicited from a state agency before the construction or opera-  
10 tion of a project; "permit"

11 (A) does not include the approval of a unit agreement,  
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13 of interest in state land or water;

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15 whether proprietary or regulatory, necessary to undertake a project  
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11 issued within 65 days after the date of receipt of a completed permit  
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13 case a final decision must be issued within 75 days of the date of  
14 receipt.

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17 be adopted by each state resource agency by October 1, 1982, following  
18 appropriate notice and hearing. Permits applied for after October 1,  
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20 (a) of this section, and the provisions of the implementing regulations.

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27 of the agency may be appealed by the applicant to the superior court  
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29 extended more than 120 days beyond the time period specified in AS 44.-

1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
12 an appeal of a permit issued by operation of this subsection, the  
13 record shall be considered in the light most favorable to the applicant,  
14 and the permit shall be accorded a presumption of regularity.

15 (d) A state agency may not condition the issuance of a permit  
16 upon the issuance of a permit from another governmental agency.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application that does not contain suffi-  
19 cient information concerning the project's compliance with the agency's  
20 statutes and regulations, the agency shall notify the applicant within  
21 15 days after receipt of a completed permit application for a class I  
22 permit, and within 30 days after receipt for a class II permit.

23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
28 made, the time period specified in AS 44.62.632 is suspended from the  
29 date of request to the date of full compliance with the request.

1 Subsequent requests for additional information may be made, but must  
2 relate only to new issues raised by the response to the initial noti-  
3 fication. Subsequent requests do not extend the time periods specified  
4 in AS 44.62.632.

5 (d) Nothing in this section grants a resource agency the authority  
6 to request information beyond the authority given to it by other sta-  
7 tutes.

8 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead  
9 agency that is solely responsible for issuing coastal management consis-  
10 tency determinations under AS 46.40 and for preparing and submitting  
11 state comments on federal permit applications. The lead agency is that  
12 resource agency that has principal responsibility for authorizing the  
13 overall activity, including instances where an activity requires permits  
14 from more than one resource agency. For classes of activities for  
15 which no agency with principal responsibility exists the governor shall  
16 designate a resource agency to be a lead agency for each class by  
17 administrative order no later than October 1, 1982.

18 (b) In performing its functions under this section, the lead  
19 agency shall consult with other resource agencies and with coastal  
20 resource districts under AS 46.40. The lead agency shall consider  
21 documented facts, data, opinion, conclusions, or recommendations sub-  
22 mitted by the commenting agency and the coastal resource districts with  
23 an approved district coastal management program, within their areas of  
24 expertise, but may, in its discretion, reach contrary opinions, conclu-  
25 sions or recommendations according to the evidence received. The lead  
26 agency shall give substantive consideration to the documented facts and  
27 data, and to the professional judgments and recommendations substan-  
28 tiated by the facts and data that are submitted by the commenting  
29 agencies and the coastal resource districts with an approved district

1 coastal management program, within their primary areas of expertise. A  
2 professional judgment or recommendation is adequately substantiated  
3 under this subsection if it is based on documented facts or data reason-  
4 ably relied on by experts in the field. The lead agency shall then  
5 balance competing factors in reaching its final decision. No resource  
6 agency other than the lead agency has primary expertise in the balancing  
7 of competing factors.

8 (c) Except as required by federal law no state agency other than  
9 the lead agency may comment to a federal permitting agency.

10 (d) For activities involving a disposal of interest in land and a  
11 certification under sec. 401 of the Clean Water Act (33 U.S.C. sec.  
12 1341), the lead agency shall be the Department of Natural Resources.

13 (e) For activities involving a plan of operation approval under a  
14 previous disposal of an interest in land and a certificate under sec.  
15 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall  
16 be the Department of Natural Resources.

17 Sec. 44.62.630. COMMENT PERIOD. A coastal resource district or  
18 state agency that receives a request for comment in connection with a  
19 permit application or plan review being processed by a resource agency  
20 shall submit these comments in accordance with the following schedule:

21 (1) comments on class I permits shall be submitted within 15  
22 days after the agency's receipt of the request;

23 (2) comments on class II permits and federal permits shall  
24 be submitted within 30 days after the agency's receipt of the request;

25 (3) when under AS 44.62.633, the requesting agency has  
26 extended the time periods specified in AS 44.62.632, that agency may  
27 extend the time period specified in this section; however, comments  
28 submitted under this paragraph must be submitted no later than 30 days  
29 before the date on which the lead agency must issue a final decision.

1           Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform proce-  
2 dural regulations adopted under AS 44.62.632(b) must provide for an  
3 administrative appeal from a final decision on a permit application.  
4 The administrative appeal is to the head of the resource agency in-  
5 volved. Administrative appeals conducted under this section are not  
6 subject to the procedures in AS 44.62.330 - 44.62.630.

7           (b) The administrative appeal must be resolved within 45 days  
8 after the final decision on a permit application, or, if a hearing is  
9 held on the administrative appeal, within 65 days after the final  
10 decision on the permit application.

11           (c) An appeal taken from a decision granting a permit may, but  
12 need not, stay the issuance of the permit.

13           (d) The head of the agency may summarily dismiss an appeal before  
14 the time established in this section, and the dismissal is the final  
15 agency action on the matter.

16           (e) In an appeal from the denial or conditioning of a permit the  
17 head of the agency may, if he determines that the public interest would  
18 be served, grant the permit or remove conditions of the permit until  
19 the appeal is determined.

20           Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
21 review by the superior court of a final decision issued under AS 44.-  
22 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
23 superior court in accordance with the applicable Rules of Appellate  
24 Procedure. The review is governed by the provisions of AS 44.62.-  
25 560(b) - (e) and AS 44.62.570.

26           (b) An appeal taken under this section should have preference on  
27 the calendar of civil actions before the court and should be decided  
28 without unnecessary delay.

29 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

1 (c) As used in AS 44.62.632 - 44.62.638,

2 (1) "date of receipt" means the date on which a state agency  
3 actually receives a completed application filed in accordance with  
4 agency regulations and at a place identified as appropriate for filing  
5 in the agency's regulations;

6 (2) "permit" means a permit, license, certification, consis-  
7 tency determination, or other authorization or approval issued by a  
8 resource agency as a written document that is required to be obtained  
9 or is solicited from a state agency before the construction or opera-  
10 tion of a project; "permit"

11 (A) does not include the approval of a unit agreement,  
12 a unit development plan, or a unit exploration plan, or conveyances  
13 of interest in state land or water;

14 (B) does include all authorizations and approvals,  
15 whether proprietary or regulatory, necessary to undertake a project  
16 under a previously conveyed property interest;

17 (3) "project" means a new activity or expansion or addition  
18 to an existing activity for which permits are required before construc-  
19 tion or operation; "project" does not include pursuing a trade or  
20 profession, providing public health service, or operating a financial  
21 institution;

22 (4) "resource agency" includes the Department of Natural  
23 Resources, the Department of Environmental Conservation, and the Depart-  
24 ment of Fish and Game with respect to permits issued for the protection  
25 of fish habitat or the regulation of state sanctuaries, refuges, and  
26 critical habitat areas.

27 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL  
JUNEAU, ALASKA 99811

April 16, 1982

The Honorable Tony Vaska  
House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: 2nd HCS CSSSB 84 (L & C): Impact of  
legislation on local government authority

Dear Representative Vaska:

By memorandum of April 1, 1982, you requested the views of this office regarding the effect of proposed compromise language to the above-captioned bill on local government authority under the Alaska Coastal Management Act (AS 46.40). The language in question is contained in a proposal Finance Committee substitute for the above-captioned bill as AS 44.62.635(a) and (b). The passages in question were presented by members of the administration to the Alaska Oil and Gas Association and the House Finance Committee as a proposed solution to the most difficult and bitterly argued aspect of the permit reform controversy. Because the language constitutes only a proposal, we believe that a legislative statement of intent, rather than a legal opinion as to its meaning, is more appropriate under the circumstances. <sup>1/</sup> However, in response to your request, we have set out understanding of its effect.

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<sup>1</sup> Accordingly, we are providing a copy of this letter to members of the House Finance Committee, and to the original sponsors of SB 84.

In sum, it is our view that the proposed language would call for deference by individual state agencies to the opinions of local governments with approved coastal district programs on questions involving interpretation of that approved local program. Proposed AS 44.62.635(b), would provide that the "the professional judgments and recommendations" of coastal resource districts would be entitled to "substantive consideration" if the recommendation was "within [the district's] primary areas of expertise," and was "substantiated by . . . facts and data." The subsection further provides that:

A professional judgment or recommendation is adequately substantiated under this section if it is based on document or data reasonably relied upon by experts in the field.

The question posed by your April 1 request involves the applicability of that language to a recommendation by a coastal resource district that a particular activity is consistent or inconsistent with that district's approved coastal plan. We believe that interpretation of an approved coastal plan would be within the "primary area of expertise" of the district authoring that plan. It has generally been held that, in interpreting its own regulations, an administrative agency will be entitled to substantial deference. United States v. Larionoff, 431 U.S. 864, 872-73 (1977); Immigration and Naturalization Service v. Stanisic, 395 U.S. 62, 72 (1969); Bowles v. Seminole Rock Company, 325 U.S. 410, 413-414 (1945). The agency adopting the regulation is far more familiar with its background and purpose than would be the reviewing court. The same is also true of a local government's interpretation of its own plan. Therefore, it seems clear that an interpretation of its local coastal plan would fall within the "primary area of expertise" of the district.

It has been suggested that, irrespective of the expertise or familiarity involved, the local district's interpretation is not in the nature of an expert opinion, and therefore would not be entitled to deference under the proposed language. The grist for the argument is the language quoted above, which establishes the conditions under which an expert opinion is "adequately substantiated."

We do not view that language as impliedly denying to local governments that which the previous sentence explicitly grants them. The limited purpose of the pertinent sentence is to constrain those situations in which expert opinions demand "substantive consideration," but not to require that only expert opinions are entitled to deference. It is, in short, responsive to a wholly different problem. To read it to strip local governments of the deference which the preceding sentence would accord them would be nonsensical, and it seems unlikely that the courts would interpret those provisions in a manner which would lead to such a result. See, Sands, "Sutherland Statutory Construction", §§ 46.06, 46.07, Vol. 2A, pp. 63-66.

Under the proposed language, in order for a coastal resource district to have its interpretation accorded "substantive consideration" by the lead agency it must meet two thresholds. These are:

1. The local recommendation must involve an "interpretation" of the plan or other "primary area of expertise" (e.g. impact on local cultural resources), and not merely a factual finding. The scope of the limitation is perhaps best described by example. Suppose that a coastal resource district establishes a standard which states that "logging is permissible if it does not unreasonably impair important wildlife habitat." The factual "determinations" are whether wildlife habitat is "impaired," and whether that habitat is "important" to the wildlife affected. These are in the nature of factual determinations, and presumably fall within the primary area of expertise not of the local governments, but of the Department of Fish and Game. The critical question in the example, however, is whether, given the Department of Fish and Game's opinions as to adverse impact, the impacts resultantly found are "unreasonable." The phrase may imply either that impacts are "unreasonable" viewed in the absolute, or that the "reasonableness" of the impact should be judged in light of the beneficial economic impacts of the logging activity, the severity of the impacts, and the likelihood of their occurring. The interpretation of the term "unreasonable" would be within the primary area of expertise of the local coastal resource district.

If the coastal resource district were to determine that the latter was the appropriate interpretation, it would remain for the lead agency to balance the perceived economic benefits of the logging activity against the likelihood and severity of adverse impacts as found by the Department of Fish and Game, and to then determine whether the impacts were "unreasonable" as that term is interpreted by the coastal resource service district. 2/

This "division of deference" may seem overly intricate. It is, however, precisely the type of inquiry in which the courts routinely engage to determine the level of deference, to be accorded the decision of administrative agencies. It is also necessary. Under the bill, the "lead agency" will essentially be speaking for the entire state on coastal management issues, and it is therefore important to ensure a proper role for local governments and other agencies.

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<sup>2</sup> The lead agency would not be required to defer to the local government's determination that a particular balance should be struck. That latter comment would not constitute "interpretation" of the local plan, but rather the ultimate decisional judgment on the application over which the local government does not have peculiar expertise. In this regard, proposed AS 44.62.635(b) states:

No resource agency other than the lead agency has primary expertise on the balancing of competing factors.

That section does not apply to coastal resource districts, since these districts are not "resource agencies" under proposed AS 44.62.640(c)(4). Indeed, "interpretive" recommendations may often influence the "balancing process," since a local government's "interpretation" may involve the varying weight to be given different factors in the balancing process. However, once the lead agency has been given the factors to be balanced and the respective weight to be accorded them, the ultimate balancing decision would remain that of the lead agency.

2. The local government's judgments and recommendations on matters within its primary area of expertise (e.g. the interpretation of its plan) must be "substantiated by facts and data." A coastal resource service district therefore could not simply offer unsupported statements that its plan should be interpreted in a particular manner. Rather, the district would have to cite to particular support within the plan or its history to demonstrate that the interpretation offered is in fact that envisioned by its drafters.

Finally, you have asked us to clarify what "substantive consideration" as used in the proposal actually means. As you know, the administration's proposed uniform procedural regulations (22 AAC 10) used the term "great weight," as did earlier versions of permit reform legislation which the administration supported. However, you may not be aware that, in negotiations with the Alaska Oil and Gas Association this previous summer, representatives of this department, on behalf of the administration, agreed to substitute the phrase "substantive consideration" for "great weight," not as a change in substance, but rather because the phrase "great weight" had become a bete noire among some parties. It was thought that a different phrase—with the same meaning might be more acceptable. Thus, in our view "substantive consideration" and "great weight" as used in earlier versions of the legislation mean the same thing, even though the former term is undefined in the most recent proposal for the bill: the two phrases have acquired an understood synonymous meaning in the course of deliberations over permit reform. Hence, we believe that "substantive consideration" means that the comment received carries with it a presumption of correctness, and that the burden of proof lies with the agency to demonstrate, by a preponderance of the evidence in the administrative record, that a contrary conclusion on the matter should be reached.<sup>3</sup>

---

<sup>3</sup> Obviously, as a principal in the negotiation which led to the change from "great weight" to substantive consideration, our department is aware of the intent of the parties. However, while the actual intent of the change was, as described above, there is no guarantee, in the absence of a definition of the term within the legislation itself, that a court would not reach a contrary conclusion and decide that "substantive consideration" means something less than "great weight."

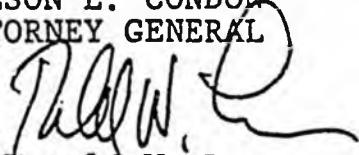
April 16, 1982

This burden of proof applies not only at the administrative level, but as well on judicial review. Thus, if an agency reaches a conclusion contrary to a comment entitled to "substantive consideration", it is not sufficient for the agency to show in court that its contrary conclusion had a "reasonable basis" or that it was supported by "substantial evidence in the record as a whole." Rather, the burden of proof would be upon the agency to justify in court the contrary result by a preponderance of the evidence.

If you have any further questions, please feel free to call.

Sincerely,

WILSON L. CONDON  
ATTORNEY GENERAL

By:   
Ronald W. Lorensen  
Deputy Attorney General

RWL:mr

cc: Members, House Finance Committee

Jerry Reinwand, Executive Assistant  
Office of the Governor

John Katz, Commissioner  
Department of Natural Resources

COMMITTEE REPORT

HOUSE

2/24  
Rules

(5)

FURTHER:

1/11/82

Date: Feb. 19, '82

Mr. Speaker: (Taken from calendar 1/11/82) *referred to*

The Committee on LABOR & COMMERCE has had <sup>CS</sup> HCS/SB 84(2d Rules)amH

"An Act relating to the granting of land use authorizations by state agents."

under consideration and ~~(the committee reports it back with the following recommendations:~~

do pass  do not pass

do pass with attached amendments(s)

replace with CS for CS FOR SENATE Bill # 84 (L+C)  same title  new title

and recommends it do pass

AND attaches a "Letter of Intent"  New Fiscal Note

reports it back without recommendation

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*Randolph*  
*Byler*  
*Terry Martin, Ch.*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*Terry Martin Do Not Pass until Amended*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Terry Martin*  
*Terry Martin*  
CHAIRMAN

HCS SB 84(2d Rules) amH

HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO 84(2d Rules) amH (relating to the granting of land  
use authorization by state agents) lacking the necessary  
three-fourths vote to advance to third reading the same day  
(page 2585 of the <sup>JUNE 24</sup> 1981 House Journal) was automatically before  
the House in third reading and read the third time.

Amendment No. 5 by Fanning adopted 6/24/81 Page 2583

Page 5, Line 24:

Delete the second "and" and insert "all"

*Return L & C. o*

HOUSE

am #1 by Clockson - failed  
am #2 by Clockson - failed  
am #3 by Clockson - wld  
am #4 by Clockson - wld  
am #5 by Fanning - adopted  
am #6 by Metcalfe - failed

ENROSS: \_\_\_\_\_

ENROLL: \_\_\_\_\_

HB # \_\_\_\_\_

HCS

CS SB #

844 (2d Rules) am #1

HJR # \_\_\_\_\_

SJR # \_\_\_\_\_

HCR # \_\_\_\_\_

SCR # \_\_\_\_\_

HR # \_\_\_\_\_

DATE PASSED 6/24/81

ROLL CALL: YEAS: \_\_\_\_\_

EFFECTIVE DATE: YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_

EXCUSED: \_\_\_\_\_

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. 2nd HCC CSSB 84 (L&C)

Title An act relating to Processing Permits by State Agencies

Requested by House Finance

Date 3/17/82

II. FISCAL DETAIL

Agency Affected See below - various

Program Category Affected NRMEC

BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		738.9	646.4	544.1		
200 TRAVEL		40.2	43.4	46.9		
300 CONTRACTUAL		185.0	203.0	219.3		
400 COMMODITIES		42.8	46.7	49.9		
500 EQUIPMENT		32.4	0	0		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>1,042.3</b>	<b>939.0</b>	<b>860.2</b>		

FUNDING (Thousands of Dollars)

GENERAL FUND		1,042.3	939.0	860.2		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		23	19	16		
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This fiscal note combines the attached fiscal notes from the following four agencies:

	<u>FY 83 Fiscal Note</u>	<u>Positions</u>
Natural Resources	519.3	13
Fish & Game	135.9	2
Public Safety	86.3	2
Env. Conservation	300.8	6
	<u>1,042.3</u>	<u>23</u>

Eight percent inflation factor was used for future years. The note was also adjusted to reflect Natural Resources estimated decrease in positions required to 9 PFT in FY 84 and 6 PFT in FY 85.

IV. DATE 3/17/82

PREPARED BY Bob Grogan

AGENCY Legislative Finance

Original: Legislative Finance

PHONE 165-3795

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

FISCAL IMPACT SB 84 - FY 84 & FY 85

FY 84

DMEM	156.8 (3 PFT)
DTS	<u>222.1 (6 PFT)</u>
	378.9 (9 PFT) plus inflation

FY 85

DMEM	156.8 (3 PFT)
DTS	<u>109.9 (3 PFT)</u>
	266.7 (6 PFT) plus inflation

3/16/82

Bob,

The attached fiscal note was prepared by Budget and Management without the benefit of DNR's DTS figures for FY 84 and FY 85. Accordingly, Budget and Management simply extrapolated those costs based on the FY 83 costs. We expect, however, for the costs to decrease substantially over the two year period, with the manpower requirement in DTF dropping from 10 in FY 83 to 6 in FY 84 and 3 in FY 85. Thus, the fiscal note should be revised downward to reflect these more accurate estimates. (Attached). My apologies for our oversight in not providing Budget and Management with these figures earlier.

Mary  
Mary Halloran

**MEMORANDUM**  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF TECHNICAL SERVICES

State of Alaska

TO: Mary Halloran  
Special Assistant  
Commissioner's Office

DATE: March 11, 1982

FILE NO: 1150

TELEPHONE NO: 265-4194

FROM:  Joseph C. Burch, Deputy Director  
Division of Technical Services

SUBJECT: Senate Bill 84  
(2nd HCS (SSB 84[L & C])  
FY 84 & 85 Fiscal Impact

Analysis

This portion of the fiscal note assumes the following for FY '84 & FY '85 in addition to the original assumptions:

ALARS (LAS) is operational by January 1, 1983.

	<u>DTS</u>	
	<u>1984</u>	<u>1985</u>
100	176.1 (6 PFT)	85.8 (3 PFT)
200	-0-	-0-
300	24.0	12.0
400	22.0	12.1
500	<u>-0-</u>	<u>-0-</u>
	222.1	109.9

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

**FILE COPY**

FISCAL NOTE

I. REQUEST

Bill/Resolution No. 2nd HCC CSSB 84 (L&C)  
 Title An act relating to Processing Permits by State Agencies  
 Requested by Jerry Reinwand Date 3/3/82

II. FISCAL DETAIL

Agency Affected See below - various  
 Program Category Affected NRMEC  
 BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		738.9	798.0	861.8	930.8	1,005.2
200 TRAVEL		40.2	43.4	46.9	50.6	54.7
300 CONTRACTUAL		188.0	203.0	219.3	236.8	255.8
400 COMMODITIES		42.8	46.2	49.9	53.9	58.2
500 EQUIPMENT		32.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		1,042.3	1,090.6	1,177.9	1,272.1	1,373.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		1,042.3	1,090.6	1,177.9	1,272.1	1,272.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		23	23	23	23	23
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This fiscal note combines the attached fiscal notes from the following four agencies:

	FY83 Fiscal Note	Positions
Natural Resources	519.3	13
Fish & Game	135.9	2
Public Safety	86.3	2
Env. Conservation	300.8	6
	<u>1,042.3</u>	<u>23</u>

Eight percent inflation factor was used for future years.

IV. DATE 3/3/82 PREPARED BY Jeff Morrison  
 AGENCY Budget and Management  
 Original: Legislative Finance PHONE 465-2213  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA RECEIVED  
 TWELFTH LEGISLATURE

FEB 25 1982

FISCAL NOTE

BUDGET AND MANAGEMENT

I. REQUEST

Bill/Resolution No. SB 84  
 Title An Act relating to processing of permits by state agencies  
 Requested by House Labor & Commerce Date 2-19-82

II. FISCAL DETAIL

Agency Affected Department of Natural Resources  
 Program Category Affected NRMEC  
 BRU, Program, or Subprogram(s) Affected Regulations Implementation  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES			366.0			
200 TRAVEL			11.0			
300 CONTRACTUAL			94.5			
400 COMMODITIES			33.8			
500 EQUIPMENT			14.0			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			519.3			

FUNDING (Thousands of Dollars)

GENERAL FUND			519.3			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME			13.0			
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attachment.

IV. DATE February 19, 1982 PREPARED BY [Signature]  
 AGENCY Natural Resources  
 PHONE 465-2400

Original: Legislative Finance  
 cc: Budget and Management

	DTS	DMEM	DL&W	DRD	TOTAL
100	267.4	97.6	1.0	-0-	366.0
200	-0-	4.0	5.0	2.0	11.0
300	40.0	50.0	0.5	4.0	94.5
400	32.6	1.2	-0-	-0-	33.8
500	10.0	4.0	-0-	-0-	14.0
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	350.0	156.8	6.5	6.0	519.3

III. ANALYSIS

This fiscal note assumes the following:

First, that the proposed Governor's Capital Budget item of \$890.0 for automated drafting is funded, thus reducing the amount of human labor which would otherwise be needed to comply with SB 84;

Second, that the Department of Natural Resources streamlines its mining location notice;

Third, that the federally funded positions supplied by the Coastal Zone Management program are approved by the Legislature and are continued within the Department of Natural Resources; and

Fourth, that the level of service offered for mining permits may be less than the current level.

A. Personal Services.

The permit reform program will require 13 new positions for FY 83: 10 positions for the Division of Technical Services and 3 positions for the Division of Minerals and Energy Management. The majority of these positions are required for the processing of mining claims and mining permits. The following would be added to Technical Services: 1 Land Management Officer II, 1 Land Management Officer I, 2 Drafting Technician IIIs, 4 Drafting Technician I/IIIs, 1 Administrative Support Technician, Range 10 and 1 Administrative Support Technician, Range 8. The duties of these personnel will be to update the State's land status records, which are currently 30 to 100 days behind, so that mining claims can be adjudicated and mining permits issued within the deadlines established by SB 84.

With appropriate funding, the Department would endeavor to bring all land status records current by July 1983. As land records keeper for the entire state, the Division of Technical Services faces a volumetrically increasing workload caused by the transfer of approximately 13 million acres to the State every year from the federal government. Last year 12,325 land case files were processed by 25 full-time employees, approximately 500 case files per employee, but 3,027 case files were unprocessed at the end of the year. To that backlog, the Division estimates that another 3,693 case files will be unprocessed at the end of this fiscal year for a total of 6,720 case files or about 33% of the case files.

The duties of the new personnel for the Division of Minerals and Energy Management (1 Land Management Technician and 1 Land Management Officer I for mining, and 1 Land Management Officer I for oil and gas) would be to process the permits, in particular, to adjudicate the mining claims, and handle appeals as necessary.

B. Travel.

Travel would be limited to necessary public hearings on proposed regulations changes and implementation.

C. Contractual.

The contractual funds would be used to provide necessary newspaper publishing of notices and general overhead for operations such as telephone.

Department of Natural Resources  
Division of Technical Services

**POSTING MINING CLAIMS**

**TO**

**STATE LAND RECORDS**



**ACCOMPLISHMENTS AND NEEDS  
SOLUTION ALTERNATIVES**

December 18, 1981

*Estimated Workload Increases  
(not including Mining)*

~~OTHER RECORDS WORKLOAD~~

REQUESTED MINING CLAIM PROJECT BUDGET DOES NOT INCLUDE OTHER RECORDS WORKLOAD WHICH CANNOT BE PROCESSED BY PRESENT STAFF :

JUL COAL NEW ITEM

DMEM will start issuing COAL PROSPECTING PERMITS  
In the spring of 1982

MAR :

Present applications (EST. 2,000,000 acres)	450
F/Y 83 application projection (EST 500,000 acres)	<u>100</u>
Total applications	550

Records Impact thru F/Y 83 (Serial register, Historical Index Status plat, and automated) 1.5 man years

~~2~~ WATER RIGHTS

3. NAVIGABILITY

4. INCREASED TA'S AND PATENTS

5. INCREASED CLASSIFICATIONS

6. INCREASED MINERAL CLOSING ORDERS

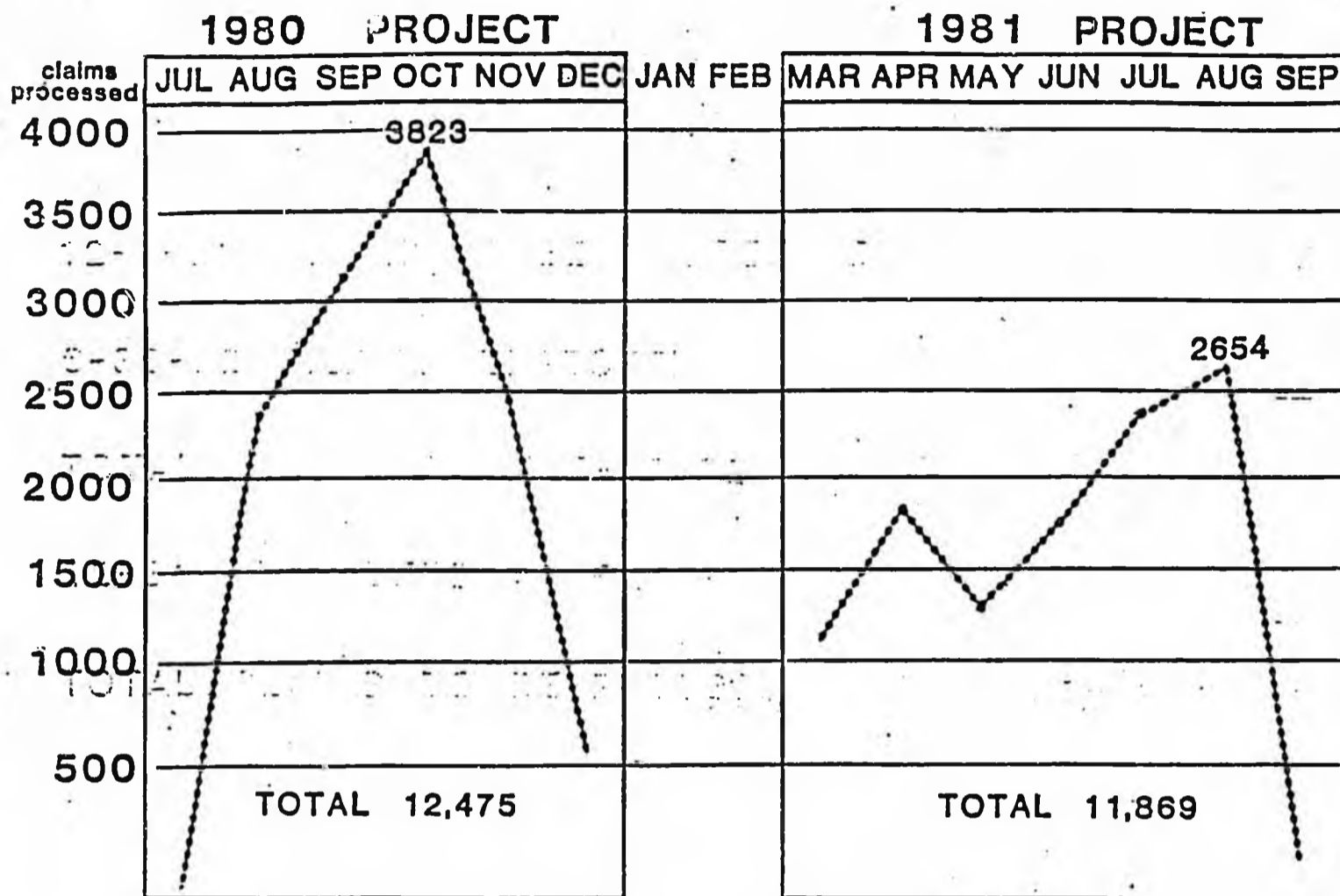
7. NATIVE LAND CORRIDORS

8. RECORDS AUDIT

ETC ETC

# MINING CLAIMS DRAFTED PER MONTH

## JOINT DMEM/DTS MINING CLAIMS PROJECTS 1980 & 1981



TOTAL TWO PROJECTS 24,344  
TEAM AVERAGE 2400 PER MONTH

High peaks due to to efficiency in plotting blocks of several hundred adjacent claims .

Valleys due generally to nonpermanent personnel staffing problems.

NOTE: In addition to drafting, each mining claim requires one serial register entry, one historical index entry, and two automated entries .

# MINING CLAIM WORKLOAD

JULY 1, 1980 - DEC 1, 1981

( FIGURES ROUNDED )

JUL 1, 1980	NOT PROCESSED ( BEGIN 1980 PROJECT )	6,000
MAR 1, 1981	FILED 7-1-80 TO 3-1-81	<u>+ 14,500</u>
	CLAIMS TO BE PROCESSED	20,500
	LESS CLAIMS PROCESSED 1980 PROJECT	<u>- 12,500</u>
2.	NOT PROCESSED	8,000
DEC 1, 1981	FILED 3-1-81 TO 11-30-81	<u>+ 15,500</u>
	CLAIMS TO BE PROCESSED	23,500
	LESS CLAIMS PROCESSED 1981 PROJECT	<u>- 12,000</u>
	NOT PROCESSED	11,500
<hr/>		
<u>RECAP</u>	7-1-80 TO 12-1-81	
	CLAIMS TO BE PROCESSED	36,000
	PROCESSED	<u>- 24,500</u>
	NOT PROCESSED 12-1-81	11,500

# MINING CLAIM PROJECTION

12-1-81 TO 6-30-83

12-1-81 CLAIMS TO BE PROCESSED	11,500
6-30-82 FILINGS EXPECTED	<u>10,000</u>
TOTAL CLAIMS THRU 6-30-82	21,500
12-31-82 ADDITIONAL FILINGS EXPECTED	<u>17,000</u>
TOTAL CLAIMS TO BE PROCESSED BY 12-31-82	38,500
6-30-83 ADDITIONAL FILINGS EXPECTED	<u>15,000</u>
TOTAL CLAIMS WORKLOAD THROUGH FISCAL YEAR 1983	53,500

## \*IMPACT FACTOR, D-2 ADJUSTMENT :

20,000,000 acres will be selected by mid-February 1982. 13,000,000  
acres presently selected will be relinquished. Estimated impact 10,000  
claims included above.

# SOLUTION OF MINING CLAIMS WORKLOAD ALTERNATIVES

## 1. POST MINING CLAIMS WITH EXISTING PERSONNEL DURING FY 83 :

	MAN YEARS
EXISTING PERSONNEL	24
REQUIRED FOR MINING CLAIMS	-14
AVAILABLE FOR REGULAR WORK	<u>10</u>

58% OF WORK NOW BEING DONE WILL NOT  
BE DONE

## 2. DO NOTHING (NO SOLUTION)

## 3. ISSUE MINERAL CLOSING ORDER (WOULD AFFECT ONLY CLAIMS AFTER DATE OF ORDER) (NO SOLUTION)

## 4. DO THE JOB:

(A) TWO TEAMS, EACH CONSISTING OF EIGHT  
NON-PERMANENT OR OTHER PERSONNEL  
TO PROCESS THE CALENDAR YEAR 1982  
WORKLOAD

(B) ONE TEAM OF EIGHT PERMANENT  
PERSONNEL IN THE FY-83 BUDGET

(C) \$480,000 FOR F/Y 83 BUDGET

## 5. ANY COMBINATION OF THE ABOVE

# MINING CLAIMS WORKLOAD

## PERSONNEL REQUIREMENTS

### A. PROVEN BY EXPERIENCE OVER TWO PROJECTS :

#### 1. AN EFFICIENT TEAM

- 1 Drafting Technician II.
- 2 Drafting Technician III
- 1 Land Management Officer I - Checking
- 1 Clerk Typist III - Serial Register
- 1 Clerk Typist III - Historical Index
- 2 Data Entry Clerks III
- 8 Persons Per Team

2. EACH TEAM WILL PROCESS - 2,400 CLAIMS PER MONTH  
(ROUNDED TO 30,000 PER YEAR)

### B. REQUIRED

1. TWO TEAMS, NONPERMANENT, SIX MONTHS EACH,  
TO PROCESS WORKLOAD THROUGH  
CALENDER YEAR 1982 ☆
2. ONE TEAM FOR PERMANENT F/Y 83. ☆☆

☆ Personnel procedures require approximately 6 month to get on board

☆☆ Personnel procedures require approximately 3 months to get on board

# COST

An efficient work unit consists of eight persons :

- 1 Land Management Officer
- 3 Drafters
- 2 Typists
- 2 Data Entry Clerks

They work as a team to record 2,400 mining claims per month on status plat, serial register, historical index and automated records. Less than eight persons per unit will mean that one or more of the four record entries will not be made.

1. (A) Cost per unit for six month project utilizing non-permanent personnel (to post 15,000 mining claims)

Salary ☆	110,000 ☆
Equipment Rental	12,000
Commodities	16,000
	<hr/>
	\$138,000

- (B) Two units needed, to record 30,000 mining claims

2 X 138,000 \$276,000

2. Cost per unit for F/Y 83 permanent personnel

Salary	180,000 ☆☆
Equipment	12,000
Commodities	12,000
	<hr/>
	\$204,000

204,000

Total Cost

---

\$480,000

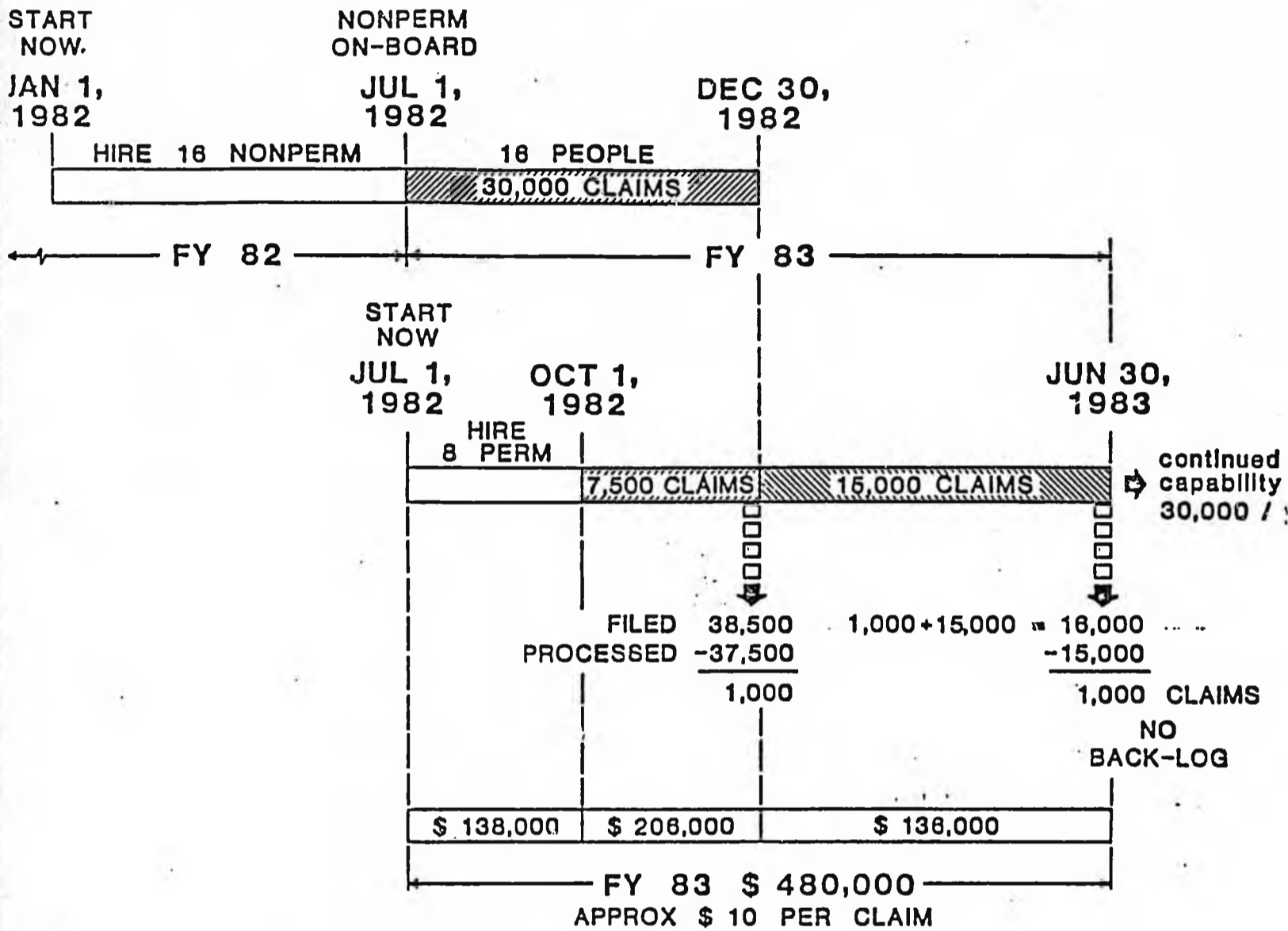
## NOTES

☆ Based on six months employment (non-permanent).

☆☆ It is assumed that permanent personnel authorized for F/Y 83 will not be available until October 1, 1982

# SUMMARY

## CALENDER YEAR



TOTAL MINING CLAIM PROGRAM BUDGET FOR FY 83 \$ 480,000

TOTAL RECORDS INCREMENTAL BUDGET SUBMITTED FOR DTS FY 83 - \$ 186,000

DEFICIT ( \$ 294,000 )

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. 2d House CS for CS for Senate Bill No. 84 (L&C)  
 Title An Act relating to processing of permits by State agencies, and re-  
 Requested by Budget & Management Date 2/26/82  
 administration of the Alaska Coastal Management program.

II. FISCAL DETAIL

Agency Affected Fish & Game  
 Program Category Affected NRMEC  
 BRU, Program, Or Subprogram(s) Affected Habitat Division  
 (Note: If more than one budget component is affected, separate line-item  
 amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		94.2				
200 TRAVEL		15.2				
300 CONTRACTUAL		23.0				
400 COMMODITIES		2.5				
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		135.9				

FUNDING (Thousands of Dollars)

GENERAL FUND		135.9				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

N/A



IV. DATE 2/26/82 PREPARED BY Bruce Baker  
 AGENCY Alaska Department of Fish & Game  
 PHONE 465-4105  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
Bill/Resolution No. 2d House CS for CS for Senate Bill No. 84 (L & C)  
Title An act relating to processing of permits by state agencies  
Requested by Budget and Management Date 2/26/82

II. FISCAL DETAIL  
Agency Affected Department of Public Safety  
Program Category Affected Property Protection  
BRU, Program, Or Subprogram(s) Affected Fire Safety  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		67.9	73.4	79.2	85.6	92.4
200 TRAVEL		6.0	6.6	7.3	7.8	8.8
300 CONTRACTUAL		6.5	7.1	7.7	8.4	9.2
400 COMMODITIES		.5	.6	.7	.8	.9
500 EQUIPMENT		5.4				1.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		86.3	87.7	94.9	102.6	112.3

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		86.3	87.7	94.9	102.6	112.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Recurring Costs

Assuming Sec. 44.62.626 (Comment Period) of Sec. 2 of the bill would apply to our life and fire safety plan review and approval program in projects being reviewed by a resource agency and in order to comply with Sec. 2 of the bill if passed, it is estimated that the following additional positions would be needed, beginning FY 83.

One (1) Fire Protection Engineer, Range 19A, Anchorage

One (1) Clerk Typist II, Range 7B, Anchorage

IV. DATE 2/26/82 PREPARED BY Gary Crouse, Deputy Director  
AGENCY Public Safety, Fire Prevention  
Original: Legislative Finance PHONE 272-2406 (Anchorage)  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
33-001 (Rev. 12/81)

February 26, 1982

Recurring Costs

Personal services, travel, contractual, commodities and equipment costs are shown above. Inflation is calculated at 9% except for travel, to which a 10% inflation factor has been applied.

Expenditures FY 83 Breakdown

100	Fire Protection Engineer, Range 19A (Anchorage)	44.4
	Clerk Typist II, Range 7B (Anchorage)	<u>23.5</u>
		67.9
200	Instate travel expenses for the Fire Protection Engineer	6.0
300	Space expense for new positions. (200 sq. ft. x \$2.50 x 12)	6.0
	Telephone, Postage	.5
400	Normal office supplies	<u>.5</u>
		80.9

One Time Costs (Equipment)

500	Executive desk	.7
	Executive chair	.2
	Secretarial desk	.6
	Secretarial chair	.2
	Filing Cabinets - 5 drawers	.6
	Typewriter	1.3
	Plan Review Table	1.5
	Calculator	<u>.3</u>
		5.4

Replaced equipment should not be needed until FY 87 and is estimated at 1.0.

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. 2nd HCS CSSB 84 (L & C)

Title An Act Relating to Processing Permits by State Agencies

Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Environmental Conservation

Program Category Affected NRMEC

BRU, Program, or Subprogram(s) Affected Environmental Quality Operations

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	210.8	227.6	245.9	265.5	286.8	309.7
200 TRAVEL	8.0	9.6	11.5	13.8	16.6	19.9
300 CONTRACTUAL	64.0	24.0	27.6	31.7	36.5	42.0
400 COMMODITIES	6.0	7.0	8.0	9.2	10.6	12.2
500 EQUIPMENT	12.0	-----	-----	-----	-----	-----
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>300.8</b>	<b>268.7</b>	<b>293.0</b>	<b>320.2</b>	<b>350.5</b>	<b>383.8</b>

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	300.8	268.7	293.0	320.2	350.5	383.8
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	6.0	6.0	6.0	6.0	6.0	6.0
PART TIME	---	---	---	---	---	---
TEMPORARY	---	---	---	---	---	---

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill will provide for two classes of permits and establish a definite time frame for processing. A permit would be automatically granted if processing was not completed within the specific time. Many applications require public participation through public notices and hearings, comments from other state and federal agencies, provision of additional technical information, and complex technical review. Appeal provisions are also provided.

To accomplish permit processing within the allotted time, additional technical staff and staff to track processing through, an automated tracking system is essential. Since extensive regulation revision must take place prior to October 1, 1982 a contract for legal services would be necessary.

IV. DATE March 1, 1982

PREPARED BY W.A. Publicover/W. Angst

AGENCY Environmental Conservation

PHONE 465-2696

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

The budget proposal reflects additional technical staff to process applications and clerical staff to maintain a system to track the application through the various reviews, public notices, public hearings, interagency comments, public comments, appeals and adjudicatory hearings in order to maintain the required schedule. An Environmental Engineer in each of our three regional offices would augment existing staff. A Clerk IV in each office would be responsible for keeping the application on track. A strong paper trail with adequate records of action would be required, especially where the applicant may appeal or seek review by the superior court.

Contractual services funds are required to cover costs of telephone, office space, telegraph, express and certified mail services, publication of public notices, transcription of hearings, and services of hearing officers. This would amount to \$24,000.

Since this bill will require extensive rewrite of 18 AAC 15 in an exceptionally short time to meet the October 1, 1982 deadline, legal services must be provided through contract. \$25,000 is required for this essential element of the bill.

A computerized tracking system is necessary to follow the several hundred permit applications through processing. This is the only way to keep track of the paper flow and ensure adherence to the required schedules. Developing new software and upgrading existing terminals would cost \$15,000.

Support funds for travel, office equipment, and commodities would also be required.

Breakdown of costs for FY 83:

	<u>Southeast Region</u>	<u>Central Region</u>	<u>Northern Region</u>	<u>Permit Section</u>	<u>TOTAL</u>
100	67.3	67.3	76.2	----	210.8
200	2.0	2.0	2.0	2.0	8.0
300	8.0	8.0	8.0	40.0	64.0
400	1.5	1.5	1.5	1.5	6.0
500	3.0	3.0	3.0	3.0	12.0
TOTAL	<u>81.8</u>	<u>81.8</u>	<u>90.7</u>	<u>46.5</u>	<u>300.8</u>
PFT	1-EE III Range 19	1-EE III Range 19	1-EE III Range 19	----	6
	1-CLK IV Range 09	1-CLK IV Range 09	1-CLK IV Range 09		

HOUSE CS FOR CS FOR SENATE BILL NO. 84 (RULES)

"An Act relating to the processing of permits by state agencies; to surface leasing of land; and to administration of the Alaska coastal management programs; and providing for an effective date."

This Bill would place time limits on processing applications for a State license or permit for a new project and would standardize some aspects of permit processing.

During the last legislative session, former versions of the Bill (House Bill No. 999 and CS for Senate Bill No. 548) were discussed in several work sessions. It was determined, at that time, that the provisions of the Bills should not apply to permit processing for public service and certain other programs. The exemptions were accomplished in the definition of a "project." The provisions of the Bill would apply to permit issuance to new projects. Project was defined to exclude "pursuing a trade or profession, providing a regulated public or health service, or operating a financial institution."

House CS for CS for Senate Bill No. 84 (Rules) contains the same exemptions in the definition of a "project." It is, therefore, our understanding that the provisions of this Bill would not apply to the following permit or licensure activities of the Department of Health and Social Services:

Child Foster Home Licensing	AS 47.35.010-080
Child Day Care Home Licensing	AS 47.35.010-080
Adult Foster Home Licensing	AS 47.35.010-080
Child Day Care Center Home Licensing	AS 47.35.010-080
Residential Child Care Facility Licensing	AS 47.35.010-090
Adult Residential Care Facility Licensing	AS 47.35.010-090
Child Placement Agency Licensing	AS 47.35.100
Certificate of Need	AS 18.07.010
Health Facility Certification and Licensing	AS 18.20.010
Health Facility Construction	AS 18.20.080

With the understandings contained in this position paper, the Department has no objection to passage of this Bill.

RECOMMENDED BY: John R. Pugh  
John R. Pugh, Director  
Division of Family and  
Youth Services

DATE: 3/1/82

RECOMMENDED BY: Phoebe A. Lindsey  
Phoebe Lindsey, Director  
Division of State Health  
Planning and Development

DATE: 3-1-82

APPROVED BY: Helene D. Cairne  
Helene D. Cairne  
Commissioner

DATE: 3-1-82

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
Bill/Resolution No. HCS CSSB 84 (Rules)  
Title "An Act relating to the processing of permits by state agencies..."  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
Agency Affected Department of Health and Social Services  
Program Category Affected \_\_\_\_\_  
BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
400 COMMODITIES		-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	-0-
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS		-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)		-0-	-0-	-0-	-0-	-0-
		-0-	-0-	-0-	-0-	-0-
		-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Senate Bill No. 84 has no fiscal impact on the Department of Health and Social Services.

IV. DATE 3/1/82 PREPARED BY John R. Pugh, Director  
AGENCY Division of Family and Youth Services  
Original: Legislative Finance PHONE 465-3170  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
33-001 (Rev. 12/81)

JCC

# Alaska MUNICIPAL League

TELEPHONES  
(907) 586-1325  
586-6526

204 N. FRANKLIN ST.  
JUNEAU, ALASKA 99801

April 15, 1982

to: House Finance Committee  
from: Ginny Chitwood, AML Executive Director *g.c.*  
re: SB 84 - Processing of Permits & ACM Administration

The Alaska Municipal League is a strong supporter of streamlining the regulatory process and basically agrees with the findings in Section 1 of SB 84. We applaud the steps that have been taken already on both the state and federal level to improve the situation.

I have some questions, however, on how the process established in SB 84 would work: Where does local government fit into the picture? Is the existing relationship between the state and municipalities changed? What happens to the "consistency with local plans" that was promised in the Coastal Policy Act? Are coastal resource districts in the process of developing programs precluded from participating in the process?

Part of the confusion arises because of some undefined terms that are used in the bill, such as "substantive consideration" and "primary areas of expertise". Additionally, it is unclear what kind of agency and public notice would be required.

Because this bill establishes major state policy and because this latest version has had very little public exposure, I urge you to hold a teleconference hearing before passing out this bill. I realize you plan to adjourn soon, but since this is the last committee of referral, there should be enough time to one more hearing, preceded by some advance publicity.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL  
JUNEAU, ALASKA 99811

April 16, 1982

The Honorable Tony Vaska  
House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: 2nd HCS CSSSB 84 (L & C): Impact of  
legislation on local government authority

Dear Representative Vaska:

By memorandum of April 1, 1982, you requested the views of this office regarding the effect of proposed compromise language to the above-captioned bill on local government authority under the Alaska Coastal Management Act (AS 46.40). The language in question is contained in a proposal Finance Committee substitute for the above-captioned bill as AS 44.62.635(a) and (b). The passages in question were presented by members of the administration to the Alaska Oil and Gas Association and the House Finance Committee as a proposed solution to the most difficult and bitterly argued aspect of the permit reform controversy. Because the language constitutes only a proposal, we believe that a legislative statement of intent, rather than a legal opinion as to its meaning, is more appropriate under the circumstances. <sup>1</sup>/ However, in response to your request, we have set out understanding of its effect.

---

<sup>1</sup> Accordingly, we are providing a copy of this letter to members of the House Finance Committee, and to the original sponsors of SB 84.

In sum, it is our view that the proposed language would call for deference by individual state agencies to the opinions of local governments with approved coastal district programs on questions involving interpretation of that approved local program. Proposed AS 44.62.635(b), would provide that the "the professional judgments and recommendations" of coastal resource districts would be entitled to "substantive consideration" if the recommendation was "within [the district's] primary areas of expertise," and was "substantiated by . . . facts and data." The subsection further provides that:

A professional judgment or recommendation is adequately substantiated under this section if it is based on document or data reasonably relied upon by experts in the field.

The question posed by your April 1 request involves the applicability of that language to a recommendation by a coastal resource district that a particular activity is consistent or inconsistent with that district's approved coastal plan. We believe that interpretation of an approved coastal plan would be within the "primary area of expertise" of the district authoring that plan. It has generally been held that, in interpreting its own regulations, an administrative agency will be entitled to substantial deference. United States v. Larionoff, 431 U.S. 864, 872-73 (1977); Immigration and Naturalization Service v. Stanisic, 395 U.S. 62, 72 (1969); Bowles v. Seminole Rock Company, 325 U.S. 410, 413-414 (1945). The agency adopting the regulation is far more familiar with its background and purpose than would be the reviewing court. The same is also true of a local government's interpretation of its own plan. Therefore, it seems clear that an interpretation of its local coastal plan would fall within the "primary area of expertise" of the district.

It has been suggested that, irrespective of the expertise or familiarity involved, the local district's interpretation is not in the nature of an expert opinion, and therefore would not be entitled to deference under the proposed language. The grist for the argument is the language quoted above, which establishes the conditions under which an expert opinion is "adequately substantiated."

We do not view that language as impliedly denying to local governments that which the previous sentence explicitly grants them. The limited purpose of the pertinent sentence is to constrain those situations in which expert opinions demand "substantive consideration," but not to require that only expert opinions are entitled to deference. It is, in short, responsive to a wholly different problem. To read it to strip local governments of the deference which the preceding sentence would accord them would be nonsensical, and it seems unlikely that the courts would interpret those provisions in a manner which would lead to such a result. See, Sands, "Sutherland Statutory Construction", §§ 46.06, 46.07, Vol. 2A, pp. 63-66.

Under the proposed language, in order for a coastal resource district to have its interpretation accorded "substantive consideration" by the lead agency it must meet two thresholds. These are:

1. The local recommendation must involve an "interpretation" of the plan or other "primary area of expertise" (e.g. impact on local cultural resources), and not merely a factual finding. The scope of the limitation is perhaps best described by example: Suppose that a coastal resource district establishes a standard which states that "logging is permissible if it does not unreasonably impair important wildlife habitat." The factual "determinations" are whether wildlife habitat is "impaired," and whether that habitat is "important" to the wildlife affected. These are in the nature of factual determinations, and presumably fall within the primary area of expertise not of the local governments, but of the Department of Fish and Game. The critical question in the example, however, is whether, given the Department of Fish and Game's opinions as to adverse impact, the impacts resultantly found are "unreasonable." The phrase may imply either that impacts are "unreasonable" viewed in the absolute, or that the "reasonableness" of the impact should be judged in light of the beneficial economic impacts of the logging activity, the severity of the impacts, and the likelihood of their occurring. The interpretation of the term "unreasonable" would be within the primary area of expertise of the local coastal resource district.

If the coastal resource district were to determine that the latter was the appropriate interpretation, it would remain for the lead agency to balance the perceived economic benefits of the logging activity against the likelihood and severity of adverse impacts as found by the Department of Fish and Game, and to then determine whether the impacts were "unreasonable" as that term is interpreted by the coastal resource service district. 2/

This "division of deference" may seem overly intricate. It is, however, precisely the type of inquiry in which the courts routinely engage to determine the level of deference to be accorded the decision of administrative agencies. It is also necessary. Under the bill, the "lead agency" will essentially be speaking for the entire state on coastal management issues, and it is therefore important to ensure a proper role for local governments and other agencies.

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<sup>2</sup> The lead agency would not be required to defer to the local government's determination that a particular balance should be struck. That latter comment would not constitute "interpretation" of the local plan, but rather the ultimate decisional judgment on the application over which the local government does not have peculiar expertise. In this regard, proposed AS 44.62.635(b) states:

No resource agency other than the lead agency has primary expertise on the balancing of competing factors.

That section does not apply to coastal resource districts, since these districts are not "resource agencies" under proposed AS 44.62.640(c)(4). Indeed, "interpretive" recommendations may often influence the "balancing process," since a local government's "interpretation" may involve the varying weight to be given different factors in the balancing process. However, once the lead agency has been given the factors to be balanced and the respective weight to be accorded them, the ultimate balancing decision would remain that of the lead agency.

2. The local government's judgments and recommendations on matters within its primary area of expertise (e.g. the interpretation of its plan) must be "substantiated by facts and data." A coastal resource service district therefore could not simply offer unsupported statements that its plan should be interpreted in a particular manner. Rather, the district would have to cite to particular support within the plan or its history to demonstrate that the interpretation offered is in fact that envisioned by its drafters.

Finally, you have asked us to clarify what "substantive consideration" as used in the proposal actually means. As you know, the administration's proposed uniform procedural regulations (22 AAC 10) used the term "great weight," as did earlier versions of permit reform legislation which the administration supported. However, you may not be aware that, in negotiations with the Alaska Oil and Gas Association this previous summer, representatives of this department, on behalf of the administration, agreed to substitute the phrase "substantive consideration" for "great weight," not as a change in substance, but rather because the phrase "great weight" had become a bete noire among some parties. It was thought that a different phrase-with the same meaning might be more acceptable. Thus, in our view "substantive consideration" and "great weight" as used in earlier versions of the legislation mean the same thing, even though the former term is undefined in the most recent proposal for the bill: the two phrases have acquired an understood synonymous meaning in the course of deliberations over permit reform. Hence, we believe that "substantive consideration" means that the comment received carries with it a presumption of correctness, and that the burden of proof lies with the agency to demonstrate, by a preponderance of the evidence in the administrative record, that a contrary conclusion on the matter should be reached.<sup>3</sup>

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<sup>3</sup> Obviously, as a principal in the negotiation which led to the change from "great weight" to substantive consideration, our department is aware of the intent of the parties. However, while the actual intent of the change was, as described above, there is no guarantee, in the absence of a definition of the term within the legislation itself, that a court would not reach a contrary conclusion and decide that "substantive consideration" means something less than "great weight."

April 16, 1982

This burden of proof applies not only at the administrative level, but as well on judicial review. Thus, if an agency reaches a conclusion contrary to a comment entitled to "substantive consideration", it is not sufficient for the agency to show in court that its contrary conclusion had a "reasonable basis" or that it was supported by "substantial evidence in the record as a whole." Rather, the burden of proof would be upon the agency to justify in court the contrary result by a preponderance of the evidence.

If you have any further questions, please feel free to call.

Sincerely,

WILSON L. CONDON  
ATTORNEY GENERAL

By: 

Ronald W. Lorensen  
Deputy Attorney General

RWL:mr

cc: Members, House Finance Committee

Jerry Reinwand, Executive Assistant  
Office of the Governor.

John Katz, Commissioner  
Department of Natural Resources

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 2/24/82  
Referred: Rules

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state  
7 agencies, and to administration of the Alaska Coastal  
8 Management program."

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

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employ-  
19 ment and higher prices;

20 (3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews in-  
23 volved in the permit process, and by requiring state agencies to process  
24 permit applications in an expeditious manner, the social, economic, and  
25 environmental health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

29 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

1 ARTICLE 8A. PERMIT PROCESSING.

2 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
3 agency shall by regulation classify each of the permits issued by that  
4 agency within one of the two following categories:

5 (1) class I permits, for which the state agency must issue a  
6 final decision within 30 days after the date of receipt of a completed  
7 permit application; and

8 (2) class II permits, for which, because of a necessary  
9 public notice or interagency review period, a final decision cannot be  
10 issued within 30 days; a final decision on a class II permit must be  
11 issued within 65 days after the date of receipt of a completed permit  
12 application, unless a public hearing is held on the permit, in which  
13 case a final decision must be issued within 75 days of the date of  
14 receipt.

15 (b) Final regulations classifying its permits and uniform proce-  
16 dural regulations providing for the processing of these permits, shall  
17 be adopted by each state resource agency by October 1, 1982, following  
18 appropriate notice and hearing. Permits applied for after October 1,  
19 1982 must be issued in accordance with the time periods specified in  
20 (a) of this section, and the provisions of the implementing regulations.

21 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
22 ING. (a) Upon a finding by the head of a resource agency that a  
23 permit being considered involves unusually complex issues so that the  
24 agency cannot render a final decision within the time period specified  
25 in AS 44.62.632(a), the head of the agency may prescribe a time period  
26 within which the final decision will be made. The finding of the head  
27 of the agency may be appealed by the applicant to the superior court  
28 under the Appellate Rules of Procedure. The time period may not be  
29 extended more than 120 days beyond the time period specified in AS 44.-

1 62.632(a) unless the applicant agrees otherwise.

2 (b) The time period specified in AS 44.62.632(a) may be extended  
3 if necessary to facilitate joint processing of a permit application by  
4 state and federal agencies, but only if adherence to the time periods  
5 established in AS 44.62.632(a) would cause an irreconcilable conflict  
6 with a federal statute or regulation.

7 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
8 failure of a resource agency to make a final decision within 30 days  
9 after the receipt of a completed permit application for a class I  
10 permit, or within 65 days after the receipt of a completed permit  
11 application for a class II permit, is approval of the application. In  
12 an appeal of a permit issued by operation of this subsection, the  
13 record shall be considered in the light most favorable to the applicant,  
14 and the permit shall be accorded a presumption of regularity.

15 (d) A state agency may not condition the issuance of a permit  
16 upon the issuance of a permit from another governmental agency.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application that does not contain suffi-  
19 cient information concerning the project's compliance with the agency's  
20 statutes and regulations, the agency shall notify the applicant within  
21 15 days after receipt of a completed permit application for a class I  
22 permit, and within 30 days after receipt for a class II permit.

23 (b) The notification must specify those particular facts or  
24 issues concerning the proposal upon which the agency requires additional  
25 information in order to determine whether the project will conform to  
26 the agency's statutes and regulations.

27 (c) If a timely request under (a) and (b) of this section is  
28 made, the time period specified in AS 44.62.632 is suspended from the  
29 date of request to the date of full compliance with the request.

1 Subsequent requests for additional information may be made, but must  
2 relate only to new issues raised by the response to the initial noti-  
3 fication. Subsequent requests do not extend the time periods specified  
4 in AS 44.62.632.

5 (d) Nothing in this section grants a resource agency the authority  
6 to request information beyond the authority given to it by other sta-  
7 tutes.

8 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead  
9 agency that is solely responsible for issuing coastal management consis-  
10 tency determinations under AS 46.40 and for preparing and submitting  
11 state comments on federal permit applications. The lead agency is that  
12 resource agency that has principal responsibility for authorizing the  
13 overall activity, including instances where an activity requires permits  
14 from more than one resource agency. For classes of activities for  
15 which no agency with principal responsibility exists the governor shall  
16 designate a resource agency to be a lead agency for each class by  
17 administrative order no later than October 1, 1982. In performing its  
18 functions under this section, the lead agency shall consult with other  
19 resource agencies and with coastal resource districts under AS 46.40.

20 (b) Substantive consideration shall be given to the documented  
21 factual statements or data submitted by resource agencies and to the  
22 office of coastal management within their primary areas of expertise,  
23 and to the documented factual statements or data submitted by coastal  
24 resource districts made under an approved district coastal management  
25 program. The lead agency shall consider opinions, conclusions or  
26 recommendations submitted by the commenting agency, but may, in its  
27 discretion, reach contrary opinions, conclusions or recommendations  
28 according to the evidence received. The lead agency shall then balance  
29 competing factors in reaching its final decision. No resource agency

1 other than the lead agency has primary expertise in the balancing of  
2 competing factors.

3 (c) Except as required by federal law no state agency other than  
4 the lead agency may comment to a federal permitting agency.

5 (d) For activities involving a disposal of interest in land and a  
6 certification under sec. 401 of the Clean Water Act (33 U.S.C. sec.  
7 1341), the lead agency shall be the Department of Natural Resources.

8 (e) For activities involving a plan of operation approval under a  
9 previous disposal of an interest in land and a certificate under sec.  
10 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall  
11 be the Department of Natural Resources.

12 Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or  
13 state agency that receives a request for comment in connection with a  
14 permit application or plan review being processed by a resource agency  
15 shall submit these comments in accordance with the following schedule:

16 (1) comments on class I permits shall be submitted within 15  
17 days after the agency's receipt of the request;

18 (2) comments on class II permits and federal permits shall  
19 be submitted within 30 days after the agency's receipt of the request;

20 (3) when under AS 44.62.633, the requesting agency has  
21 extended the time periods specified in AS 44.62.632, that agency may  
22 extend the time period specified in this section; however, comments  
23 submitted under this paragraph must be submitted no later than 30 days  
24 before the date on which the lead agency must issue a final decision.

25 Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform proce-  
26 dural regulations adopted under AS 44.62.632(b) must provide for an  
27 administrative appeal from a final decision on a permit application.  
28 The administrative appeal is to the head of the resource agency in-  
29 volved. Except as provided in this section the procedure is conducted

1 under AS 44.62.330 - 44.62.630.

2 (b) The administrative appeal must be resolved within 45 days  
3 after the final decision on a permit application, or, if a hearing is  
4 held on the administrative appeal, within 65 days after the final  
5 decision on the permit application.

6 (c) An appeal taken from a decision granting a permit may, but  
7 need not, stay the issuance of the permit.

8 (d) The head of the agency may summarily dismiss an appeal before  
9 the time established in this section, and the dismissal is the final  
10 agency action on the matter.

11 (e) In an appeal from the denial or conditioning of a permit the  
12 head of the agency may, if he determines that the public interest would  
13 be served, grant the permit or remove conditions of the permit until  
14 the appeal is determined.

15 Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
16 review by the superior court of a final decision issued under AS 44.-  
17 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
18 superior court in accordance with the applicable Rules of Appellate  
19 Procedure. The review is governed by the provisions of AS 44.62.-  
20 560( ) - (e) and AS 44.62.570.

21 ( ) An appeal taken under this section should have preference on  
22 the calendar of civil actions before the court and should be decided  
23 without unnecessary delay.

24 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

25 (c) As used in AS 44.62.632 - 44.62.638,

26 (1) "date of receipt" means the date on which a state agency  
27 actually receives a completed application filed in accordance with  
28 agency regulations and at a place identified as appropriate for filing  
29 in the agency's regulations;

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(2) "permit" means a permit, license, certification, consistency determination, or other authorization or approval issued by a resource agency as a written document that is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit"

(A) does not include the approval of a unit agreement, a unit development plan, or a unit exploration plan, or conveyances of interest in state land or water;

(B) does include all authorizations and approvals, whether proprietary or regulatory, necessary to undertake a project under a previously conveyed property interest;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "resource agency" includes the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Fish and Game with respect to permits issued for the protection of fish habitat or the regulation of state sanctuaries, refuges, and critical habitat areas.

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 6/23/81  
For Today's Supplemental  
Calendar

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 84 (2d Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the granting of land use authoriza-  
7 tions by state agents."

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

9 \*Section 1. FINDINGS. The legislature finds that

10 (1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies, by the complexity of the permitting process, and by the number of  
13 agencies involved in the permitting process;

14 (2) the uncertainties created by the lack of specific time  
15 limits, the proliferation of agency reviews, the number of agencies involved  
16 in the permit process, and unjustified agency requirements upon the process-  
17 ing of permit applications have cost Alaskans millions of dollars in lost  
18 employment and higher prices;

19 (3) the public interest has not been advanced by protracted delay  
20 in the processing of permit applications by state agencies;

21 (4) by reducing the number of agencies and agency reviews in-  
22 volved in the permit process, and by requiring state agencies to process  
23 permit applications in an expeditious manner, the social, economic, and  
24 environmental health and well-being of Alaska citizens will be promoted; and

25 (5) there are many administrative orders and similar documents  
26 that have been promulgated by the executive branch relating to interagency  
27 review that conflict and overlap, retarding the permit issuing process.

28 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

29 ARTICLE 8A. PERMIT PROCESSING.

1       Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
2 agency shall by regulation classify each of the permits issued by that  
3 agency within one of the two following categories:

4           (1) class I permits, for which the state agency must issue a  
5 final, pre-adjudicatory decision within 30 days after the date of  
6 receipt of a completed application; and

7           (2) class II permits, for which, because of a necessary or  
8 appropriate public notice or interagency review period, a final, pre-  
9 adjudicatory decision cannot be issued until 65 days after the date of  
10 receipt of a completed application.

11          (b) Final regulations classifying its permits, and uniform proce-  
12 dural regulations providing for the processing of these permits, shall  
13 be adopted by each state resource agency by October 1, 1981. Permits  
14 applied for after this date must be issued in accordance with the time  
15 periods specified in (a) of this section, and the provisions of the  
16 implementing regulations. Regulations adopted under this section may  
17 be revised.

18       Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
19 ING. (a) An applicant and a resource agency may agree to waive a time  
20 limit required by regulation for the classification of the applicable  
21 permit.

22          (b) Upon a finding by the head of a resource agency that a permit  
23 being considered involves unusually complex issues so that the agency  
24 cannot render a final, pre-adjudicatory decision within the time period  
25 specified in AS 44.62.632(a), the head of the agency may prescribe a  
26 time period within which the final, pre-adjuicatory decision will be  
27 made. The finding of the head of the agency may be appealed to the  
28 superior court under the Appellate Rules of Procedure.

29          (c) The time period specified in AS 44.62.632(a) may be extended

1 by a maximum of 20 days if a public hearing is held on a permit appli-  
2 cation.

3 (d) The time period specified in AS 44.62.632(a) may be extended  
4 if necessary to facilitate joint processing of a permit application  
5 through memorandum of understanding by state and federal agencies, and  
6 strict adherence to the time periods established in AS 44.62.632(a)  
7 would pose an irreconcilable conflict with a federal statute or regula-  
8 tion.

9 (e) Subject to (a) - (d) of this section and AS 44.62.634, fail-  
10 ure of a resource agency to make a final, pre-adjudicatory decision  
11 within 30 days after the receipt of a completed application for a class  
12 I permit, or within 65 days after the receipt of a completed applica-  
13 tion for a class II permit, constitutes approval of the application.  
14 In an appeal of a permit issued by operation of this subsection, the  
15 record shall be construed in a light most favorable to the applicant,  
16 and the permit shall be accorded a presumption of regularity.

17 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
18 cy receives a completed permit application form which does not contain  
19 sufficient information concerning the project's compliance with the  
20 agency's statutes and regulations, the agency shall notify the appli-  
21 cant within 15 days after receipt of a completed application for a  
22 class I permit, and within 30 days after receipt for a class II permit.  
23 The notification must specify all information that the agency believes  
24 at the time to be necessary to determine compliance of the project with  
25 the agency's statutes and regulations.

26 (b) The initial and any subsequent notification must specify  
27 those particular facts or issues concerning the proposal that require  
28 more information than is provided on a completed application form.  
29 Subsequent requests for additional information must be made within the

1 permit deadline as extended, and may be made only with respect to new  
2 issues raised by the response to the initial notification.

3 (c) If a timely request under this section is made, the time per-  
4 iod specified in AS 44.62.632 is suspended from the date of request to  
5 the date of full compliance with the request.

6 Sec. 44.62.635. LEAD AGENCY. There are established lead agencies  
7 which are solely responsible for issuing coastal management consistency  
8 determinations under AS 46.40 and for preparing and submitting state  
9 comments on federal permit applications. The lead agency may vary for  
10 classes of activities, but shall be that agency that has principal  
11 responsibility for authorizing the overall activity. For classes of  
12 activities for which no agency with principal responsibility exists the  
13 governor shall designate a lead agency by administrative order no later  
14 than October 1, 1981. In performing its functions under this section,  
15 the lead agency shall consult with other resource agencies and with  
16 coastal resource districts under AS 46.40. The lead agency shall  
17 balance competing factors in reaching its decision. Great weight shall  
18 be given to the comments of resource agencies within their primary area  
19 of expertise, and also to the comments of coastal resource districts  
20 with approved coastal management plans, unless the district's recom-  
21 mendation would result in the arbitrary or unreasonable restriction or  
22 exclusion of uses of state concern as that term is defined in AS 46.40.-  
23 070(c).

24 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

25 (c) As used in AS 44.62.632 - 44.62.635,

26 (1) "date of receipt" means the date on which a state agency  
27 actually receives a completed application filed in accordance with  
28 agency regulations and at a place identified as appropriate for filing  
29 in the agency's regulations;

1 (2) "final, pre-adjudicatory decision" means that decision  
2 of a state agency, or its staff that forms the basis for a timely re-  
3 quest for an adjudicatory hearing or administrative appeal, and that  
4 becomes the agency's final decision if an adjudicatory hearing or man-  
5 datory administrative appeal is not timely requested;

6 (3) "permit" means a permit, license, certification, consis-  
7 tency determination, plan review, or other authorization or approval  
8 issued by a resource agency as a written document that is required to  
9 be obtained or is solicited from a state agency before the construction  
10 or operation of a project; "permit" does not include conveyances of in-  
11 terest in state land or water, but does include all authorizations and  
12 approvals, whether proprietary or regulatory, necessary to undertake a  
13 project under a previously conveyed property interest;

14 (4) "project" means a new activity or expansion or addition  
15 to an existing activity for which permits are required before construc-  
16 tion or operation; and

17 (5) "resource agency" includes the Department of Natural  
18 Resources, the Department of Environmental Conservation, the Alaska  
19 Coastal Policy Council, and the Department of Fish and Game with respect  
20 to permits issued for the protection of fish habitat or the regulation  
21 of state sanctuaries, refuges, and critical habitat areas.

22 \* Sec. 4. AS 38.05.075 is repealed and reenacted to read:

23 Sec. 38.05.075. SURFACE LEASING PROCEDURE. (a) Except as pro-  
24 vided in AS 38.05.068, 38.05.082, and (b) - (e) of this section, and  
25 leasing shall be conducted by public auction, to the highest pre-quali-  
26 fied bidder, as determined by the director. An aggrieved pre-qualified  
27 bidder may appeal to the commissioner by a letter postmarked within  
28 five days after the director's determination. Lease auctions shall be  
29 conducted by the director or his representative, and the successful

1 pre-qualified bidder shall deposit at the auction the first year's  
2 rental or that percentage of it that the commissioner shall require.  
3 The director may require a deposit for any survey and appraisal costs  
4 reasonably incurred by another pre-qualified bidder acting in accor-  
5 dance with the department's regulations. If a bidder making a deposit  
6 of survey or appraisal costs is determined to be the highest pre-quali-  
7 fied bidder under this subsection, his deposit shall be paid to the un-  
8 successful bidder who incurred those costs. The director or his repre-  
9 sentative shall immediately issue a receipt to the successful pre-qual-  
10 ified bidder containing a description of the land or interest leased,  
11 the total price bid, the terms of the lease, and the amount, if any, to  
12 be paid for the survey or appraisal. The receipt shall be immediately  
13 acknowledged by the bidder. If the receipt is not acknowledged by the  
14 bidder in accordance with this subsection, the director may re-offer  
15 the land in accordance with this section. The lease, on a form ap-  
16 proved by the attorney general, shall be signed by the successful  
17 bidder within 30 days after the auction, and shall thereafter be signed  
18 by the director, after approval by the commissioner.

19 (b) When a valid existing grazing lease is cancelled to permit  
20 state selection of the land under lease, the lessee or the land has a  
21 preference right to lease the land without competitive bidding for a  
22 term equal to the unexpired term originally granted in the cancelled  
23 federal lease, and upon terms no less favorable to the lessee than  
24 those contained in the cancelled federal lease.

25 (c) A littoral owner or lessee has a preference right to acquire,  
26 without competitive bidding, a lease for tide and submerged land di-  
27 rectly adjacent to his upland parcel if

28 (1) lease of the tide or submerged land is sought solely for  
29 the purpose of facilitating water transport of material extracted,

1 harvested, produced, or processed on the adjacent uplands;

2 (2) the proposed use of the tide and submerged land is com-  
3 patible with the classification of this land and the adjacent uplands;

4 (3) there is no competing interest for a higher and better  
5 use of the subject tide and submerged land;

6 (4) where the land was formed by isostatic rebound, granting  
7 of a lease would not violate the state's irrevocable trust respon-  
8 sibilities; and

9 (5) issuance of the lease will not interfere with prior ex-  
10 isting rights.

11 (d) The annual rental for a lease issued under (c) of this sec-  
12 tion shall be determined by an appraisal conducted under AS 38.05.310.  
13 If the adjacent upland ownership interest is less than fee simple, the  
14 term of the lease acquired under (c) of this section may not exceed the  
15 unexpired term of the upland interest. Termination of a less-than-fee  
16 upland interest before its normal expiration, for any reason, shall  
17 terminate the lease acquired under (c) of this section.

18 (e) The department shall, in conformity with AS 38.05.345, re-  
19 quire pre-qualification of bidders for a lease to be issued under  
20 AS 38.05.070. If, as a result of pre-qualification, the director de-  
21 termines that there is only one qualified bidder for the lease, he may  
22 issue a lease to that bidder at the appraised value as determined by  
23 AS 38.05.310, without competitive bidding. Notwithstanding AS 38.05.-  
24 345, disposal shall occur as soon as practicable following completion  
25 of survey and appraisal, and notice of any auction shall be made per-  
26 sonally or by registered mail to all pre-qualified bidders.

27 \* Sec. 5. AS 44.19.162 is amended to read:

28 Sec. 44.19.162. COUNCIL STAFF. The council shall utilize the  
29 staff of the office of coastal management within the Department of

1 Community and Regional Affairs [DIVISION OF POLICY DEVELOPMENT AND  
2 PLANNING] in discharging its powers and duties. The commissioner  
3 [COORDINATOR OF THE OFFICE], with the concurrence of the council, may  
4 contract with or employ personnel or consultants he considers necessary  
5 to carry out the powers and duties of the council.

6 \* Sec. 6. AS 46.35 is amended by adding a new section to read:

7 Sec. 46.35.025. PRE-APPLICATION CONFERENCE. (a) A person con-  
8 sidering the submission of a permit coordination request under AS 46.-  
9 35.030, or a master application under AS 46.35.035, may request a per-  
10 mit requirement information center established under AS 46.35.160 to  
11 hold a pre-application conference.

12 (b) The department will invite to the conference appropriate fed-  
13 eral, state, and local agencies. The conference will be held no later  
14 than 30 days after receipt of a request under (a) of this section.

15 (c) The purpose of a pre-application conference is to enable a  
16 potential applicant and appropriate federal, state, and local agencies  
17 to discuss the nature of the proposed activity, tentative or possible  
18 agency concerns over the activity, and permits that may be required.

19 \* Sec. 7. AS 46.35.030 is amended to read:

20 Sec. 46.35.030. PERMIT COORDINATION REQUEST [MASTER APPLICATION].

21 (a) A person proposing a project which requires the issuance of one or  
22 more permits may at his sole discretion submit a permit coordination  
23 request [MASTER APPLICATION] to the department requesting the issuance  
24 of all permits and documents covered by this chapter [NECESSARY BEFORE  
25 THE CONSTRUCTION AND OPERATION OF THE PROJECT IN THE STATE]. The  
26 request [MASTER APPLICATION] shall be on a form established by the  
27 department and shall contain sufficient information as to the location  
28 and the nature of the project, including discharge of wastes and use of  
29 or interference with natural resources of the state.

1 (b) Upon receipt of a properly completed request [MASTER APPLICA-  
2 TION], the department shall immediately forward a copy of the request  
3 [APPLICATION] to each agency administering a permit covered by this  
4 chapter [ALL HEADS OF EXECUTIVE DEPARTMENTS OF THE STATE] and the chief  
5 elected official of all municipalities in which a portion of the project  
6 is proposed to be constructed, together with the date by which the  
7 agency shall respond to the request [MASTER APPLICATION].

8 (c) Each agency notified shall respond in writing to the depart-  
9 ment by the specified date, not exceeding 15 days from receipt, as de-  
10 termined by the department, advising

11 (1) whether the agency has permit jurisdiction over [AN IN-  
12 TEREST IN] the request [MASTER APPLICATION]; and

13 (2) if the response to (1) of this subsection is affirma-  
14 tive, the permit program under the agency's jurisdiction to which the  
15 project described in the request [MASTER APPLICATION] is pertinent ;  
16 AND

17 (3) WHETHER, IN RELATION TO THE MASTER APPLICATION, A PUBLIC  
18 HEARING AS PROVIDED IN AS 46.35.050 and 46.35.060 WOULD BE IN THE  
19 PUBLIC INTEREST].

20 (d) Each notified agency which (1) responds within the specified  
21 date that it does not have permit jurisdiction over the project de-  
22 scribed in the request [AN INTEREST IN THE MASTER APPLICATION]; or (2)  
23 does not respond as required within the specified date, may not subse-  
24 quently require a permit of the applicant for the project described in  
25 the request [MASTER APPLICATION] unless the request [MASTER APPLICA-  
26 TION] contained false, misleading, or deceptive information, or other  
27 information or lack of information which would reasonably lead an agen-  
28 cy to misjudge its interest in the project [MASTER APPLICATION].

29 (e) The department shall submit application forms relating to

1 permit programs identified in affirmative responses under (c) of this  
2 section to the applicant with a direction to complete and return them  
3 to the department within a reasonable time as specified by the depart-  
4 ment.

5 (f) When the applications, properly completed, have been returned  
6 to the department, each of the applications shall be transmitted to the  
7 appropriate state agency for the performance of its responsibilities of  
8 decision making in accordance with the procedures of this chapter, and  
9 any applicable permit deadline shall begin on the date of receipt of a  
10 completed application by the permitting agency.

11 \* Sec. 8. AS 46.35 is amended by adding new sections to read:

12 Sec. 46.35.035. MASTER APPLICATION. (a) The department shall  
13 periodically develop master applications on a commercial or industrial  
14 activity basis.

15 (b) A master application developed under this section serves as  
16 the application form for each permit that is generally required for the  
17 commercial or industrial activity.

18 (c) When a person submits a master application developed under  
19 this section, AS 46.35.030 does not apply. The master application  
20 shall be served on the office of the department specified in regulation  
21 and any applicable permit deadline shall begin on the date of receipt  
22 of a complete application by the appropriate office of the department.

23 (d) The use of the master application procedures established in  
24 this chapter is at the sole discretion of the applicant.

25 Sec. 46.35.051. PERMIT PROCEDURES. (a) Permits sought under  
26 AS 46.35.030 or 46.35.035 shall be processed in one consolidated pro-  
27 ceeding. The proceeding shall be governed by those procedures that  
28 would otherwise be applicable to a permit being sought and that provide  
29 for the greatest degree of public participation and interagency review.

1 The decisional deadline applicable to the procedure used shall apply to  
2 each final decision made under AS 46.35.070. If the holding of a  
3 public hearing is discretionary under the applicable procedure, a  
4 majority of the permitting agencies shall determine whether to hold a  
5 public hearing under applicable criteria.

6 (b) Any change in the application or coordination request made  
7 during the pendency of proceedings under AS 46.35.030 or this section  
8 which is either jurisdictional or would result in significant new ad-  
9 verse impacts from the project shall be treated as the filing of a new  
10 application or coordination request.

11 \* Sec. 9. AS 46.35.070 is repealed and reenacted to read:

12 Sec. 46.35.070. FINAL DECISION. Each permitting agency shall  
13 forward its final decision to the department within the deadline estab-  
14 lished under AS 46.35.051(a). As soon as all final decisions are re-  
15 ceived by the department, the department shall incorporate them, with-  
16 out modification, into one document and transmit it to the applicant  
17 either personally or by registered mail.

18 \* Sec. 10. AS 46.35.080 is amended to read:

19 Sec. 46.35.080. WITHDRAWAL OF AGENCY FROM PARTICIPATION. (a) A  
20 state agency participating in a consolidated proceeding [RESPONDING AF-  
21 FIRMATIVELY UNDER AS 46.35.030(b)] may withdraw from participation  
22 as to one or more permits [IN THE PROCESSING PROVIDED IN AS 46.35.030 -  
23 46.35.070] at any time, by written notification to the department, if  
24 it subsequently appears to the state agency that it does not have [HAS  
25 NO] permit [PROGRAMS UNDER ITS] jurisdiction [APPLICABLE TO THE PRO-  
26 JECT].

27 (b) A decision by a state agency to withdraw from the proceeding  
28 is irreversible, and the state agency may not subsequently require the  
29 [A] permit of the applicant for the project described in the master ap-

1 plication unless the master application contained false, misleading, or  
2 deceptive information, or other information or lack of information  
3 which would reasonably lead an agency to misjudge its interest in the  
4 permit coordination request or master application.

5 \* Sec. 11. AS 46.35.090(a) is amended to read:

6 (a) A person aggrieved by a final decision issued under: AS 46.35.-  
7 070 [AS 46.35.070(d)] may file a notice of appeal with the commissioner  
8 requesting an adjudicatory hearing within 15 [30] days of receipt  
9 [TRANSMITTAL] of the final decision by [TO] the person. A failure to  
10 file a timely notice of appeal constitutes a waiver of the person's  
11 right to review the final decision, unless the failure was due to cir-  
12 cumstances beyond the applicant's control.

13 \* Sec. 12. AS 46.35.110 is amended to read:

14 Sec. 46.35.110. APPLICATION. Notwithstanding any other provi-  
15 sions of regulation or statute relating to the processing of applica-  
16 tion for permits, the procedures set out in this chapter are exclusive  
17 for permits sought under AS 46.35.030 and applications filed under  
18 AS 46.35.035 [AS 46.35.030]. The procedures of this chapter are in  
19 lieu of any procedures otherwise provided by law or regulation, and are  
20 to be followed by a state agency in ruling upon those applications.

21 \* Sec. 13. AS 46.35.130(a) is amended to read:

22 (a) No permit for a project filed under AS 46.35.030 or 46.35.035  
23 may be issued unless the application has provided a certification from  
24 the appropriate local government that the project is in compliance with  
25 the zoning ordinances and associated comprehensive plans administered  
26 by the local government regarding the project. If the local government  
27 has no such ordinances or plans, the local government shall certify that  
28 fact. A local government may accept applications for certification  
29 under this section and shall rule upon them within 30 days. A local

1 government may impose stipulations of performance in its approval, but,  
2 upon certification, the local government may not change the zoning  
3 ordinances as to the proposed project until the procedures of this  
4 chapter, including an appeal, are completed.

5 \* Sec. 14. AS 46.35.170 is amended by adding a new subsection to read:

6 (c) The department may enter into memoranda of understanding with  
7 federal agencies for the full or partial processing of related federal  
8 permits under the procedures established by this chapter.

9 \* Sec. 15. AS 46.35 is amended by adding a new section to read:

10 Sec. 46.35.175. RELATION TO SURFACE LEASING PROCEDURE. When a  
11 project requires a surface lease under AS 38.05.075 in addition to per-  
12 mits covered by this chapter,

13 (1) application for the surface lease shall be coordinated  
14 under AS 46.35.030 or, when applicable, subsumed in the master applica-  
15 tion submitted under AS 46.35.035;

16 (2) the determination required under AS 38.05.035(a)(14)  
17 shall be consolidated in the proceeding conducted under AS 46.35.051,  
18 and the procedure for making that determination shall govern the con-  
19 solidated proceeding; and

20 (3) AS 46.35.040 applies if there is more than one pre-  
21 qualified bidder.

22 \* Sec. 16. AS 46.35.200(4) is repealed and reenacted to read:

23 (4) "permit" means a permit, license, certification, consis-  
24 tency determination, plan review, or other authorization or approval  
25 issued as a written document that is required to be obtained from ei-  
26 ther the Department of Fish and Game, Department of Environmental Con-  
27 servation, Department of Natural Resources, or Office of the Governor,  
28 division of policy development and planning; "permit" does not include  
29 disposals of an interest in state land or water, but does include all

1 authorizations and approvals, whether proprietary or regulatory, neces-  
2 sary to undertake a project under a previously conveyed property inter-  
3 est; the department, by regulation and with the consent of the permit-  
4 ting agency, may delete a permit from the coverage of this chapter if  
5 its inclusion unduly complicates consolidated review, and may add addi-  
6 tional permits issued by other agencies;

7 \* Sec. 17. AS 46.35.050, 46.35.060, and 46.35.090(b) are repealed.  
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CORRECTION

HOUSE CS FOR CS FOR SENATE BILL NO. 84(Rules)

Please discard Page 1 of this bill and insert this corrected page.

The Correction made:

HOUSE CS FOR CS FOR SENATE BILL NO. 84

to  
HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Rules)

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 6/22/81  
For Today's Calendar

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 84 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; to surface leasing of and; and to admini-  
8 stration of the Alaska coastal management program; and  
9 providing for an effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that

12 (1) the orderly development of state resources is being unneces-  
13 sarily delayed by the length of time required to obtain permits from state  
14 agencies, by the complexity of the permitting process, and by the number of  
15 agencies involved in the permitting process;

16 (2) the uncertainties created by the lack of specific time limits,  
17 the proliferation of agency reviews, the number of agencies involved in the  
18 permit process, and unjustified agency requirements upon the processing of  
19 permit applications have cost Alaskans millions of dollars in lost employ-  
20 ment and higher prices;

21 (3) the public interest has not been advanced by protracted delay  
22 in the processing of permit applications by state agencies;

23 (4) by reducing the number of agencies and agency reviews in-  
24 volved in the permit process, and by requiring state agencies to process  
25 permit applications in an expeditious manner, the social, economic, and  
26 environmental health and well-being of Alaska citizens will be promoted; and

27 (5) there are many administrative orders and similar documents  
28 that have been promulgated by the executive branch relating to interagency  
29 review that conflict and overlap, retarding the permit issuing process.

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 4/14/81  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 84 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; and providing for an effective date."

7

8

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

9

\* Section 1. FINDINGS. The legislature finds that

10

(1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies, by the complexity of the permitting process, and by the number of  
13 agencies involved in the permitting process;

14

(2) the uncertainties created by the lack of specific time limits,  
15 the proliferation of agency reviews, the number of agencies involved in the  
16 permit process, and unjustified agency requirements upon the processing of  
17 permit applications have cost Alaskans millions of dollars in lost employ-  
18 ment and higher prices;

19

(3) the public interest has not been advanced by protracted delay  
20 in the processing of permit applications by state agencies;

21

(4) by requiring state agencies to process permit applications in  
22 an expeditious manner within a reasonable period of time, the state will  
23 promote the social, economic, and environmental health and well-being of its  
24 citizens.

25

\* Sec. 2. AS 44.62 is amended by adding new sections to read:

26

ARTICLE 8A. ISSUANCE OF PERMITS.

27

Sec. 44.62.632. TIME LIMIT ON THE PROCESSING OF PERMITS. (a)

28

Upon receipt of a permit application or receipt of a federal agency  
29 request for state review of an application for a federal permit, the

1 responsible state agency shall issue a final decision granting, denying,  
2 or reasonably conditioning the issuance of the permit, or issue a final  
3 response to the federal agency's request for state review, within the  
4 following time periods, unless the applicant and the agency mutually  
5 agree to a different period of time:

6 (1) any time period specifically required by state law;

7 (2) 60 days if a time period is not specifically required by  
8 state law and a public notice, public hearing, or comment period is  
9 specifically required by state law in connection with the permit appli-  
10 cation;

11 (3) 30 days if (1) or (2) of this subsection do not apply.

12 (b) The final decision on a permit application under (a) of this  
13 section shall include the following information:

14 (1) conclusions of the state agency which support its deci-  
15 sion concerning the permit application, including the factual basis and  
16 statutory authority for any conditions or stipulations to which the  
17 permit is subject; and

18 (2) the granting, conditional granting, or denial of the  
19 permit by the state agency.

20 (c) The final decision under (a) of this section must bear a fair  
21 and substantial relation to the object of the law under which the state  
22 agency is empowered to act.

23 (d) A permit may not be denied because of the lack of any other  
24 permit, and may not be conditioned upon the acquisition of any other  
25 permit.

26 (e) A permit application which has not been approved or rejected  
27 by the responsible state agency within the time period specified in (a)  
28 of this section is approved as submitted. The permit is approved on  
29 the last day on which the state agency could have announced a final

1 decision under (a) of this section.

2 Sec. 44.62.634. DEFECTIVE APPLICATIONS; NOTICE TO APPLICANT. (a)  
3 If a state agency receives a permit application requesting a permit  
4 which the agency believes it does not have authority to issue, or which  
5 it believes is unnecessary, it shall notify the applicant within 10  
6 days after its receipt of the application. A notice given under this  
7 subsection is the final agency decision.

8 (b) If a state agency receives a permit application which it  
9 believes does not contain sufficient information concerning the location  
10 and nature of the project to allow the agency to determine whether the  
11 project complies with state law, the agency shall notify the applicant  
12 within 10 days after its receipt of the application. The notice must  
13 specify all information the agency requires to determine whether the  
14 project complies with state law.

15 Sec. 44.62.635. REVIEW BY THE COMMISSIONER OR BOARD. A state  
16 agency's final decision issued under AS 44.62.632 may be reviewed by  
17 the commissioner or board of the issuing agency at the request of the  
18 applicant. The applicant is entitled to a review de novo if requested  
19 in the original request for review; otherwise the review is a review on  
20 the record. The request must be filed with the commissioner or board  
21 within 30 days of the applicant's receipt of the decision. The commis-  
22 sioner or board shall issue a decision within 10 days of receipt of the  
23 request if the review is a review on the record. If the applicant has  
24 requested a hearing de novo, the hearing shall be held within 30 days  
25 of receipt of the request, and the decision of the commissioner or  
26 board shall be made within 30 days of the conclusion of the hearing.  
27 Unless the agency decision is confirmed in its entirety, the commis-  
28 sioner or board shall issue a written decision setting out the findings  
29 and conclusions in full.

1           Sec. 44.62.636. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
2 review by the superior court of a final decision issued by a state  
3 agency under AS 44.62.632 or 44.62.634 or of a decision of the commis-  
4 sioner or board issued under AS 44.62.635, may be had by filing a  
5 notice of appeal in the superior court in accordance with the applicable  
6 rules of appellate procedure. The right to appeal is not affected by  
7 the failure to seek reconsideration or further review under AS 44.62.-  
8 635. The review shall be governed by the provisions of AS 44.62.560-  
9 (b) - (e) and 44.62.570.

10           (b) On an appeal by an applicant to the superior court, the  
11 agency which issued the final decision has the burden of proving that  
12 the decision is in accordance with AS 44.62.632 and 44.62.634.

13           (c) An appeal taken under this section has preference on the  
14 calendar of civil actions before the court and shall be decided without  
15 unnecessary delay.

16 \* Sec. 3. AS 44.62.540 is amended by adding a new subsection to read:

17           (c) In AS 44.62.632 - 44.62.634,

18           (1) "permit" means a permit, license, certification, consis-  
19 cency determination, comments on pending permit applications before  
20 other governmental entities (including environmental impact statement  
21 comments), plan review, or other authorization or approval issued as a  
22 written document which is required to be obtained or is solicited from  
23 a state agency before the construction or operation of a project;  
24 "permit" does not include

25           (A) conveyances of interest in state land or water, but  
26 does include all authorizations and approvals, whether proprietary  
27 or regulatory, necessary to undertake a project under a previously  
28 conveyed property interest; and

29           (3) the provision of financial assistance;

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(2) "permit application" includes the following documents:

(A) a document requesting the issuance of a permit which contains sufficient information concerning the location and nature of a project to allow the state agency to which it is directed to determine compliance of the project with state law;

(B) a document submitted to a state agency by a governmental entity which solicits comments in connection with a permit being processed by that governmental entity;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "state agency" means a state department, commission, board, or other agency of the state; "state agency" includes a local or regional air pollution control authority established under AS 46.03.210 and a coastal resource district and coastal resource service board established under AS 46.40.010 - 46.40.210.

\* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

# COMMITTEE REPORT

## HOUSE

6/21/81

FURTHER:

Date: 6/21/81

(9)

Mr. Speaker:

The Committee on FINANCE has had CSSB 64 (res)

"An Act relating to the processing of permits by state agencies, and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING  
DO PASS

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Finance Committee

To: CS HOUSE BILL No. 84 (Res)

SENATE BILL No. \_\_\_\_\_

PAGE: 1

LINE: 5

after "time" add ", or unless the agency makes a written finding stating why more time is required and sets a deadline for issuance or denial of the permit"

p. 2, line 5, add. CHUCKWALK moved  
or unless the agency makes a written  
finding stating why more time is required  
and ~~sets~~ <sup>sets</sup> a deadline for issuance  
or denial of the permit.

p. 2, line 23 - 25

delete subsection (d) ~~it~~  
it is reasonable to have issuance be  
contingent ~~on~~ <sup>on</sup> other actions.

p. 4, line 1 - 15 - delete - adds  
unnecessary burden  
to court system

Original sponsors: Bennett, Parr and  
Fahrenkamp

Offered: 4/14/81  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 84 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; and providing for an effective date."

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

9

\* Section 1. FINDINGS. The legislature finds that

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(1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies, by the complexity of the permitting process, and by the number of  
13 agencies involved in the permitting process;

14

(2) the uncertainties created by the lack of specific time limits,  
15 the proliferation of agency reviews, the number of agencies involved in the  
16 permit process, and unjustified agency requirements upon the processing of  
17 permit applications have cost Alaskans millions of dollars in lost employ-  
18 ment and higher prices;

19

(3) the public interest has not been advanced by protracted delay  
20 in the processing of permit applications by state agencies;

21

(4) by requiring state agencies to process permit applications in  
22 an expeditious manner within a reasonable period of time, the state will  
23 promote the social, economic, and environmental health and well-being of its  
24 citizens.

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request for state review of an application for a federal permit, the

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2 or reasonably conditioning the issuance of the permit, or issue a final  
3 response to the federal agency's request for state review, within the  
4 following time periods, unless the applicant and the agency mutually  
5 agree to a different period of time:

6 (1) any time period specifically required by state law;

7 (2) 60 days if a time period is not specifically required by  
8 state law and a public notice, public hearing, or comment period is  
9 specifically required by state law in connection with the permit appli-  
10 cation;

11 (3) 30 days if (1) or (2) of this subsection do not apply.

12 (b) The final decision on a permit application under (a) of this  
13 section shall include the following information:

14 (1) conclusions of the state agency which support its deci-  
15 sion concerning the permit application, including the factual basis and  
16 statutory authority for any conditions or stipulations to which the  
17 permit is subject; and

18 (2) the granting, conditional granting, or denial of the  
19 permit by the state agency.

20 (c) The final decision under (a) of this section must bear a fair  
21 and substantial relation to the object of the law under which the state  
22 agency is empowered to act.

23 (d) A permit may not be denied because of the lack of any other  
24 permit, and may not be conditioned upon the acquisition of any other  
25 permit.

26 (e) A permit application which has not been approved or rejected  
27 by the responsible state agency within the time period specified in (a)  
28 of this section is approved as submitted. The permit is approved on  
29 the last day on which the state agency could have announced a final

1 decision under (a) of this section.

2 Sec. 44.62.634. DEFECTIVE APPLICATIONS; NOTICE TO APPLICANT. (a)  
3 If a state agency receives a permit application requesting a permit  
4 which the agency believes it does not have authority to issue, or which  
5 it believes is unnecessary, it shall notify the applicant within 10  
6 days after its receipt of the application. A notice given under this  
7 subsection is the final agency decision.

8 (b) If a state agency receives a permit application which it  
9 believes does not contain sufficient information concerning the location  
10 and nature of the project to allow the agency to determine whether the  
11 project complies with state law, the agency shall notify the applicant  
12 within 10 days after its receipt of the application. The notice must  
13 specify all information the agency requires to determine whether the  
14 project complies with state law.

15 Sec. 44.62.635. REVIEW BY THE COMMISSIONER OR BOARD. A state  
16 agency's final decision issued under AS 44.62.632 may be reviewed by  
17 the commissioner or board of the issuing agency at the request of the  
18 applicant. The applicant is entitled to a review de novo if requested  
19 in the original request for review; otherwise the review is a review on  
20 the record. The request must be filed with the commissioner or board  
21 within 30 days of the applicant's receipt of the decision. The commis-  
22 sioner or board shall issue a decision within 10 days of receipt of the  
23 request if the review is a review on the record. If the applicant has  
24 requested a hearing de novo, the hearing shall be held within 30 days  
25 of receipt of the request, and the decision of the commissioner or  
26 board shall be made within 30 days of the conclusion of the hearing.  
27 Unless the agency decision is confirmed in its entirety, the commis-  
28 sioner or board shall issue a written decision setting out the findings  
29 and conclusions in full.

SC - V<sup>n</sup>g  
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Sec. 44.62.636. REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the superior court of a final decision issued by a state agency under AS 44.62.632 or 44.62.634 or of a decision of the commissioner or board issued under AS 44.62.635, may be had by filing a notice of appeal in the superior court in accordance with the applicable rules of appellate procedure. The right to appeal is not affected by the failure to seek reconsideration or further review under AS 44.62.635. The review shall be governed by the provisions of AS 44.62.560-(b) - (e) and 44.62.570.

(b) On an appeal by an applicant to the superior court, the agency which issued the final decision has the burden of proving that the decision is in accordance with AS 44.62.632 and 44.62.634.

(c) An appeal taken under this section has preference on the calendar of civil actions before the court and shall be decided without unnecessary delay.

\* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

(c) In AS 44.62.632 - 44.62.634,

(1) "permit" means a permit, license, certification, consistency determination, comments on pending permit applications before other governmental entities (including environmental impact statement comments), plan review, or other authorization or approval issued as a written document which is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit" does not include

(A) conveyances of interest in state land or water, but does include all authorizations and approvals, whether proprietary or regulatory, necessary to undertake a project under a previously conveyed property interest; and

(B) the provision of financial assistance;

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(2) "permit application" includes the following documents:

(A) a document requesting the issuance of a permit which contains sufficient information concerning the location and nature of a project to allow the state agency to which it is directed to determine compliance of the project with state law;

(B) a document submitted to a state agency by a governmental entity which solicits comments in connection with a permit being processed by that governmental entity;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "state agency" means a state department, commission, board, or other agency of the state; "state agency" includes a local or regional air pollution control authority established under AS 46.03.210 and a coastal resource district and coastal resource service board established under AS 46.40.010 - 46.40.210.

\* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

TYE FAHRENKAMP, CHAIRMAN  
E FISCHER, VICE-CHAIRMAN  
HAD BRADLEY  
DICK ELIASON  
DON GILMAN  
BOB MULCAHY  
ARLISS STURCOLEWSKI



POUCH V  
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Senate

Committee on Resources

MEMORANDUM

TO: SENATE RESOURCES COMMITTEE MEMBERS

FROM: JIM PALMER  
SENATE RESOURCES COMMITTEE STAFF

RE: SECTIONAL ANALYSIS OF PROPOSED COMMITTEE SUBSTITUTE FOR SB 84

DATE: MARCH 27, 1981

A committee substitute has been prepared for SB 84. A copy of this proposed substitute is attached.

There are two main reasons why this substitute has been prepared. First, Billy Berrier of the Legislative Affairs Agency suggested in a memorandum to the Chairman that Sections 7, 8 and 10 which refer to approval of Alaska coastal management programs create a single subject problem in the original bill. He stated that "It can be argued that coastal management programs relate directly to the permit process since in many instances permits must be consistent with approved programs. The purpose of expediting permit issuance would be served by having a clearly constitutional means of approving these programs. While in my opinion our Court would hold that the single subject rule had not been violated under the liberal construction it has given that rule, this inclusion would subject the bill to serious constitutional attack."

Second, the establishment of the Permit Reform Commission was also deleted from the original bill. The reason for this deletion was similar to the reason for deleting sections 7, 8 and 10. The subject matter could easily be seen as constituting separate legislation. In addition, the controversy surrounding permit reform is substantial enough without adding additional items to this legislation.

SECTIONAL ANALYSIS OF PROPOSED COMMITTEE SUBSTITUTE FOR SB 84

SECTION 1 FINDINGS. This section states that the development of resources and employment of Alaskans have been retarded because of the current permit system. The system causes delay and uncertainty because of the time requirements, the complexity, the duplicity and the unjustified requirements of the current permit process. The public interest will be served by a streamlined permit system.

March 27, 1981

SECTION 2 adds new sections to AS 44.62, the Administrative Procedure Act, which are titled Article 8A. ISSUANCE OF PERMITS.

Sec. 44.62.632 sets time limits on the processing of permits.

Subsection (a) states that the responsible state agency shall issue a final decision granting, denying or reasonably conditioning the issuance of the permit within specific time periods unless the applicant and the agency mutually agree to a different period of time. These time periods start upon receipt by the agency of the permit application.

The time periods are (1) any time period specifically required by law; (2) 60 days if a public notice, hearing or comment period is specifically required by law and; (3) 30 days in all other cases.

Subsection (b) states that the final decision on the permit application shall include (1) the conclusions of the agency which support its decision including the factual basis and statutory authority for any conditions or stipulations, and (2) the agency's statement of its decision on the permit.

Subsection (c) mandates that the final decision on the permit must bear a fair and substantial relation to the object of the law.

\* Subsection (d) states that a permit may not be denied because of either the lack of any other permit or be conditioned upon the acquisition of any other permit.

\* Subsection (e) provides that the failure to make a final decision within the time periods specified in subsection (a) under 44.62.632 constitutes approval of the permit.

Sec. 44.62.634 requires an agency receiving a permit application for which it does not have authority to issue a permit or for which it believes a permit is unnecessary, to notify the applicant within 10 days. Such notice is the final decision of the agency. Subsection (b) states that an agency which receives an application which does not contain sufficient information for a permit decision to notify the applicant within 10 days and specify all information that is required.

Sec. 44.62.635 states that the final decision of an agency may be reviewed at the request of the applicant. The applicant is entitled to a review de novo if requested in the original request for review, otherwise the request is on the record. This request must be filed within 30 days after the applicant has received the agency's decision.

The Commissioner or board shall issue a decision within 10 days of receipt of the review request if the review is on the record. If the request is for a hearing de novo, the hearing shall be held within 30 days of the receipt of the request. The decision of the commissioner or board shall be made within 30 days of the hearing de novo.

Unless the entire agency decision is confirmed in toto, the decision must be in written form and contain the commissioner's or board's findings and conclusions in full.

Memorandum  
March 27, 1981  
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Sec. 44.62.636 provides for the review of the final permit decision issued by a state agency or commissioner by the state superior court. The applicant's right to appeal to the superior court is not affected by the failure to seek reconsideration or further review under AS 44.62.635.

Subsection (b) puts the burden of proving that the decision is in accordance with AS 44.62.632 and 44.62.634 upon the agency which issued the final decision. Subsection (c) provides that an appeal under this section takes preference over other civil actions before the court and shall be decided without unnecessary delay.

### SECTION 3 DEFINITIONS.

"Permit" is defined as a permit, license, certification, consistency determination, comments on pending permit applications (including environmental impact statements, plan review, and other authorization or approval by a state agency before construction or operation of a project.

Permit is defined so as to exclude conveyances of interest in state land or water and the provision of financial assistance.

"Permit Application" is defined to include a document submitted to a state agency by a governmental entity which solicits comments in connection with a permit being processed by that governmental entity. An application is a document requesting the issuance of a permit which contains sufficient information to allow the state agency determine if the project is in compliance with state law.

"Project" is defined to include a new activity or expansion or addition to an existing activity for which permits are required before construction or operation.

"State Agency" includes local or regional air pollution authorities and coastal resource districts and coastal resource service boards.

an application which does not contain sufficient information for a permit

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 84  
 Title An act relating to the processing of permits by state agencies.  
 Requested by Walt Lawson, Legislative Liaison, Public Safety Date 4-16-81

II. FISCAL DETAIL

Agency Affected Department of Public Safety  
 Program Category Affected Property Protection  
 BRU, Program, or Subprogram(s) Affected Fire Safety  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		215.4	232.6	251.3	271.2	292.9
200 TRAVEL		36.0	40.3	45.0	50.4	56.5
300 CONTRACTUAL		14.7	15.9	17.1	18.3	19.5
400 COMMODITIES		4.8	5.4	6.0	6.6	7.2
500 EQUIPMENT		9.4				4.4
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>280.3</b>	<b>294.2</b>	<b>319.4</b>	<b>346.5</b>	<b>380.5</b>

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		280.3	294.2	319.4	346.5	380.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		6	6	6	6	6
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Recurring Costs

In order to comply with sec. 2 of the bill if it is passed, it is estimated that the following additional positions would be needed, beginning in FY 82, in order for this Division to meet the service requests (life and fire safety inspections) of other local, state and federal agencies to enable them to meet their permit, licensing and/or certification requirements; and our plan review requirements.

- One (1) - Clerk Typist III, Range 8A, Anchorage
- One (1) - Clerk Typist II, Range 7A, Anchorage
- One (1) - Deputy Fire Marshal I, Range 76A, Anchorage
- One (1) - Deputy Fire Marshal I, Range 76A, Juneau
- One (1) - Deputy Fire Marshal I, Range 76A, Fairbanks
- One (1) - Fire Protection Engineer, Range 19A, Anchorage

-continued on page 2.

IV. DATE 4-28-81 PREPARED BY *for 4/29/81 Gary Crouse*  
 AGENCY Public Safety, Division of Fire Prevention  
 PHONE 272-2406 (Anchorage)

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

*f/n not accepted*

FISCAL NOTE

page 2.

Bill/Resolution No. CSSB 84

III. ANALYSIS

Recurring Costs continued

Personal Services, travel, contractual, commodities and equipment costs are shown above. Inflation is calculated at 8% except for travel, to which a 12% inflation factor has been applied.

One Time Costs (Equipment)

FY82 will require 9.4 for normal office equipment. Replacement equipment should not be needed until FY86.