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Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 26

Sponsor: Josephson

Pouchot AB

Date referred to committee: 4/9/85

Synopsis completed:

Fiscal note:

Further referrals: none

CONTACTS:

Josephson / Pouchot

DOTPF - Susan Heesehauer / Dan Malik 2571

Revenue - Pat Sheroch Director ABL 2300
Royce Miller

Corrections - Cindy Nelson, 3376 - get language from Cindy @ facility

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

March 28, 1985

The Honorable Edna DeVries
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator DeVries:

I have just been notified of a new provision (Section 6) in draft CSSSSB 26 (C&RA) that would require the Department to provide notice to the local municipally-chartered community council of any negotiated materials sale.

At present the department does notify local municipalities (under AS 38.05.945) of sales that would come from a new materials source such as a sand and gravel pit, but does not notify them of small negotiated sales from an existing pit. We regard these small sales from existing pits as a permitted activity that does not have new local impacts. To require notice of such sales would slow down state sand and gravel disposals for public and private construction projects that may need expeditious small sales from existing state materials sources.

It is our belief that local concern for notification of materials sales should be satisfied by the notice we already provide. I do not believe that a second notice of small sales from within existing pits would serve any useful purpose and would only add expense and delay to our current process. Therefore, I would recommend against enactment of the proposed amendment to AS 38.05.115(a) (Sec. 6) of draft CSSSSB 26 (C&RA).

Sincerely,

Esther C. Wunnicke, Deputy

pc Esther C. Wunnicke
Commissioner

cc: Tom Hawkins, Director
Division of Land and Water
Management

The Honorable Joe Josephson
Alaska State Senate

qualified bidder by competitive bidding under general competitive leasing regulations subject to all outstanding valid interests therein and valid options pertaining thereto. Likewise if, in any such proceeding, less than the whole interest in a lease, interest, or option is canceled or forfeited to the state, the partial interests so canceled or forfeited shall be sold by the director to the highest responsible qualified bidder under general competitive leasing regulations. (§ 1 ch SLA 1964; am § 68 ch 59 SLA 1982)

Revisor's notes. — Formerly AS 38.05.351. Renumbered in 1984. Effect of amendments. — The 1982

Sec. 38.05.940. Veterans' land discount. (a) An eligible veteran is entitled to a discount of 25 percent on the purchase price of state land sold under this title and classified under AS 38.05.005 — 38.05.270 for use other than commercial or industrial use.

(b) To be eligible for a discount under this section, a veteran shall submit proof, as required by regulation, that the veteran

- (1) is 18 years of age or older on the date of sale;
- (2) has been a state resident for a period of not less than one year immediately preceding the date of sale;
- (3) has served on active duty in the U.S. Armed Forces at least two years, unless tenure was shortened due to a service connected disability or due to receiving an early separation upon return from a tour of duty overseas; and
- (4) has received an honorable discharge or a general discharge under honorable conditions.

(c) A veteran is entitled to only one discount under this section during the veteran's lifetime.

(d) A discount under this section may be applied only to the acquisition of surface rights to state land. A discount under this section may be applied to survey costs, road development costs, utility assessments, or other costs that the commissioner determines are reimbursable to the state.

(e) A discount under this section may not be used toward the purchase of land offered at a restricted sale under AS 38.05.067. (§ 48 ch SLA 1984)

Sec. 38.05.945. Notice. (a) This section establishes the requirements for notice given by the department for the following actions:

- (1) classification or reclassification of state land under AS 38.05.300 or the closing of land to mineral leasing or entry under AS 38.05.185;
- (2) zoning of land under applicable law;
- (3) a decision under AS 38.05.035(e) regarding the sale, lease, or disposal of an interest in state land or resources; and

(4) a competitive disposal of an interest in state land or resources under final decision under AS 38.05.035(e).

(b) Notice of one or more actions described in (a) of this section shall be given at least 30 days before the action by publication in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action and one or more of the following methods:

- (1) publication through public service announcements on the electronic media serving the area affected by the action,
- (2) posting in a conspicuous location in the vicinity of the action,
- (3) notification of parties known or likely to be affected by the action,

or

(4) another method calculated to reach affected persons. A notice shall contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on the action.

(c) Notice at least 30 days before action under (a) of this section shall also be given to the following:

(1) to a municipality if the land is within the boundaries of the municipality;

(2) to a regional corporation if the boundaries of the corporation as established by sec. 7(a) of the Alaska Native Claims Settlement Act encompass the land and the land is outside a municipality;

(3) to a village corporation organized under sec. 8(a) of the Alaska Native Claims Settlement Act if the land is within six miles of the village for which the corporation was established and the land is located outside a municipality;

(4) to the postmaster of a permanent settlement of more than 25 persons located within six miles of the land if the land is located outside a municipality, with a request that the notice be posted in a conspicuous location.

(d) Notice is not required under this section for a permit or other authorization revocable by the department.

(e) The provisions of this section do not apply to a lease issued under AS 38.05.205.

(f) The provisions of this section do not apply to a production license issued under AS 38.05.207. (§ 10 art III ch 169 SLA 1959; am § 8 ch 61 SLA 1960; am § 2 ch 74 SLA 1961; am § 3 ch 117 SLA 1976; am § 14 ch 257 SLA 1976; am §§ 39, 40 ch 85 SLA 1979; am § 4 ch 108 SLA 1981; am § 36 ch 113 SLA 1981; am § 3 ch 87 SLA 1982; am §§ 44 — 46 ch 152 SLA 1984)

Revisor's notes. — Formerly AS 38.05.345. Renumbered in 1984.

Effect of amendments. — The first 1981 amendment added a subsection (b) to the section as it appeared before the second 1981 amendment rewrote the section. Sub-

section (h) now appears as subsection (e).

The second 1981 amendment rewrote this section.

The 1982 amendment added subsection (f).

The 1984 amendment, in subsection (a),



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

January 24, 1985

To: Committee Members, C&RA *Edna*

From: Senator Edna DeVries, Chair

Re: SB 26

Our January 22 hearing on subject bill elicited active participation from community council representatives from Anchorage, Mat-Su, and Juneau. Committee discussion, witness testimony, and comments by bill sponsor, Senator Josephson, suggest the need for revision in the following areas:

- 1) State departments other than DOT/PF take actions that affect community councils; i.e., Alcoholic Beverage Control Board (liquor licenses); Corrections (location of halfway houses); Environmental Conservation (sewer/water lines). An interest was also expressed by community council representatives in the effect of certain environmental impact statements, and the extraction of gravel.
- 2) The notice period for actions of interest should be lengthened. Suggestions were for 45 to 90 days.
- 3) Provision should be made for community councils to come under the statute even though they are not "chartered" through local government. Should local community organizations be recognized legally by their local governments in order to fall within the provisions of SB 26; i.e., what is the definition of a community council?
- 4) Fiscal notes will be required from all departments affected by the provisions of SB 26.

Senator Josephson will be introducing a sponsor substitute which takes into consideration the above discussion items. I would like for us to hear the sponsor substitute for SB 26 on February 7.

CC: Senator Josephson

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 26
 Title: Notice to Community Councils
 Sponsor: Senator Josephson
 Requestor: _____
 Date of Request: 1/22/84

FISCAL DETAIL

Agency Affected: DOT&PF
 Program Category Affected: TRANSPORTATION
 BRU, Program or Subprogram(s) Affected: Design & Construction

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	32.1	163.5	171.7	180.0	189.3	198.7
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES	.3	1.0	1.1	1.2	1.2	1.3
500 EQUIPMENT	5.0					
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	37.4	164.5	172.8	181.2	190.5	200.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	37.4	164.5	172.8	181.2	190.5	200.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Three full-time positions within the regional divisions of Design & Construction to track projects and coordinate notifications to municipalities.

Prepared By: Carol Taylor *CT* Phone: 465-2171
 Division: Plans & Programs Date: 1/22/85

Approved by Commissioner: Warr J. Spahr Date: 1/22/85
 Agency: Department of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Senate Bill No. 26

Passage of this bill would require the department to contact all community councils of projects potentially affecting their locale "...not less than 30 days before construction begins...". Since the majority of the Department's construction projects can be construed to have one or more of the potential impacts noted in the bill, this bill would require the Department to take steps to assure that all community councils within the vicinity of all construction project be notified. Since the Department does not now keep a complete record of all community councils, the Department's implementation of this legislation would require the Department to maintain such listings and promulgate operating policy requiring their notification. Since community councils and their municipalities are not now required to inform the Department of the formation of the community council, the Department will likely have to promulgate regulations requiring municipalities to inform the Department of new and/or changes to local community council makeup. These new duties would have operating budget impacts as noted in the attached fiscal note.

There are some questions to whether being informed 30 days before construction begins will fully meet the concerns for which this bill is assumed to address. In many cases, notification 30 days before construction begins would follow the Department's formal contracting for construction. Concerns with the project following the Department's formal contracting for its construction would not allow concerned parties reasonable time to inform the Department of their concerns. From the Department's and State's standpoint, changes to a construction project after construction contracting is accomplished affect cost to the state, and in many cases dramatically increases the total cost of the project as a result of contractor claims.

For transportation related projects, Department of Transportation and Public Facilities has already in place policies and procedures which require not only the notification but also the initiation of public hearings on location and design related matters for all transportation related construction projects. However, these public hearings and notifications are not targeted directly at chartered community councils though the Department assumes reasonable public interest in these projects are being affectively dealt with. The Department also assumes that other agencies with location and design approval responsibility for non-transportation related facilities have similiary public notification and public hearing procedures. The Department's procedures require this public review and comment period well in advance of construction commencement and allow for changes in the project's location and design details in a time and in a manner which allows for the maintenance of time and dollar budgets for each project.

While the assumed purpose of this bill, to inform chartered community councils of projects affecting their community, is supported by the Department, the timing of the requirement tied to the construction commencement date could create problems of great expense to the State, should the State attempt to react to concerns noted by community councils.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

Jan 17, 1985

SB 26

Requires State government to notify a legally organized Community Council when the State constructs or issues a permit to construct or make material changes within the geographical bounds within which a community council exercises oversight.

K

1314 Birchwood Street
Anchorage, Alaska 99504
August 16, 1984

RECEIVED

AUG 28 1984

Josephson,

The Honorable Joe Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

This letter is to advise you of a shortcoming in the State public notice and comment process, with regard to municipal community councils. As you know, the Municipality of Anchorage routinely notifies community councils of proposed municipal actions in order to allow for neighborhood comment. However, this does not necessarily include State activities.

State approval of hospital certificates of need is an example. During the past two years, the Airport Heights Community Council has been in contact with State legislators and the Department of Health and Social Services with respect to the new Charter North Hospital in Anchorage. One result apparent from the discussions is the Council's need for timely notification before State actions are taken. It was suggested that the Department of Health and Social Services improve the public notice requirements within its regulations. However, we have recently learned of the commencement of construction of the Raleigh Hills Hospital, also within the Airport Heights area. The Council had heard nothing of this development within the past year.

We believe that this sort of problem can be avoided if regulations that would require at least a 30 day advance notice to affected community councils are adopted by all State agencies. This would allow for better public response and would help preclude surprise and irritation on the part of the residents.

Sincerely,

Barbara Karl
Acting Secretary
for *Joe* Mark Phillips, President
Airport Heights Community Council

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT G - ANCHORAGE
1526 F STREET
ANCHORAGE, ALASKA 99501
(907) 277-4419



WHILE IN JUNEAU
POUCH V
JUNEAU ALASKA 99811
(907) 465-4907
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COMMITTEES
HEALTH, EDUCATION & SOCIAL SERVICES (CHAIR)
JUDICIARY (VICE-CHAIR)
FINANCE
MAJORITY CAUCUS (CHAIR)

October 11, 1984

The Honorable Norman Gorsuch
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811

Dear Attorney General Gorsuch:

On behalf of my constituents who are leaders of the Airport Heights Community Council, I am writing to pose the following questions.

1. Under existing statutes, can executive departments of the state and public corporations, such as the Alaska Housing Finance Corporation, be required to notify community councils within the Municipality of Anchorage of proposed state actions of special interest or concern to an Anchorage neighborhood represented by a community council?
2. If so, could this be accomplished by executive order by the Governor or by a regulation promulgated for all agencies, or would each agency have to consider such a regulation as a separate question for that agency to be determined independently from other agencies?
3. To reach the result desired by my constituents, who wish more notification of state action affecting neighborhoods, is a legislative enactment required?

To help you understand the contents in which these inquiries are made, I enclose copy of a letter by the Airport Heights Community Council and also copy of my letter to Commissioner John Pugh. You will note that the issue

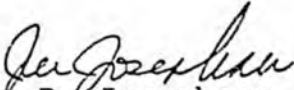
The Honorable Norman Gorsuch
October 11, 1984
Page Two

arose because of neighborhood concern about hospital certificate of need for Charter North Hospital and Raleigh Hills Hospital.

Thank you for your attention in this matter. I hope to hear from you before the 1985 legislative session.

With best wishes, I am

Sincerely,


Joe P. Josephson
State Senator

JPJ:rak
Enclosures

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT G - ANCHORAGE
1526 F STREET
ANCHORAGE ALASKA 99501
(907) 277-4419



WHILE IN JUNEAU
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JUNEAU ALASKA 99811
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COMMITTEES
HEALTH EDUCATION & SOCIAL SERVICES (CHAIR)
JUDICIARY (VICE CHAIR)
FINANCE
MAJORITY CAUCUS (CHAIR)

October 11, 1984

The Honorable John Pugh
Commissioner
Department of Health and
Social Services
Pouch H-01
Juneau, Alaska 99811

Dear Commissioner Pugh:

I am enclosing copy of a letter to me from officers of a community council in my district who believe that when the state approves hospital certification of need, community councils affected should be notified of the state's intentions before final action, and should be afforded an opportunity for input.

I concur. I suspect that such a requirement has not been considered because community councils have official status under the Anchorage Municipal Charter, which I had the privilege of helping draft as Vice Chairman of the Charter Commission and as Chairman of the Drafting Subcommittee, but community councils may not enjoy similar status elsewhere in Alaska.

Ms. Karl and Mr. Phillips would also favor state notification to community councils as a requirement for all state actions affecting neighborhoods, in advance of such actions.

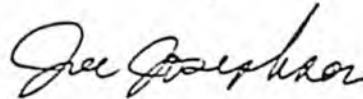
I am also communicating with the Attorney General to determine if and how such a requirement could be developed in state regulations or whether legislation would be necessary to reach that result.

The Honorable John Pugh
October 11, 1984
Page Two

Meanwhile, I would welcome your views as to whether your Department might communicate directly with Anchorage community councils, when the Department contemplates any action which may have impact upon the quality of life in an Anchorage neighborhood.

With best wishes, I am

Sincerely,



Joe P. Josephson
State Senator

JPJ:rak
Enclosure

cc: Attorney General Gorsuch
Barbara Karl
Mark Phillips

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

October 23, 1984

Honorable Joe P. Josephson
Alaska State Senate
1526 "F" Street
Anchorage, AK 99501

Re: Notice of state action to be
furnished community councils

Dear Joe:

Attorney General Gorsuch has asked me to respond to your October 11, 1984 inquiry on this general subject. You mentioned that your inquiry arises in the context of the Airport Heights Community Council's concern about Department of Health and Social Services' handling of certificates of need for Charter North Hospital and Raleigh Hills Hospital. You asked three questions:

1. Under existing statutes, can executive departments of the state and public corporations, such as the Alaska Housing Finance Corporation, be required to notify community councils within the Municipality of Anchorage of proposed state actions of special interest or concern to an Anchorage neighborhood represented by a community council?
2. If so, could this be accomplished by executive order by the Governor or by a regulation promulgated for all agencies, or would each agency have to consider such a regulation as a separate question for that agency to be determined independently from other agencies?
3. To reach the result desired by my constituents, who wish more notification of state action affecting neighborhoods, is a legislative enactment required?

I.

With regard to the first question, the short answer is yes. In fact, for certain kinds of state action, state agencies already are required to notify interested persons and to notify persons who have asked to be put on a mailing list. This is in addition to newspaper publication of notice. For example, a provision in the Alaska Administrative Procedure Act, AS 44.62.-190(a)(2), requires an agency to give notice of proposed regula-

tions adoption to "every person who has filed a request for notice of proposed action with the state agency," and AS 44.62.-190(a)(4)(A) requires the agency "when appropriate in the judgment of the agency, (A) [to mail notice] to a person or a group of persons whom the agency believes is interested in the proposed action." Another statutory provision is AS 46.35.050 which requires the Department of Environmental Conservation to publish newspaper notice, but not individual notice, of certain types of proposed projects affecting the environment.

For certificates of need, AS 18.07.101 authorizes the commissioner of health and social services to adopt regulations governing the review of applications for those certificates. Under that authority, the commissioner has adopted, among other provisions, 7 AAC 07.050(c), which requires, upon acceptance an application as complete, notification of "persons directly affected." That phrase is defined in 7 AAC 07.130(11) to include "members of the public to be served by the activity for which a certificate of need is required." Although even that definition leaves some room for the exercise of discretion, it would appear that the members of the Airport Heights Community Council would indeed be covered by that provision for the purposes of hospitals being built in that community. (I do not know how the Raleigh Hills Hospital proceeded to the construction stage without the council having received notice of the project, as mentioned in Barbara Karl's August 16, 1984 letter to you.)

Thus we see that the legislature has dealt differently with different kinds of state functions. It is also to be expected that the various state agencies will have various ways of executing their respective responsibilities.

II.

As to your second question, it appears to me that the best answer is to seek legislation, rather than some sort of general executive order or administrative regulation. The legislation should specifically address the kinds of programs or functions and the particular steps in the administration of those programs or functions that should require individual notice to members of the public. As discussed in the 1963 study of executive orders, prepared jointly by the Legislative Affairs Agency and the Department of Law, executive orders issued under art. 3, sec. 23 of the Alaska Constitution are limited to the organization of the executive branch or the assignment of functions among its units. Thus, an executive order does not seem appropriate for your purpose.

Honorable Joe P. Josephson
Alaska State Senate

October 23, 1984
Page 3

However, there would seem to be little doubt that the governor would have authority under art. 3, secs. 1 and 24 to issue an administrative order to achieve the result you seek. Under that same authority, the governor could adopt an administrative regulation, as he did for the handling of public records (6 AAC 95). The difficulty, however, would be in preparing an order or regulation of sufficient breadth to cover all of the possible situations that you might think should be included while tailoring it to fit the specific circumstances of each program.

It would, of course, also be possible for individual agencies to include such notice requirements in their respective regulations (as DHSS did for the certificate-of-need program). Again, it would appear that the constitution provides the governor with sufficient authority to direct the agencies to do so. Another possibility would be for a community council to petition certain agencies, under AS 44.62.220, to adopt a regulation that provides for the notice.

My own recommendation would be that the legislature deal with the subject of notice by addressing the specific programs and specific actions for which it believes this additional notice should be required.

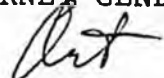
III.

The answer to your third question is no, a legislative enactment is not required. But, as I mentioned in the preceding paragraph, that seems to me to be a preferable course of action. That way the focus would be on specific areas of concern and the idea of additional notice would not get bogged down in the morass of problems that would be engendered by trying to come up with some all-encompassing general directive.

I hope this is of some help to you. Best wishes.

Yours truly,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:md

cc: Hon. John Pugh, Commissioner
Dept. of Health & Social Services

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

October 25, 1984

The Honorable Joe Josephson
1526 F Street
Anchorage, Alaska 99501

Dear Senator Josephson:

Thank you for your letter regarding the Airport Heights Community Council and the concern of its members regarding the Raleigh Hills Hospital and public involvement in the Certificate of Need review process. I agree that input from grassroots groups such as the community councils is important to the Certificate of Need process. Since July when I first became aware of this concern by the Airport Heights Community Council the following steps have been taken.

I have consulted with the State Health Planning and Development Agency within the Division of Planning and with South Central Health Planning and Development on the public process for the Raleigh Hills Certificate of Need application. Although the public process followed during the Raleigh Hills application review met all requirements of the statutes and regulations for public involvement, I believe more can be done to assure that community councils are advised of projects proposed within their areas.

This may be achieved with little additional effort by including all such councils on the health systems agency mailing list for notification of public meetings for consideration of Certificate of Need applications. I have written to each of the three Alaskan health systems agencies to advise them of the concern and to request that they contact the community councils in their respective regions in order to obtain current mailing addresses for those organizations for inclusion on the appropriate mailing lists. I believe that this will ensure that community councils receive notification and that regulatory and statutory changes are unnecessary.

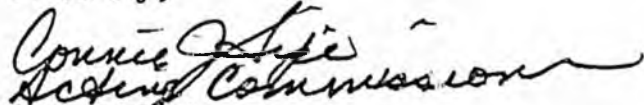
In the case of the Raleigh Hills Hospital project, the Certificate of Need application documents the contacts with the Director of the Federation of Community Councils and with representatives of three separate community councils. Unfortunately, the Airport Heights Community Council was not contacted because at the time of the public review the planned location of the Raleigh Hills Hospital was not within its area. Subsequent to issuance of a Certificate of Need for the Raleigh Hills Hospital, it was necessary for the project sponsor to change the intended location of the facility.

October 25, 1984

It is my understanding that the local planning and zoning boards or councils have responsibility to contact residents of the area to give notice of the proposed location of such a facility within a given neighborhood when a construction permit is requested. Because the site of such facilities is primarily a matter for local consideration, I do not propose to change the Certificate of Need process to address specific locations. Additionally, I have written to Anchorage Mayor Tony Knowles regarding the concern expressed in your letter, noting that local governments inform neighborhoods of requests for construction permits and that health systems agencies are assuming responsibility for notifying community councils and other similar groups of public meetings on Certificate of Need applications.

Again, I thank you for your interest in facilitating communication between the Department of Health and Social Services and local neighborhoods when Department action may have local impact. I will welcome further suggestions from you or the Airport Heights Community Council for improvement of the public process for Certificate of Need reviews.

Sincerely,


John R. Pugh
Commissioner

cc: Airport Heights Community Council
Patricia R. Alexander, Director
Division of Planning

§ 04.06.020

ALASKA STATUTES

§ 04.06.060

For legislative history of liquor control, see *Boehl v. Sabre Jet Room, Inc.*, Sup. Ct. Op. No. 3 (File No. 17), 349 P.2d 585 (1960), decided under former AS 04.05.010.

Am. Jur. 2d, ALR, and C.J.S. references. — 45 Am. Jur. 2d, Intoxicating Liquors, § 1 et seq.

Federal constitutional and legislative

provisions as to intoxicating liquor as affecting state legislation, 10 ALR 1587; 11 ALR 1320; 26 ALR 661; 70 ALR 132.

Test of intoxicating character of bought beverages, 4 ALR 1137; 11 ALR 1233; 19 ALR 512; 36 ALR 725; 91 ALR 513, 528. 48 C.J.S. Intoxicating Liquors § 1 et seq.

Sec. 04.06.020. Appointment and qualifications. The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. No three members of the board may be engaged in the same business, occupation, or profession. (§ 1 ch 131 SLA 1980)

Cross reference. — As to appointment, qualifications, and terms of office of members of departmental boards, councils, or commissions, see AS 39.05.060.

Sec. 04.06.030. Terms of office. (a) Members of the board shall be appointed for overlapping terms of three years.

(b) A vacancy occurring in the membership of the board shall be filled within 30 days by appointment of the governor for the unexpired portion of the vacated term.

(c) The board shall select a chairman from among its members. (§ 1 ch 131 SLA 1980)

Cross reference. — As to appointment, qualifications, and terms of office of members of departmental boards, councils, or commissions, see AS 39.05.060.

Editor's note. — Section 14, ch. 131,

SLA 1980 provides: "Notwithstanding AS 04.06. members of the Alcoholic Beverage Control Board serving on the board on the effective date of this Act continue in office until the expiration of their terms."

Sec. 04.06.040. Per diem and expenses. Members of the board do not receive a salary, but are entitled to per diem and travel expenses authorized by law for other boards and commissions. (§ 1 ch 131 SLA 1980)

Sec. 04.06.050. Meetings. The board shall meet at the call of the chairman. The board shall also meet at least once each year in each judicial district of the state to study this title and to modify existing board regulations in light of statewide and local problems. (§ 1 ch 131 SLA 1980)

Sec. 04.06.060. Quorum and majority. Three members of the board constitute a quorum for the conduct of business, except that a

Article 7. Board Procedures.

Section

510. Procedure for action on license applications, suspensions, and revocations

Sec. 04.11.510. Procedure for action on license applications, suspensions, and revocations. (a) Unless a legal action relating to the license, applicant or premises to be licensed is pending, the board shall decide whether to grant or deny an application within 90 days of receipt of the application at the main office of the board. However, the decision may not be made before the 30 days allowed for protest under AS 04.11.480 have elapsed unless waived by the municipality.

(b) The board may review an application for the issuance, renewal, transfer of location, or transfer to another person of a license without affording the applicant notice or hearing, except

(1) if an application is denied, the notice of denial shall be furnished the applicant immediately in writing stating the reason for the denial in clear and concise language; the notice of denial shall inform the applicant that he is entitled to an informal conference with either the director or the board, and that, if not satisfied by the informal conference, he is then entitled to a formal hearing before the board; if the applicant requests a formal hearing, the board shall adhere to AS 44.62.330 — 44.62.630 (Administrative Procedure Act); all interested persons may be heard at the hearing and unless waived by the applicant and the board, the formal hearing shall be held in the area for which the application is requested;

(2) the board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local governing body to an application if a hearing is not required under (1), (3), or (4) or this subsection;

(3) if a petition containing the signatures of 35 percent of the adult residents having a permanent place of abode outside of but within two miles of an incorporated city or an established village is filed with the board, the board shall hold a public hearing on the question of whether the issuance, renewal, or transfer of the license in the city or village would be in the public interest;

(4) if a protest to the issuance, renewal, transfer of location or transfer to another person of a license made by a local governing body is based on a question of law, the board shall hold a public hearing.

(c) Unless the grounds for the suspension or revocation are under AS 04.11.370(4), board proceedings to suspend or revoke a license shall be conducted in accordance with AS 44.62.330 — 44.62.630 (Administrative Procedure Act), except that the licensee is entitled to an opportunity to informally confer with the director or the board within 10 days after the accusation is served upon him. Notice of the opportunity for an informal conference shall be served upon the licensee along with the

accusation. If an informal conference is requested, the running of the period of time specified in AS 44.62.380 for filing a notice of defense is tolled from the date of receipt of the request for the conference until the day following the date of the conference unless extended by the board. After the conference, the licensee, if not satisfied by the results of the conference, may obtain a hearing by filing a notice of defense as provided in AS 44.62.390. If the grounds for suspension or revocation are under AS 04.11.370(4), the licensee is not entitled to notice and hearing under AS 44.62.330 — 44.62.630 on the merits of the suspension or revocation. However, the board shall afford the licensee notice and hearing on the issue of what administrative sanction to impose under AS 04.16.180.

(d) The board may not accept an application for the issuance, renewal, or transfer of a license within one year after a local option election. (§ 2 ch 131 SLA 1980; am § 12 ch 28 SLA 1981)

Effect of amendments. — The 1981 amendment added subsection (d).

Article 9. Miscellaneous Provisions.

Section

680. Duration of licenses and permits

Sec. 04.11.610. Refund to municipalities.

Opinions of attorney general. — The Commissioner of Revenue has the authority under this section to deny refunds of liquor license fees to the City and Borough of Juneau if City and Borough of Juneau police officers fail to actively enforce local, state, and federal law. February 6, 1984, Op. Att'y Gen.

The City and Borough of Juneau need not be excused, for purposes of this section, from failure to enforce laws in areas where it does not exercise police powers at all. February 6, 1984, Op. Att'y Gen.

Sec. 04.11.680. Duration of licenses and permits. (a) Upon application and payment of one-half of the annual fee, the board may issue a license under AS 04.06.010 — 04.21.080 which will be effective for a continuous six-month period. Otherwise, all licenses issued under AS 04.06.010 — 04.21.080 other than a retail stock sale license are effective for the calendar year ending December 31, unless a shorter period is prescribed by the board or by law.

(b) A permit issued under AS 04.06.010 — 04.21.080 shall be for the period prescribed by the board, which period shall be clearly designated on the permit. (§ 2 ch 131 SLA 1980; am § 13 ch 28 SLA 1981)

Effect of amendments. — The 1981 amendment added "or by law" at the end of the second sentence of subsection (a).

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Editor's note. — The cases cited in the note below were decided under former AS 04.05.030, 04.15.100, and earlier statute.

Compliance with Administrative Procedure Act. — An authorized proceeding of the Alcoholic Beverage Control Board to consider a license application constituted a public hearing on the application, and as such, was subject to the requirements of the Administrative Procedure Act (AS 44.62). *Ketchikan Retail Liquor Dealers Ass'n v. State, ABC Bd., Sup. Ct. Op. No. 1963 (File No. 3697), 602 P.2d 434 (1979).*

Discretion. — That lawful and sound,

and not arbitrary, discretion must be exercised in granting or refusing licenses is beyond question. In re Alaska Labor Trades Ass'n, 10 Alaska 472 (1945).

For discussion of hearing required before suspension of license under prior law, see *Frontier Saloon, Inc. v. Alcoholic Beverage Control Bd., Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).*

Am. Jur. 2d and C.J.S. references. —
45 Am. Jur. 2d Intoxicating Liquors §§ 153-169.
48 C.J.S. Intoxicating Liquors §§ 142-166.

Sec. 04.11.520. Notice to local governing body. After receipt of an application from within (1) an established village, (2) an incorporated city, (3) an organized borough, or (4) a unified municipality, the board shall transmit written notice to the local governing body within 10 days so that the local governing body may protest under AS 04.11.480. (§ 2 ch 131 SLA 1980)

Sec. 04.11.530. Consideration of reports. A license may not be suspended or revoked under AS 04.11.370(4) or (5) unless the board considers the reports prepared by arresting and investigating officers and the sentencing report sent to the board under AS 12.55.025(b). (§ 2 ch 131 SLA 1980)

Sec. 04.11.535. Suspension and revocation based on acts of employees. (a) If, in a proceeding to suspend or revoke a license under AS 04.11.370(5), the board finds that a sentencing report sent to the board under AS 12.55.025(b) or a report prepared by the investigating or arresting officers in connection with the violation, contains information which if uncontradicted or unexplained would provide a ground for suspension or revocation under AS 04.11.370(5), the licensee has the burden of proof to establish that he neither knowingly allowed the violation nor recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030.

(b) If the board suspends or revokes a license on grounds that a licensee knowingly allowed or recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030 resulting in unlawful action of an agent or employee, the board shall file a criminal complaint charging the licensee with violation of AS 04.16.150. (§ 2 ch 131 SLA 1980)

Sec. 04.11.537. Application of precedent. In determining whether issuance, renewal, transfer, suspension, or revocation of a license is in the best interests of the public, the board need not conform to or distinguish its decision from any action it has taken in the past on applications presenting similar facts, but may instead base its decision only on the particular facts before it. (§ 2 ch 131 SLA 1980)

Chapter 30. Prison Facilities and Prisoners.

Article

1. Establishment, Control and Management of Prison Facilities (§§ 33.30.010 — 33.30.080)
2. Commitments (§§ 33.30.090 — 33.30.190)
3. Employment and Furloughs (§§ 33.30.225 — 33.30.280)
4. Miscellaneous Provisions (§§ 33.30.290 — 33.30.320)
5. General Provisions (§ 33.30.900)

Article 1. Establishment, Control and Management of Prison Facilities.

Section

10. Commissioner to control and manage state prison facilities
20. Commissioner to establish and administer prison facilities
30. Commissioner to adopt rules and regulations
40. Duty of commissioner to provide prison facilities
50. Commissioner to provide medical services

Section

55. [Repealed]
60. Commissioner may contract for confinement and care of prisoners
70. Commissioner may contract to furnish facilities to United States or political subdivision of this state
80. Commissioner may lease state prison facility to political subdivision

Sec. 33.30.010. Commissioner to control and manage state prison facilities. ~~The commissioner has control and management of state prison facilities.~~ (§ 2 ch 133 SLA 1960)

Cross references. — As to prisoners working on trails and campsites, see AS 41.20.110(b).

NOTES TO DECISIONS

Duty to promulgate regulations. — The commissioner is under a legislative mandate and has the concomitant duty to promulgate appropriate regulations concerning prison facilities and the numerous other matters coming within the ambit of this chapter. *McGinnis v. Stevens*, Sup. Ct. Op. No. 1517 (File No. 3094), 570 P.2d 735 (1977).

Commissioner's control of prison system. — There are strong indications of a legislative intent to leave the establishment, control, and management of the prison system in the hands of the Commissioner of the Department of Health and Welfare whenever practical under the state constitution. *Rust v. State*, Sup. Ct. Op. No. 1668 (File No. 3172), 582 P.2d 134,

on rehearing modified on other grounds, 584 P.2d 38 (1978).

Administration must be neither arbitrary nor vindictive. — As an extension of the state, the Division of Corrections must administer Alaska's prisons in a manner which is neither arbitrary nor vindictive. *Rust v. State*, Sup. Ct. Op. No. 1668 (File No. 3172), 582 P.2d 134, on rehearing modified on other grounds, 584 P.2d 38 (1978).

Authority to designate specific facility for incarceration. — See notes under same catchline, AS 33.30.100, Notes to Decisions.

Cited in *McGinnis v. Stevens*, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

§ 35.27.030

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§ 35.30.010

PUBLIC BUILDINGS AND WORKS

§ 35.30.010

Effect of amendments. — The first 1977 amendment inserted "schools, office buildings, court buildings and other facilities which are designed for substantial public use" in paragraph (2) and added paragraph (3).

The second 1977 amendment

substituted "Department of Transportation and Public Facilities" for "Department of Public Works" in paragraph (1).

The 1980 amendment rewrote paragraph (2), and added paragraph (4).

Chapter 30. Consistency with Local Government Plans and Ordinances.

Section

10. Review and approval by local planning authorities
20. Compliance with municipal ordinances

Section

30. Waiver
40. Definitions

Cross reference. — As to construction procedures, see AS 35.15.010 et seq.

Sec. 35.30.010. Review and approval by local planning authorities. (a) Except as provided in (b) of this section, before commencing construction of a public project,

(1) if the project is located in a municipality, the department shall submit the plans for the project to the planning commission of the municipality for review and approval;

(2) if the project is located within two miles of a village, the department shall submit the plans to the village council for review and comment.

(b) Prior approval by a municipal planning commission may not be required before the commencement of construction of a highway or local service road if

(1) the Department of Transportation and Public Facilities and the municipality have entered into agreement for the planning of the project under AS 19.20.060 or 19.20.070 and the plans for the project are completed in accordance with the terms of that agreement;

(2) the municipality has adopted a municipal master highway plan under AS 19.20.080 and the highway or local service road is consistent with the plan adopted; or

(3) the Department of Transportation and Public Facilities has entered into agreement with the municipality for the planning of transportation corridors under AS 19.10.280 and the plans for the project are completed in accordance with the provisions of that agreement.

(c) If final disapproval by resolution of the governing body of the affected municipality or village is not received within 90 days from the

Article

6. Leasing of Mineral Lands (§§ 38.05.135 — 38.05.184)
7. Mining Rights (§§ 38.05.185 — 38.05.280)
8. Multiple Mineral Development of the Same Tracts (§ 38.05.285)
9. Land Selection (§ 38.05.290)
10. Parks and Recreation Areas (§ 38.05.295)
11. Classification of Land (§§ 38.05.300 — 38.05.321)
12. State Control of Certain Land (§§ 38.05.500 — 38.05.505)
13. Miscellaneous Provisions (§§ 38.05.810 — 38.05.872)
14. General Provisions (§§ 38.05.910 — 38.05.990)

Revisor's notes. — Through administrative reorganization, the Department of Natural Resources has eliminated the division of lands. Duties and responsibilities given to the division of lands under this chapter have been assigned to other divisions of the depart-

ment. Duties and responsibilities given to the director of the division of lands under this chapter have been assigned to the deputy commissioner for operations, who has been given the additional title "director of lands."

NOTES TO DECISIONS

Chapter enacted pursuant to Alaska Const., art. VIII, § 10. — See Moore v. State, Sup. Ct. Op. No. 1284 (File Nos. 2551, 2587), 553 P.2d 8 (1976); North Slope Borough v. LeResche, Sup. Ct. Op. No. 1687 (File No. 3275), 581 P.2d 1112 (1978). Cited in Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d

1 (1979); Hammond v. North Slope Borough, Sup. Ct. Op. No. 2499 (File Nos. 5550, 5558), 645 P.2d 750 (1982); State v. First Nat'l Bank, Sup. Ct. Op. No. 2591 (File Nos. 5006, 5107), 660 P.2d 406 (1982); Gilman v. Martin, Sup. Ct. Op. No. 2652 (File No. 5937), 662 P.2d 120 (1983).

Article 1. Administration.**Section**

05. Division of lands
10. Appointment of director
15. Director serves at pleasure of commissioner
20. Authority and duties of the commissioner
25. Continuing regulations, agreements, etc.
27. Cooperative resource management or development agreements

Section

30. Exceptions
35. Powers and duties of the director
36. Audit of royalty and net profit payments
37. Zoning regulations in the unorganized borough to facilitate federal land sales
40. Director shall be bonded

Collateral references. — 72 Am. Jur. 2d, States, Territories, and Dependencies, § 66.

73 C.J.S., Public Lands, § 237.

Certainty: requirements as to certainty and completeness of terms of lease in agreement to lease, 85 ALR3d 414.

DNR

38.04.910

§ 38.04.910

PUBLIC LANDS

§ 38.04.910

approved and accepted by the division for the state's official records;

(6) "official control survey" means a position marked on the ground by triangulation or traverse stations established in conformity with standards adopted by United States Coastal and Geodetic Survey for first, second and third order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and approved by the division;

(7) "short-term lease" means a lease for a term of five years or less;

(8) "state park" means an area of state land designated by law to be managed for public use and enjoyment of recreational, scenic, cultural, historical, wilderness, and similar values, and includes roadside rests and recreational beaches, state monuments and historic sites, state recreation areas and state parks, including marine parks;

(9) "state trail" means an area designated by law to be managed as a public historic or recreational trail including but not limited to

(A) trails designated under AS 41.21.850 — 41.21.860, wilderness trails and campsites; and

(B) trails and footpaths designated under AS 41.21.864 — 41.21.872;

(10) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the state land consistent with multiple use;

(11) "wild and scenic river" means a free-flowing river or stream designated as provided in 16 U.S.C. 1271-1287 (Wild and Scenic Rivers Act, 82 Stat. 906). (§ 5 ch 181 SLA 1978; am § 95 ch 6 SLA 1984)

Cross references. — For state parks and recreation areas, see AS 41.21; for state monuments and historic sites, see AS 41.35.030.

Effect of amendments. — The 1984 amendment rewrote paragraph (8).

NOTES TO DECISIONS

Sustained yield principle. — The "sustained yield principle" as used in Alaska Const., art. VII, § 4, accords with the definition set forth in paragraph (10) of this section, and the added language in the "sustained yield" definition of AS 41.17.950 that it "does not require that timber be harvested in a nondeclining

yield basis over a rotation period" should be read as permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances. Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

Chapter 05. Alaska Land Act.

Article

1. Administration (§§ 38.05.005 — 38.05.040)
2. Sale of Lands (§§ 38.05.045 — 38.05.069)
3. Leasing of Lands Other than for the Extraction of Natural Resources (§§ 38.05.070 — 38.05.105)
4. Disposal of Timber and Materials (§§ 38.05.110 — 38.05.120)
5. Reservation of Rights to Alaska (§§ 38.05.125 — 38.05.130)

ble qualified bidder by competitive bidding under general competitive leasing regulations subject to all outstanding valid interests therein and valid options pertaining thereto. Likewise if, in any such proceeding, less than the whole interest in a lease, interest, or option is canceled or forfeited to the state, the partial interests so canceled or forfeited shall be sold by the director to the highest responsible qualified bidder under general competitive leasing regulations. (§ 1 ch 18 SLA 1964; am § 68 ch 59 SLA 1982)

Revisor's notes. — Formerly AS 38.05.351. Renumbered in 1984. amendment, substituted "chapter" for "section" near the beginning of the section.

Effect of amendments. — The 1982

Sec. 38.05.940. Veterans' land discount. (a) An eligible veteran is entitled to a discount of 25 percent on the purchase price of state land sold under this title and classified under AS 38.05.005 — 38.05.270 for a use other than commercial or industrial use.

(b) To be eligible for a discount under this section, a veteran shall submit proof, as required by regulation, that the veteran

(1) is 18 years of age or older on the date of sale;

(2) has been a state resident for a period of not less than one year immediately preceding the date of sale;

(3) has served on active duty in the U.S. Armed Forces at least two years, unless tenure was shortened due to a service connected disability or due to receiving an early separation upon return from a tour of duty overseas; and

(4) has received an honorable discharge or a general discharge under honorable conditions.

(c) A veteran is entitled to only one discount under this section during the veteran's lifetime.

(d) A discount under this section may be applied only to the acquisition of surface rights to state land. A discount under this section may not be applied to survey costs, road development costs, utility assessments, or other costs that the commissioner determines are reimbursable to the state.

(e) A discount under this section may not be used toward the purchase of land offered at a restricted sale under AS 38.05.067. (§ 48 ch 152 SLA 1984)

Sec. 38.05.945. Notice. (a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law;

(3) a decision under AS 38.05.035(e) regarding the sale, lease, or disposal of an interest in state land or resources; and

(4) a competitive disposal of an interest in state land or resources after final decision under AS 38.05.035(e).

(b) Notice of one or more actions described in (a) of this section shall be given at least 30 days before the action by publication in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action and one or more of the following methods:

(1) publication through public service announcements on the electronic media serving the area affected by the action,

(2) posting in a conspicuous location in the vicinity of the action,

(3) notification of parties known or likely to be affected by the action, or

(4) another method calculated to reach affected persons. A notice shall contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on the action.

(c) Notice at least 30 days before action under (a) of this section shall also be given to the following:

(1) to a municipality if the land is within the boundaries of the municipality;

(2) to a regional corporation if the boundaries of the corporation as established by sec. 7(a) of the Alaska Native Claims Settlement Act encompass the land and the land is outside a municipality;

(3) to a village corporation organized under sec. 8(a) of the Alaska Native Claims Settlement Act if the land is within six miles of the village for which the corporation was established and the land is located outside a municipality;

(4) to the postmaster of a permanent settlement of more than 25 persons located within six miles of the land if the land is located outside a municipality, with a request that the notice be posted in a conspicuous location.

(d) Notice is not required under this section for a permit or other authorization revocable by the department.

(e) The provisions of this section do not apply to a lease issued under AS 38.05.205.

(f) The provisions of this section do not apply to a production license issued under AS 38.05.207. (§ 10 art III ch 169 SLA 1959; am § 8 ch 61 SLA 1960; am § 2 ch 74 SLA 1961; am § 3 ch 117 SLA 1976; am § 14 ch 257 SLA 1976; am §§ 39, 40 ch 85 SLA 1979; am § 4 ch 108 SLA 1981; am § 36 ch 113 SLA 1981; am § 3 ch 87 SLA 1982; am §§ 44 — 46 ch 152 SLA 1984)

Revisor's notes. — Formerly As section (h) now appears as subsection (e). 38.05.345. Renumbered in 1984. The second 1981 amendment rewrote this section.

Effect of amendments. — The first 1981 amendment added a subsection (h) to this section.

The 1982 amendment added subsection (f).

The 1984 amendment, in subsection (a),

2.40.030 Definition and recognition of community councils.

A. Community councils defined. "Community councils" are nonprofit, voluntary, self-governing associations composed of residents, property owners, business owners and representatives from nonprofit associations and other entities located within geographical areas designated as districts by (the Assembly). ~~"Residents," for the purpose of this chapter, are defined as: Residents, property owners and representatives from nonprofit associations and other entities located within geographical areas designated as districts by the Assembly.~~

municipal charter or ordinance

B. Recognition of community councils. Upon request of one or more voluntary associations and after public notice and hearing, the Assembly may recognize by resolution any one voluntary association as the community council for a given district. To qualify for and maintain recognition, an association must establish that it:

1. meets the definition of a "community council" as set forth in subsection A of this section;
2. has a policy and practice of open membership which encourages participation of persons from all segments of the community;
3. does not charge dues, or require other financial contribution as a condition of membership or participation, in excess of \$5.00 per member per year; however, such organization may receive contributions of no more than \$50.00 per member per year from members to meet the costs of its operations;
4. is, in the opinion of the Assembly, representative of the residents in the district;
5. has held at least two meetings in the district which resulted in a determination to seek recognition as a community council. Such meetings must have been subsequent to public notice through newspaper publication, school distribution and other means adequate to inform most, if not all, district residents of the meeting. (GAAB 5.75.020).

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PLANNING,

BILL SHEFFIELD, GOVERNOR

POUCH H 01A
JUNEAU, ALASKA 99811
PHONE: 465-3037

March 12, 1985

RECEIVED

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Josephson,

The Honorable Joe P. Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

Re: Senate Bill 26

Thank you for your recent letter regarding your decision to omit certificate of need notification to community councils from Senate Bill 26. Our agency is working on revisions to the regulations and will include Community Councils to the list of persons to be notified. My staff has updated our community council mailing list with the new one you graciously provided and the appropriate community council contact person will be notified of certificate of need activity.

I am grateful for the opportunity to share ideas on this bill with you and appreciate your positive response to my suggestions.

Sincerely,



Patricia R. Alexander
Director

TO: Senate HESS Committee members
FROM: Senator Josephson
DATE: April 30, 1985

Joe Josephson

RE: CS for Sponsor Substitute for SB 26 (C&RA)
"An Act relating to notification of community
councils of certain state actions"

Under this bill, those community councils created by municipal charter or ordinance would receive the following notification:

Alcohol Beverage Control Board

The board shall notify community councils created by municipal charter or ordinance of the receipt of liquor license applications (Sec. 3), meeting agendas (Sec. 1), and application hearings (Sec. 2).

Prison Facilities

The Department of Corrections shall notify community councils of the Department's plans to locate a prison facility or halfway house within an area represented by a community council.

Transportation and Public Facilities

The Department of Transportation and Public Facilities shall notify community councils of plans for public projects located within the area represented by the community council and allow for comment from the councils.

State Land Actions

The Department of Natural Resources shall notify community councils if state land within the area represented by the council is classified or reclassified, zoned, sold, leased or otherwise disposed of.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: Sponsor Substitute for Senate Bill 26

APPROVED: *W. J. Knapp*
R. J. Knapp
for Commissioner

TITLE: Notice to Community Councils

DATE: 2-22-85

The Department is pleased to see the Sponsor Substitute for Senate Bill 26 since we feel that it provides community councils with a much more workable arrangement for the review of construction projects proposed by the Department within areas served by the community councils. Currently the Department submits plans of all pending construction projects to the municipalities. This substitute bill would require the Department to also submit these plans directly to community councils authorized under municipal charter in impact areas. Since the Department submits plans for municipal review in a timely fashion allowing comment to be reflected in design and project management changes, a concurrent review by community councils would provide those individuals in the immediate vicinity of a project (and therefore most likely to be impacted by it) a reasonable time and sufficient materials to request project improvements.

The substitute bill also considers activities of the Alcoholic Beverage Control Board which fall outside the mandate of the Department of Transportation and Public Facilities and therefore this position paper remains mute to those items.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SSSB 26
 Title: Notice to Community Councils
 Sponsor: Senator Josephson
 Requestor: Same
 Date of Request: 2/21/85

FISCAL DETAIL

Agency Affected: DOT&PF
 Program Category Affected: Transportation
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Although this bill would require a duplication of paperwork in submitting public project plans to municipal councils as well as planning commissions, the requirement melds with the current process well enough to warrant no increased costs to the Department.

Prepared By: *Carol Taylor* Phone: 465-4070
 Division: Plans and Programs, Headquarters Date: 2/21/85
 Approved by Commissioner: *Wm S. Spurlin* Date: 2/25/85
 Agency: DOT&PF

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSSSB26
 Title: Notification of
community councils
 Sponsor: _____
 Requestor: Sen. HESS Committee
 Date of Request: April 5, 1985

FISCAL DETAIL

Agency Affected: Dept. of Revenue
 Program Category Affected: Public
Protection
 BRU, Program or Subprogram(s) Affected: Alcoholic Beverage Control Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		.5	.5	.5	.5	.5
300 CONTRACTUAL		.7	.7	.7	.7	.7
400 SUPPLIES		.3	.3	.3	.3	.3
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	1.5	1.5	1.5	1.5	1.5

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	1.5	1.5	1.5	1.5	1.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Patrick L. Sharrock
 Division: Alcoholic Beverage Control Board

Phone: 277-8638

Date: 4-10-85

Approved by Commissioner: Mary A. Nordmark
 Agency: Department of Revenue

Date: 4/11/85

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

SB 26, An Act relating to notification of community councils of certain state actions.

Under SB 26, community councils would receive notification of the following state activities:

- 1) by the Department of Transportation and Public Facilities, of plans for construction of public projects;
- 2) by the Department of Corrections, of plans to locate a prison facility or halfway house;
- 3) by the Department of Natural Resources, of classification or disposal of state land;
- 4) by the Alcoholic Beverage Control Board, of meetings and liquor license hearings.

A proposed amendment defining community council is attached.

file SB26

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 1/13/86

REQUEST

Bill/Resolution No.: SSSB 26
 Title: Notification of community councils
 certain state actions
 Sponsor: Senator Josephson
 Requestor: _____
 Date of Request: March 4, 1985

FISCAL DETAIL

Agency Affected: C&RA
 BRU: Local Government Assistance
 Components: Training & Development

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Doug Griffin, Deputy Director *Griffin*
 Division: Municipal & Regional Assistance

Phone: 465-4750
 Date: 1/13/86

Approved by Commissioner: _____ *Kevin Nadeau*
 Agency: Community & Regional Affairs

Date: 1/17/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

SB 26 - RELATING TO COMMUNITY COUNCILS

SB 26 REQUIRES 4 STATE AGENCIES TO PROVIDE INFORMATION DIRECTLY TO COMMUNITY COUNCILS ABOUT CERTAIN ACTIVITIES THAT AFFECT THE AREA UNDER THE COUNCIL'S JURISDICTION:

- DOT/PF - PLANS FOR CONSTRUCTION OF PUBLIC PROJECTS
- CORRECTIONS PLANS TO LOCATE A PRISON FACILITY OR HALFWAY HOUSE
- DNR PLANS TO CLASSIFY, RECLASSIFY, OR DISPOSE OF LAND
- ABC BOARD MEETINGS AND LIQUOR LICENSE HEARINGS

ANCHORAGE AND MAT-SU HAVE CREATED COMMUNITY COUNCILS BY ORDINANCE IN AREAS THAT ARE UNDERGOING RAPID CHANGE OR GROWTH.

STATE OF ALASKA
THE LEGISLATURE

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

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

S-HESS 1-22-85 4:20pm

5-2-85 1:34pm

S-CRA 2-26-85 4:25pm