

H B

297

FILE CONTENTS

FILE NAME HB 297

Ref. 4/29/87

#	Date In	Doc. Type	Date	Subject	DESCRIPTION	From	Distrib.
①	4-29-7	Bill	4/29/7	HB 297		Doc	✓
②	5-8-7	FN.	4-29-7	Corrections		Th	✓
③	5-8-7	Pos PR FN	5-8-7	DUR Paper. + FN		Th	✓
④	5-8-7	paper.	5-8-7	Community Council Wolf Bill		Th	✓
⑤	5-8-7	Statute	5-8-7	existing statutes		Th	✓
⑥	5-11-7	Ltr +	5-8-7	To: Spr. Fr. Sharrock (ABC)	12 pgs.	Th.	✓
⑦	5-11-7	Memo.	5-8-7	To: Spr. Fr. Donley		Th	✓
A	5-11-7	W.S.	5-11-7	Work Sheet.		Th	✓
⑧	5-11-7	Pos P.	5-11-7	Pos. Paper DOT		Th	
⑨	5-11-7	Ltr	5-9-7	testimony - Federation of Council		Th	✓
⑩	5-11-7	P.P.	5-11-7	Pos. Paper DOT IPP		OOT	✓
⑪	5-11/7	CS	5-11-7	Work Draft CS HB297 ()		Donley	✓
⑫	5-11-7	Sec.	5-11-7	Sec Analysis		Pouchot	✓
⑬	5-11-7	CS	5-11-7	Work Draft CS HB297 (CRA)		Donley	✓
B	5-12-7	W.R.	5-11-7	Wit. Reg.		3	✓
C	5-14-7	Min	5-11-7	Minutes	Zawacki Pouchot Hansen Yegies	3	✓
14				Sec. Analysis			
15				WD 5-0839 L	Donley's bill remove PM.		
16				WD 5-0839 B	remove pocket word edit Len		
⑭	5-15-7	Cum Rpt.	5-16-7	Committee Rpt.		3	✓
⑮	5-15-7	CS HB297	5-16-7	Com. Sub. HB 297		3	✓
D	5-15-7	W.R.	5-15-7	Wit Reg		3	✓
E	5-17-7	Notice	5-5-7	Notice of Prop. Chgs - Regs - ABC		Th.	h
F	5-21-7	Min	5-15-7				

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

House	C+RA	5-11-87	3:00 p.m.
"	"	5-15-87	3:00 p.m.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

Spw / CRA
STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

January 27, 1988

The Honorable Heinrich Springer
Chair, House Community and
Regional Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

JAN 27 1988

Dear Representative Springer:

Subject: CSHB 297 - An Act relating to the notification to community and nonprofit community councils of certain state actions.

Position: The Department of Natural Resources (DNR) supports the concept and intent of CSHB 297 but recommends that the committee consider technical modification to Sec. 7(c) of the CS, as described below.

Background: The department takes hundreds of actions each year that require public notice and sends out thousands of notices. Anyone who requests notice of an action is provided with it, and municipalities are provided with notices of activities which will occur within municipal boundaries.

As previously stated in the department's May 8, 1987, position paper on HB 297, community councils are created under municipal charter or ordinance. There is no statewide federation of councils that can supply information about council locations, contacts or geographic boundaries. Neither community councils nor coordinating bodies are subject to statewide statutory requirements to identify their existence, geographic boundaries, or a contact person. Although, at least in Anchorage there appears to be a Federation of Community Councils, there is no state statute requiring a federation of community councils.

Therefore, the department is concerned that this bill will impose a statutory requirement of notification to bodies whose existence, contacts, and location may be difficult or impossible to verify. This bill, in its present form, would seem to require department personnel to ferret out the existence of community councils or coordinating bodies

Representative Springer

-2-

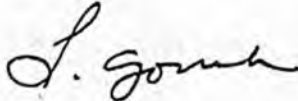
January 27, 1988

before taking any action in an area. While this may be relatively easy in the Anchorage area, which has a well established system of community councils, it may prove to be much more difficult in other areas of the state.

Recommendation: Therefore, the Department of Natural Resources would suggest that, in addition to the above bill, the committee consider language requiring community councils and coordinating bodies which wish to be noticed under AS 38.05.945(c) to register a map and current address and contact on an annual or biannual basis with the appropriate state agency. We also suggest that a provision be added which states that a failure to provide notice does not invalidate the proposed action (see AS 44.62.190(c)).

We look forward to working with the committee and staff on this legislation.

Sincerely,



Judith M. Brady
for Commissioner

cc: Sponsors
Committee Members
Rod Swope
Bob Evans

FISCAL NOTE

REQUEST:

Revision Date: 1/26/88
Title: Notice to Community Councils & Postmasters of Certain State Actions
Sponsor: Donlev, Barnes, Brown, et.al.
Requestor: House Community & Regional Affairs

Agency Affected: Natural Resources
BRU: Land & Water Management/ and Mining Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		2.8	2.8	2.8	2.8	2.8
TRAVEL						
CONTRACTUAL		2.0	2.0	2.0	2.0	2.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		5.8	5.8	5.8	5.8	5.8

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		5.8	5.8	5.8	5.8	5.8
FEDERAL FUNDS						
OTHER						
TOTAL		5.8	5.8	5.8	5.8	5.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Janet Burleson
Division: Land and Water Management

Phone: 465-3400
Date: 1/26/88

Approved by Commissioner: [Signature]
Agency: Natural Resources

Date: _____

Distribution (by preparer) :

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

ANALYSIS: 1988 Legislative Session
Fiscal Note - HB 297
Page 2 of 2

	<u>FY 89</u>	<u>FY 90-93</u>
<u>100 Personal Services</u>		
Natural Resource Officer I / 1 Month	2.8	2.8
<u>300 Contractual</u>		
Certified Mailing/Duplication, postage	2.0	2.0
<u>400 Supplies</u>		
Paper/Envelopes	1.0	1.0
	<hr/>	<hr/>
TOTAL	5.8	5.8

Each year would require the equivalent of one month of a Natural Resource Officer I to meet the notice requirement. These are estimated Department wide costs. Clerical staff would also be impacted, but we do not know the extent.

No information is available concerning costs to the State for failing to notify a council of a proposed action.

These estimates are made with the following assumptions:

- 1) That maps, current mailing addresses, and contacts for community councils established by municipal charter or ordinance are provided to DNR. This can be implemented by amending AS 29.20.640 to add:
 - (6) maps, current addresses, and contacts for community councils established by municipal charter or ordinance to advise the municipal governing body
- 2) That the Department of Community and Regional Affairs provides the above information [pursuant to AS 29.20.640(6)] to DNR on a regular basis (annually) for DNR's AS 38.05.945 notice. This can be accomplished by amending AS 44.47 to include the notice to DNR.

MAY 11 1987

NOTICE OF THE PROPOSED CHANGES
IN THE REGULATIONS OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD
(Department of Revenue)

NOTICE IS HEREBY GIVEN that the Alcoholic Beverage Control Board, under authority vested by AS 04.06.100, proposes to adapt and amend regulations in title 15, chapter 104 of the Alaska Administrative Code to implement and clarify Title 4 of the Alaska Statute titled "Alcoholic Beverages." This action is not expected to require an increased appropriation. The proposals are described below:

1. 15 AAC 104.105(e) is amended to change license application fees to conform to funding requirements submitted in the board's operating budget for fiscal year ending June 30, 1988.
2. 15 AAC 104.305 is amended to change and clarify criteria for designation of restaurant or eating place licensed premises and place limitations on when, to whom, and where alcoholic beverages may be sold, served, and consumed under such a license.
3. 15 AAC 104.525(a) is amended to provide that whether notices of violation will be issued is at the staff's discretion, and to clarify the effect and use of notices of violations.
4. 15 AAC 104.690 is amended by adding a new section to establish a "club license caterer's permit" to enable holders of a club license to sell alcoholic beverages at club events not open to the public and held off a club's primary licensed premises for a specific day, event, and time.

NOTICE IS ALSO GIVEN that any interested person may present oral or written statements or arguments relevant to the proposed action. The Board will hold a public hearing for receiving public comments at the Federal Building, Room C121 at 701 "C" Street, Anchorage, Alaska, at 10:30 a.m. on May 28, 1987. Written comments may be made by mailing them to the Alcoholic beverage Control Board at 550 W. Seventh Avenue, Anchorage, Alaska 99501. Written comments must be received at the Board's office by June 17, 1987.

Copies of the proposed regulations may be obtained by writing to the ABC Board, 550 W. Seventh Avenue, Anchorage, Alaska 99501 or by calling the Anchorage office collect at 277-8638. Copies are also available at the Board's offices at the following locations: 550 W. Seventh Avenue, Anchorage, Alaska 99501; 675 Seventh Avenue, Fairbanks, Alaska 99501.

On or after July 8, 1987, the Alcoholic Beverage Control Board, upon its own motion or at the instance and any interested person, may after the hearing and written comment period adopt proposals within the scope of this notice without further notice or may decide to take no action on them.

DATE:

May 5 1987

Patrick L. Sharrock by C. Robertson
Patrick L. Sharrock, Director
Alcoholic Beverage Control Board

DISCUSSION DRAFT

PROPOSED CHANGES IN THE REGULATIONS OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD

FOR

PUBLIC HEARING - 10:30 a.m., MAY 28, 1987
ROOM C121, FEDERAL BUILDING, 701 "C" STREET
ANCHORAGE, ALASKA

1. 15 AAC 104.105(e) is amended to read: (e) a non-refundable application fee of _____ must accompany all applications for new licenses, renewals of licenses, or transfers of licenses. This subsection becomes effective on October 1, 1987.
2. 15 AAC 104.305 is repealed and readopted to read: RESTAURANT OR EATING PLACE LICENSE. (a) In AS 04.11.100 and this section, a "bona fide restaurant or eating place" is an establishment, or portion of an establishment, at which the patrons' principal activity is dining. Without limitation, a portion of a business operated as a dance hall, billiard parlor, or night club is not a "bona fide restaurant or eating place."
 - (b) The board will determine the portion of a licensed business that constitutes a bona fide restaurant or eating place, and will license only that portion for the sale and consumption of alcoholic beverages. The board may require the licensed premises to be separated from the unlicensed portion in a manner acceptable to the board.
 - (c) Gross receipts from the sale and service of food within the licensed premises shall constitute no less than 50 percent of the gross receipts from the sale of beer, wine, and food within the designated premises. The board may identify one or more licensed premises within the business to which the gross receipts limitation applies.
 - (d) The board will, in its discretion, designate that area of an applicant's premises under (a) of this section in which food from a menu or menus approved by the board is served and consumed. Food from one or more approved menus must be available to patrons during all operating hours when beer and wine is being consumed in the licensed premises.
 - (e) Changes in the structure, layout, or use of any portion of the licensed premise must have the prior approval of the board.
3. 15 AAC 104.525(a) is amended to read: NOTICES OF VIOLATION (a) Investigative personnel of the board [shall] may issue a notice of violation to a licensee whenever a violation of the laws related to alcoholic beverages is observed on or about a licensed premises or is reported by a peace officer. A copy of the notice of violation must be delivered to the licensee and filed with the board.
4. 15 AAC 104.690 is amended by adding a new section to read: CLUB LICENSE CATERER'S PERMIT (a) A club license caterer's permit authorizes an organization licensed under AS 04.11.110 to sell or dispense alcoholic beverages at events or affairs held off the organization's licensed premises. The permit may only be issued for designated premises for a specific occasion for a specific day and for a limited period of time identified in an application.

(b) Restrictions and prohibitions for club licenses enumerated under AS 04.11.110 apply at premises designated in the application for permit. No more than three permits may be granted to an organization in any one calendar year.

(c) Application for permit must be on forms provided by the board. The application must be signed by the presiding officer and secretary of the organization. A permit may only be granted for a designated premises located within the boundaries of the local municipality having authority to protest the organization's club license under AS 04.11.480. The written approval of the law enforcement agency having jurisdiction over the designated premises of the occasion for which the permit is sought must also be obtained and accompany the application.

(d) An application fee of \$100.00 shall accompany an application for permit.

(e) A club license caterer's permit may not be transferred, relocated, or renewed.

(f) A permit issued under this section must be surrendered to the board's offices within 48 hours of its expiration time. Failure to surrender the permit is cause for denial of applications for permits made in the future by the permittee.

Original sponsors: Donley, Barnes,
Brown, et al.

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 297 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the notification to community
7 councils and nonprofit community councils of certain
8 state actions."

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

10 * Section 1. AS 04.06.050 is amended to read:

11 Sec. 04.06.050. MEETINGS. The board shall meet at the call of
12 the chairman. The board shall also meet at least once each year in
13 each judicial district of the state to study this title and to modify
14 existing board regulations in light of statewide and local problems.
15 The board shall send a copy of the agenda of each board meeting not
16 less than 10 days before the meeting of the board to each community
17 council. The board shall also send a copy of the agenda of each board
18 meeting to each nonprofit community organization that requests a copy.

19 * Sec. 2. AS 04.11.310(b) is amended to read:

20 (b) Upon receipt of an application for the issuance, renewal,
21 relocation, or transfer of ownership of a license for premises or
22 proposed premises that are located within one-half mile of the boun-
23 dary [WITHIN AN AREA OF A MUNICIPALITY UNDER THE JURISDICTION] of a
24 community council established by municipal charter or ordinance [TO
25 ADVISE THE MUNICIPAL GOVERNING BODY, OR WITHIN AN AREA ADJACENT TO
26 SUCH AN AREA], the board shall

27 (1) immediately provide to the community council written
28 notice of the application; and

29 (2) at least 10 days before the date set for board action

1 on the application provide to the community council written notice of
2 the proposed action and the time and place for a hearing.

3 * Sec. 3. AS 04.11.510(b) is amended to read:

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

7 (1) if an application is denied, the notice of denial shall
8 be furnished the applicant immediately in writing stating the reason
9 for the denial in clear and concise language; the notice of denial
10 shall inform the applicant that the applicant is entitled to an in-
11 formal conference with either the director or the board, and that,
12 if not satisfied by the informal conference, the applicant is then
13 entitled to a formal hearing before the board; if the applicant re-
14 quests a formal hearing, the board shall adhere to AS 44.62.330 -
15 44.62.630 (Administrative Procedure Act); all interested persons may
16 be heard at the hearing and unless waived by the applicant and the
17 board, the formal hearing shall be held in the area for which the
18 application is requested;

19 (2) the board may, on its own initiative or in response to
20 an objection or protest, hold a hearing to ascertain the reaction of
21 the public or a local governing body to an application if a hearing is
22 not required under [(1), (3), OR (4) OR] this subsection and the board
23 shall send notice of a hearing conducted under this paragraph 20 days
24 in advance of the hearing to each community council established within
25 the municipality and to each nonprofit community organization that
26 requests notice;

27 (3) if a petition containing the signatures of 35 percent
28 of the adult residents having a permanent place of abode outside of
29 but within two miles of an incorporated city or an established village

1 is filed with the board, the board shall hold a public hearing on the
2 question of whether the issuance, renewal, or transfer of the license
3 in the city or village would be in the public interest;

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

8 * Sec. 4. AS 04.11 is amended by adding a new section to read:

9 Sec. 04.11.525. NOTICE TO COMMUNITY COUNCIL. On receipt of an
10 application for the issuance, renewal, relocation, or transfer of the
11 ownership of a license, the board shall provide written notice of the
12 proposed action and the time and place of the meeting to each communi-
13 ty council entitled to notice under AS 04.11.310(b). The notice shall
14 be provided to each community council not less than 10 days before the
15 date of the meeting.

16 * Sec. 5. AS 33.30 is amended by adding a new section to read:

17 Sec. 33.30.025. SITING OF PRISON FACILITIES. The commissioner
18 shall notify each community council established by municipal charter
19 or ordinance of the department's plans to locate a prison facility or
20 to contract for the operation of a prison facility, community residen-
21 tial facility, or other rehabilitation program if the facility or
22 proposed facility will be within one-half mile of the boundary of the
23 area represented by a community council.

24 * Sec. 6. AS 35.30.010(a) is amended to read:

25 (a) Except as provided in (b) of this section, before commencing
26 construction of a public project,

27 (1) if the project is located in a municipality, the de-
28 partment shall submit the plans for the project to the planning com-
29 mission of the municipality for review and approval;

1 (2) if the project is located within two miles of a vil-
2 lage, the department shall submit the plans to the village council for
3 review and comment;

4 (3) if the project is located within one-half mile of the
5 boundary of an area represented by a community council established by
6 municipal charter or ordinance, the department shall submit the plans
7 to the community council for review and comment.

8 * Sec. 7. AS 38.05.945(c) is amended to read:

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

11 (1) to a municipality if the land is within the boundaries
12 of the municipality, to a coordinating body established by community
13 councils in a municipality, and to each community council established
14 by municipal charter or ordinance that requests notice;

15 (2) to a regional corporation if the boundaries of the
16 corporation as established by sec. 7(a) of the Alaska Native Claims
17 Settlement Act encompass the land and the land is outside a municipal-
18 ity;

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

23 (4) to the postmaster of a permanent settlement of more
24 than 25 persons located within six miles of the land if the land is
25 located outside a municipality, with a request that the notice be
26 posted in a conspicuous location.
27
28
29

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB 297
Publish Date: 04-29-87

Revision Date: _____

Agency Affected: Department of Corrections

Title: "An Act relating to the notification to community councils and postmasters.."

BRU: _____

Sponsor: Rep Donley Barnes, et al.

Comments: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Research Analyst IV
Division: Statewide Programs

Phone: 465-3376
Date: 05-07-87

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Date: 05-07-87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 297

Publish Date: _____

Revision Date: _____
 Title: Notification to Community Councils
 & Postmasters of Certain State Actions
 Sponsor: Donley, et. al.
 Requestor: House Community and Regional
 Affairs

Agency Affected: Natural Resources
 BRU: Land and Water Management,
 Minerals Management
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		9.2	2.8	2.8	2.8	2.8
TRAVEL						
CONTRACTUAL		2.0	2.0	2.0	2.0	2.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		12.2	5.8	5.8	5.8	5.8

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		12.2	5.8	5.8	5.8	5.8
FEDERAL FUNDS						
OTHER						
TOTAL		12.2	5.8	5.8	5.8	5.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Tom Hawkins, Director Land & Water Management Phone: 465-2400
 Division: Commissioner's Office Date: 5/8/87

Approved by Commissioner: *Julia M. B...* Date: _____
 Agency: Department of Natural Resources

Distribution (by preparer):

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

<u>100 Personal Services</u>	<u>FY 88</u>	<u>FY 89-92</u>
Natural Resource Officer II 2 months	6.4	
Natural Resource Officer I 1 month	<u>2.8</u>	<u>2.8</u>
	9.2	2.8
<u>300 Contractual</u>		
Certified Mailing and Duplication	2.0	2.0
<u>400 Supplies</u>		
Paper and Envelopes	<u>1.0</u>	<u>1.0</u>
Total Costs	12.2	5.8

DISCUSSION:

The first year would require two months of an existing partially funded Natural Resource Officer II to compile the necessary information base and procedures for notifying community councils. Each year would require the equivalent of one month of a Natural Resource Officer I to meet the notice requirement. These are estimated department-wide costs.

No information is available concerning the costs to the state for failing to notify a council of a proposed action.

5-0839L
Bradley
5/15/87

Original sponsors: Donley, Barnes,
Brown, et al.

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 297 (C&RA)

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16 less than 10 days before the meeting of the board to each community
17 council. The board shall also send a copy of the agenda of each board
18 meeting to each nonprofit community organization that requests a copy.

19 * Sec. 2. AS 04.11.310(b) is amended to read:

20 (b) Upon receipt of an application for the issuance, renewal,
21 relocation, or transfer of ownership of a license for premises or
22 proposed premises that are located within one-half mile of the boun-
23 dary [WITHIN AN AREA OF A MUNICIPALITY UNDER THE JURISDICTION] of a
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15 44.62.630 (Administrative Procedure Act); all interested persons may
16 be heard at the hearing and unless waived by the applicant and the
17 board, the formal hearing shall be held in the area for which the
18 application is requested;

19 (2) the board may, on its own initiative or in response to
20 an objection or protest, hold a hearing to ascertain the reaction of
21 the public or a local governing body to an application if a hearing is
22 not required under [(1), (3), OR (4) OR] this subsection and the board
23 shall send notice of a hearing conducted under this paragraph 20 days
24 in advance of the hearing to each community council established within
25 the municipality and to each nonprofit community organization that
26 requests notice;

27 (3) if a petition containing the signatures of 35 percent
28 of the adult residents having a permanent place of abode outside of
29 but within two miles of an incorporated city or an established village

1 is filed with the board, the board shall hold a public hearing on the
2 question of whether the issuance, renewal, or transfer of the license
3 in the city or village would be in the public interest;

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

8 * Sec. 4. AS 04.11 is amended by adding a new section to read:

9 Sec. 04.11.525. NOTICE TO COMMUNITY COUNCIL. On receipt of an
10 application for the issuance, renewal, relocation, or transfer of the
11 ownership of a license, the board shall provide written notice of the
12 proposed action and the time and place of the meeting to each communi-
13 ty council entitled to notice under AS 04.11.310(b). The notice shall
14 be provided to each community council not less than 10 days before the
15 date of the meeting.

16 * Sec. 5. AS 33.30 is amended by adding a new section to read:

17 Sec. 33.30.025. SITING OF PRISON FACILITIES. The commissioner
18 shall notify each community council established by municipal charter
19 or ordinance of the department's plans to locate a prison facility or
20 to contract for the operation of a prison facility, community residen-
21 tial facility, or other rehabilitation program if the facility or
22 proposed facility will be within one-half mile of the boundary of the
23 area represented by a community council.

24 * Sec. 6. AS 35.30.010(a) is amended to read:

25 (a) Except as provided in (b) of this section, before commencing
26 construction of a public project,

27 (1) if the project is located in a municipality, the de-
28 partment shall submit the plans for the project to the planning com-
29 mission of the municipality for review and approval;

1 (2) if the project is located within two miles of a vil-
2 lage, the department shall submit the plans to the village council for
3 review and comment;

4 (3) if the project is located within one-half mile of the
5 boundary of an area represented by a community council established by
6 municipal charter or ordinance, the department shall submit the plans
7 to the community council for review and comment.

8 * Sec. 7. AS 38.05.945(c) is amended to read:

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

11 (1) to a municipality if the land is within the boundaries
12 of the municipality, to a coordinating body established by community
13 councils in a municipality, and to each community council established
14 by municipal charter or ordinance that requests notice;

15 (2) to a regional corporation if the boundaries of the
16 corporation as established by sec. 7(a) of the Alaska Native Claims
17 Settlement Act encompass the land and the land is outside a municipal-
18 ity;

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

23 (4) to the postmaster of a permanent settlement of more
24 than 25 persons located within six miles of the land if the land is
25 located outside a municipality, with a request that the notice be
26 posted in a conspicuous location.
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28
29

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 15, 1987

SUBJECT: Certain notifications
[CSHB 297(C&RA)]

TO: Representative Dave Donley

FROM: Richard A. Bradley
Legislative Counsel *RB*

Katie McHugh has requested a committee substitute for HB 297.

In addition to certain substantive changes within the bill, she has requested that the term "municipal" in two instances on pages 1 and 2 of the bill be changed to "city and borough". I note that her initial request to us was that the phrase read "municipal and borough" and I suggested that that was inappropriate.

There was an attempt when AS 29 was reenacted several years ago to come to terms with the various usages in this area. The solution was that whenever both cities and boroughs were being described, the term that was to be used was, as appropriate, "municipal" or "municipality". Thus AS 01.10.060(4) provides that

Sec. 01.10.060. DEFINITIONS. In the laws of the state, unless the context otherwise requires,

* * *

(4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

* * *

Representative Dave Donley

Page 2

May 15, 1987

Thus it seems clear that the term "municipal charter or ordinance" includes every possible "charter or ordinance" that can be enacted in the state.

And while I do not mean to overstate my concerns, there is a potential question latent in the "city and borough" usage: Does it include the "unified municipality" such as, for example, Anchorage? You will note that that question is answered if the term "municipal" is used.

And, as I suggested to Katie McHugh, this usage, if consistently followed, will enable those who search the statutes by computer not to miss the particular section.

If I may be of further assistance, please advise.

RAB:lmb
M12/024

Enclosure

(13) HB 297

5-0839B
Bradley
5/11/87

Original sponsors: Donley, Barnes,
Brown, et al.

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 297 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the notification to community
7 councils and postmasters of certain state actions."

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

9 * Section 1. AS 04.06.050 is amended to read:

10 Sec. 04.06.050. MEETINGS. The board shall meet at the call of
11 the chairman. The board shall also meet at least once each year in
12 each judicial district of the state to study this title and to modify
13 existing board regulations in light of statewide and local problems.
14 The board shall send a copy of the agenda of each board meeting not
15 less than 10 days before the meeting of the board to each community
16 council. The board shall also send a copy of the agenda of each board
17 meeting to each nonprofit community organization that requests a copy.

18 * Sec. 2. AS 04.11.310(b) is amended to read:

19 (b) Upon receipt of an application for the issuance, renewal,
20 relocation, or transfer of ownership of a license for premises or
21 proposed premises that are located within one-half mile of the boun-
22 dary [WITHIN AN AREA OF A MUNICIPALITY UNDER THE JURISDICTION] of a
23 community council established by municipal charter or ordinance [TO
24 ADVISE THE MUNICIPAL GOVERNING BODY, OR WITHIN AN AREA ADJACENT TO
25 SUCH AN AREA], the board shall

26 (1) immediately provide to the community council written
27 notice of the application; and

28 (2) at least 10 days before the date set for board action
29 on the application provide to the community council written notice of

1 the proposed action and the time and place for a hearing.

2 * Sec. 3. AS 04.11.510(b) is amended to read:

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

6 (1) if an application is denied, the notice of denial shall
7 be furnished the applicant immediately in writing stating the reason
8 for the denial in clear and concise language; the notice of denial
9 shall inform the applicant that the applicant is entitled to an in-
10 formal conference with either the director or the board, and that,
11 if not satisfied by the informal conference, the applicant is then
12 entitled to a formal hearing before the board; if the applicant re-
13 quests a formal hearing, the board shall adhere to AS 44.62.330 -
14 44.62.630 (Administrative Procedure Act); all interested persons may
15 be heard at the hearing and unless waived by the applicant and the
16 board, the formal hearing shall be held in the area for which the
17 application is requested;

18 (2) the board may, on its own initiative or in response to
19 an objection or protest, hold a hearing to ascertain the reaction of
20 the public or a local governing body to an application if a hearing is
21 not required under [(1), (3), OR (4) OR] this subsection and the board
22 shall send notice of a hearing conducted under this paragraph 20 days
23 in advance of the hearing to each community council established within
24 the municipality and to each nonprofit community organization that
25 requests notice;

26 (3) if a petition containing the signatures of 35 percent
27 of the adult residents having a permanent place of abode outside of
28 but within two miles of an incorporated city or an established village
29 is filed with the board, the board shall hold a public hearing on the

1 question of whether the issuance, renewal, or transfer of the license
2 in the city or village would be in the public interest;

3 (4) if a protest to the issuance, renewal, transfer of
4 location or transfer to another person of a license made by a local
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9 application for the issuance, renewal, relocation, or transfer of the
10 ownership of a license, the board shall provide written notice of the
11 proposed action and the time and place of the meeting to each communi-
12 ty council entitled to notice under AS 04.11.310(b). The notice shall
13 be provided to each community council not less than 10 days before the
14 date of the meeting.

15 * Sec. 5. AS 33.30 is amended by adding a new section to read:

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17 sioner shall notify each community council established by municipal
18 charter or ordinance of the department's plans to locate a prison
19 facility or to contract for the operation of a prison facility, commu-
20 nity residential facility, or other rehabilitation program if the
21 facility or proposed facility will be within one-half mile of the
22 boundary of the area represented by a community council.

23 (b) The commissioner shall provide a notice to the postmaster of
24 each community of more than 25 persons located within six miles of a
25 proposed prison facility, community rehabilitation facility, or other
26 rehabilitation program that is to be located outside of a municipali-
27 ty. The commissioner shall request the postmaster to post the notice
28 in a conspicuous place within the community.

29 * Sec. 6. AS 35.30.010(a) is amended to read:

1 (a) Except as provided in (b) of this section, before commencing
2 construction of a public project,

3 (1) if the project is located in a municipality, the de-
4 partment shall submit the plans for the project to the planning com-
5 mission of the municipality for review and approval;

6 (2) if the project is located within two miles of a vil-
7 lage, the department shall submit the plans to the village council for
8 review and comment;

9 (3) if the project is located within one-half mile of the
10 boundary of an area represented by a community council established by
11 municipal charter or ordinance, the department shall submit the plans
12 to the community council for review and comment;

13 (4) if the project is located outside a municipality, the
14 department shall submit a description of the project to the postmaster
15 of each permanent settlement of more than 25 persons that is located
16 within six miles of the proposed project, and the department shall re-
17 quest the postmaster to post the notice describing the project in a
18 conspicuous place within the community.

19 * Sec. 7. AS 38.05.945(c) is amended to read:

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

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27 corporation as established by sec. 7(a) of the Alaska Native Claims
28 Settlement Act encompass the land and the land is outside a municipal-
29 ity;

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(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.

*from Rep. Pouchot's
office*
(12) HB 297

HB 297 - NOTIFICATION TO COMMUNITY COUNCILS

HB 297 broadens state statutes designating entities entitled to receive notification of certain proposed actions or projects to include community councils. Boards or agencies affected are as follows:

- ABC Board - liquor licensing
- Department of Corrections - siting of prison facilities
- DOT - public construction projects
- DNR - actions involving state land

Section 1. AS 04.06.050. MEETINGS.

Adds requirement for board to send a copy of the agenda to each community council 10 days prior to board meeting; and to each nonprofit that requests a copy.

Rationale:

- 1) Community councils have a legitimate interest in any proposal to modify existing board regulations and should be notified so that they have a chance to comment.
- 2) Because board meetings are not always held in the same city where a premise or proposed premise is located, it is important that community councils receive a copy of the agenda so that they may provide written comment on those items affecting them.
- 3) Applies only to agendas, NOT BACKUP MATERIAL.
- 4) Sharrock suggests that this section would also prevent the board from adding items to the agenda at the last minute (10 days or less prior to the meeting); he further states that this could cause a hardship to the applicants because the board only meets every 5 to 7 weeks.

If the board is allowed to change the agenda at the last minute, it would appear to effectively circumvent the intent of the notification process.

Section 2. AS 04.11.310(b). NOTICE OF APPLICATION.

Clarifies current language regarding notification to community councils. Requires board to notify each community council whose boundary is within 1/2 mile of the premises or proposed premises.

Rationale: In the past the board has had a problem interpreting the current language (Price Savers).

Section 3. AS 04.11.510 (b) (2). PROCEDURE FOR ACTION ON LICENSE APPLICATIONS, SUSPENSIONS, AND REVOCATIONS.

IF the board decides to hold a hearing (hearings are held in response to objections or protests) - adds language requiring the board to notify community councils or nonprofits entitled to notification under Section 2 at least 20 days prior to hearing.

Rationale: Current language allows the board to hold a hearing in response to an objection or protest even if a hearing is not required under this subsection.

- 1) IF the board decides to hold a hearing, it is evident a problem exists and that community councils are likely to have a vital interest in the hearing.
- 2) In instances where a problem exists, notification should be 20 days prior to a hearing, to allow ample time for councils to contact their members and prepare written comment for the board's consideration.

Section 4. AS 04.11. BOARD PROCEDURES.

Adds new section requiring notification to community councils of proposed action 10 days prior to board meeting.

Note: [Omitted original language in bill (page 3, line 11) "of the hearing". Because "hearing" is the term used when a protest or objection is being heard, the language was confusing since it appeared to put AS 04.11.525 in conflict with AS 04.11.510 (b) (2) above.

Section 5. AS 33.30

Adds new section titled SITING OF PRISON FACILITIES. Requires department of corrections to notify community councils whose boundary is within 1/2 mile of the site of a proposed facility.

Requires commissioner to notify postmaster of each community of more than 25 persons located within 6 miles of a proposed facility.

Rationale: Provides notification procedures so that community councils or a community can comment on the impact of the proposed location of a correctional facility.

Section 6. AS 35.30.010 (a).

Amends DOT/PF statutes relating to REVIEW AND APPROVAL BY LOCAL PLANNING AUTHORITIES to include notification to community councils whose boundary is within 1/2 mile of the site of a proposed public construction project.

Requires commissioner to notify postmaster of each community of more than 25 persons located within 6 miles of a proposed public construction project.

Rationale: Provides notification procedures so that community councils or a community can comment on the impact of a proposed construction project.

Section 7. AS 38.05.945 (c).

Amends DNR statutes relating to NOTICE to include notification to community councils coordinating body of actions involving classification or reclassification of state land; zoning; or the sale, lease or disposal of an interest in state land or resources.

Adds provision that in the event there is no community council coordinating body, the community council has the responsibility for notifying the DNR of their desire to receive notification of above actions.

Rationale:

- 1) Provides notification procedures so that community councils or a community can comment on the impact of a proposed action involving state land or resources.
- 2) The language has been changed at the request of DNR to remove a perceived threat (in the event of failure to give proper notification) of litigation stemming from the section immediately following AS 38.05.945 which prohibits interference with bidding and establishes penalties.

(11)
HB 297

5-0839B ✓
Bradley
5/11/87

Original sponsors: Donley, Barnes,
Brown, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 297 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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13 existing board regulations in light of statewide and local problems.
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15 less than 10 days before the meeting of the board to each community
16 council. The board shall also send a copy of the agenda of each board
17 meeting to each nonprofit community organization that requests a copy.

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23 community council established by municipal charter or ordinance [TO
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19 facility or to contract for the operation of a prison facility, commu-
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22 boundary of the area represented by a community council.

23 (b) The commissioner shall provide a notice to the postmaster of
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25 proposed prison facility, community rehabilitation facility, or other
26 rehabilitation program that is to be located outside of a municipali-
27 ty. The commissioner shall request the postmaster to post the notice
28 in a conspicuous place within the community.

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(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;

(3) if the project is located within one-half mile of the boundary of an area represented by a community council established by municipal charter or ordinance, the department shall submit the plans to the community council for review and comment;

(4) if the project is located outside a municipality, the department shall submit a description of the project to the postmaster of each permanent settlement of more than 25 persons that is located within six miles of the proposed project, and the department shall request the postmaster to post the notice describing the project in a conspicuous place within the community.

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(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, to a coordinating body established by community councils in a municipality, and to each community council established by municipal charter or ordinance that requests notice;

(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;

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

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6 than 25 persons located within six miles of the land if the land is
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(10) HB 297



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: House Bill No. 297

APPROVED: *js* Mark S. Hickey
Commissioner

TITLE: An Act relating to the notification to community
councils and postmasters of certain state actions

DATE: May 11, 1987

The department has no objection to the language within Section 6 which would amend AS 35.30.010(a). The department takes this position on the following assumptions.

With respect to the language of subparagraph (3), lines 9-12 page 4, the department must assume that the community councils are established by municipal charter or ordinance and that the charter or ordinance provides for resolving differences of opinion on a local level. Furthermore it is assumed that a single local entity will be empowered to represent the community as a whole and that DOT&PF would look solely to this entity for approval. Based on the validity of these assumptions the department perceives no significant fiscal impact.

The department has no objection to the inclusion of subparagraph (4), lines 13-18 as such notification would not create any undo procedural or fiscal hardship.

It is suggested that the term "community council" as noted in subparagraph (3) be defined in a manner commensurate with the language provided within Section 7, lines 23 and 24 page 4, to read, "...community council established by municipal charter or ordinance..."



FEDERATION OF COMMUNITY COUNCILS
Community Councils Center

Abbott Loop
Airport Heights
Rayehora/Klatt
Birchwood
Campbell Park
Chuglak
Downtown
Eagle River
Eagle River Valley
Eklutna
Fairview
Girdwood Valley
Glen Alps
Government Hill
Hillside East
Huffman/O'Malley
Mid-Hillside
Northeast
North Mt. View
North Star
Old Seward/Oceanview
Rabbit Creek
Rogers Park
Russian Jack Park
Sand Lake
Scenic Park Area
South Addition
South Fork
Spenard
Taku/Campbell
Tudor Area
Turnagain
Turnagain Arm
University Area

May 9, 1987

House Committee on
Community and Regional Affairs
P.O. Box V
Juneau, AK 99811

MAY 11 1987

Att: Henry Springer, Chairman

Re: House Bill No. 297
Notification of Actions to Community Councils

Dear Sirs:

Although I will be unable to attend the committee hearing on the above referenced bill, I would appreciate this letter being read into the record at that hearing. As Chairman of the Federation of Community Councils, I urge committee support and speedy passage of HB 297. I commend the sponsors of the bill for their efforts to increase public awareness of a variety of state actions.

I would counter protests of affected state agencies that the required notification is cumbersome with the assertions that such notification can become routinized; public input in the decision making process will contribute to better, more easily accepted policies; prior awareness of the actions will alleviate after-the-fact protestations and possible legal action; and the types of state actions affected should be afforded public scrutiny.

Community Councils in Anchorage are neighborhood associations authorized by Municipal Charter. They are a tool for providing local citizens with a method of expressing and obtaining action on issues of interest and concern to them and fellow members of their community. The Federation of Community Councils is made up of one member of each of the 36 community councils in Anchorage.

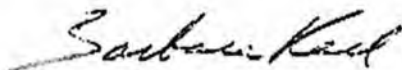
While the Federation Board has not had the opportunity to formally address this bill, staff members and I have reviewed it and make the following suggestions. Perhaps a definition of the term "community council" should be included for clarification of comparable community groups

House Committee on
Community and Regional Affairs
May 9, 1987
Page 2

that are referred to by different names. Page 1, line 23, should be changed to read: "community council established by municipal or borough charter or ordinance." Other sections of the bill that refer only to a municipality should be amended to include the term "borough."

I shall make the full Federation Board aware of HB 297 at our upcoming meeting on May 13. If we can provide further information to you that will assist passage of this bill, I encourage you to contact staff or me.

Sincerely,



Barbara Karl
Chairman

cc: Rep. B. Cato
Rep. A. Herrmann
Rep. V. Collins
Rep. J. Zawacki
Rep. D. Donely
Rep. R. Barnes
Rep. K. Brown
Rep. J. Ellis
Rep. M. Gruenberg
Rep. T. Martin
Rep. D. Pearce
Rep. P. Pourchot
Rep. K. Menard
Rep. H. A. Boucher

BILL WORKSHEET

Bill #: HB 297
Date Sched.: HCRA Committee, Monday, May 11, 1987
Title: "An Act relating to the notification to community councils and postmasters of certain state actions"
Sponsors: Donley, Barnes, Brown, Ellis, Gruenberg, Martin, Pearce, Pourchot, Menard, Zawacki and Boucher

Info Attached: Copy of Bill
Fiscal Note - Corrections
Position Paper - DNR
Fiscal Note - DNR
Existing statutes
Package from Alcohol Beverage Control Board
- cover letter
- fiscal note
- current notice form
- supreme court ruling
Correspondence From Sponsor

Sponsor's Briefing, Intent/purpose:

Bill is a response to community council's long standing desires to be adequately informed of pending state decisions in order to participate in decisions affecting their communities.

Effect of Bill:

Sections 1 - 4 amend notice requirements of the Alcohol Beverage Control Board for issuance, renewal or transfer of licences. Section 5 requires notice to communities and councils by the Department of corrections of plans for facilities or programs in local areas. Section 6 requires notice to community councils and postmasters (for communities outside municipalities) by the Dept. of Transportation regarding projects scheduled for local areas. Section 7 amends notice requirements of Natural Resources regarding land transactions, classifications and reclassifications.

Fiscal Impact:

Corrections - 0 (Zero)
Natural Resources - \$12,200
Revenue - \$27,200

Proponents: Anchorage and Mat-Su legislators

Opponents: Natural Resources indicates that it cannot support this bill due to "the difficulties in identifying names locations and boundaries of community councils" and potential liability for failure to give notice.

The Alcohol Beverage Control Board also opposes the bill as placing onerous requirements upon them.

Analysis of Bill's effect, by staff:

This bill recognizes that critical decisions affecting an area are often made by agencies of higher levels of government. It provides for public notice to communities of state agency acts which affect them in substantial ways (liquor licences, correctional institutions, state land transactions, and public facility contracts).

The sponsor has been working with DNR to overcome departmental resistance to the bill and may offer amendments.

Page 2, line 22 requires a 20 day notice which appears to be inconsistent with the rest of the bill which requires 10 day notice.

Committee Report:

18 MAY 11 1987 HB297



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: House Bill No. 297

APPROVED: *for* Mark S. Hickey
Commissioner

TITLE: An Act relating to the notification to community councils and postmasters of certain state actions

DATE: May 6, 1987

The department does not support the language within Section 6 which would amend AS 35.30.010(a). The language of subparagraph (3), lines 9-12 page 4, will place the department into "no win" situations when encountering a community council whose viewpoint is divergent from that of the local planning commission. Such conflicts should be resolved within the local governmental body. The department needs to be able to rely on the position of a single local entity which is empowered to represent the community as a whole. Therefore we suggest that it should be a requirement of the local government that they provide the Community Council an opportunity for comment. This could be accomplished by inserting the words "municipality or local government" for the word " department" on line 10 page 4.

Due to the wide range of cost related assumptions arising from the incorporation of subparagraph (3), the department cannot attempt to prepare a fiscal note. The impacts however could result in cost overruns (due to delays of award) of significant magnitude and eventual project consolidation or cancellation.

The department has no objection to the inclusion of subparagraph (4), lines 13-18 as such notification would not create any undo procedural or fiscal hardship.

If subparagraph (3) is retained, then the term "community council" should be defined in a manner commensurate with the language provided within Section 7, lines 23 and 24 page 4, to read, "...community council established by municipal charter or ordinance..."

7 HB 297.

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN - SPENARD

PO. BOX V, JUNEAU 99811
(907) 465-3892



CHAIRMAN
LABOR AND COMMERCE
COMMITTEE

MEMBER
STATE AFFAIRS COMMITTEE
HEALTH, EDUCATIONAL
AND SOCIAL SERVICES COMMITTEE
INTERNATIONAL TRADE
SUB-COMMITTEE

May 8, 1987

TO: All members of the Community and Regional Affairs
Committee

FROM: Representative Dave Donley DJ

RE: HB 297: "An Act relating to the notification to
community councils of certain state actions."

House Bill 297 requires that state agencies notify community councils about pending state actions that may affect their districts.

Community Councils have long desired to be adequately informed of pending state decisions in order to assure local participation in decisions affecting communities.

Under HB 297, the Alcohol Beverage Control Board will be required to send community councils a copy of their board meeting agenda, as well as notify them of receipt of application of issuance, renewal or transfer of liquor licenses for premises or proposed premises within their council area.

The Department of Corrections will be required to notify community councils of plans for correctional or residential prison facilities or a rehabilitation program within their council area.

The Department of Transportation and Public Facilities will be required to notify community councils of proposed projects in their council area.

The Department of Natural Resources will be required to notify community councils of proposed action to classify, reclassify, zone, sale, lease or dispose of state land, if the proposed action is within their council area.

The "council area" includes any community council whose boundary is within one-half mile of a proposed project.

This legislation also provides for notification to be provided to communities located outside a municipality and establishes notification procedures through the postmaster, regional corporation or village corporation.

Under this proposed legislation communities will receive the information they need to become viable partners in decision-making processes which involve their neighborhoods.

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

f
CRAFT
STEVE COWPER, GOVERNOR

⑥ HB 297

550 W. 7TH AVE
ANCHORAGE, ALASKA 99501-8898

May 8, 1987

MAY 9 1987

The Honorable Henrich Springer, Chairman
Community & Regional Affairs Committee
Alaska State House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Springer:

Terry Hoafferle from your office called me yesterday for some comments concerning HB 297 regarding notice of liquor license applications to "community councils." He suggested that my remarks be in writing for your committee's review.

Generally, those sections of the bill which address liquor laws appear to initiate a significant intent to change policy under current law. Present policy under AS 04.11.480 and a supreme court opinion (enclosed) provides that a "local governing body" defined at AS 04.21.080 has prominent standing in review and comment about applications for issuance, renewal, transfer, and relocation of liquor licenses. Under AS 04.11.520, specific notice of all applications must be provided to a local governing body and under AS 04.11.510 the board cannot act on an application until the time for local government consideration has passed. Additionally, under AS 04.11.310 and AS 04.21.010, community councils are given three notices (two by the board and one by local government). A copy of our notice form is also enclosed. Additionally, public notice is given by an applicant (except for renewal) prior to filing an application (a copy of the notice format is enclosed).

With the above notices required under present law, I believe additional notice proposed in HB 297 is unnecessary and redundant.

On several occasions in an attempt to assess objections from community councils under AS 04.11.470 the board has held public hearings in municipalities. These hearings have been called at the board's initiative even tho a local governing body may have approved an application or made no comment. Questions that have been asked by the board since notice to community councils became law in June 1985 under CSHB 34 (Fin) am B are:

1. Is another level of "local governing body" intended?
2. To what degree do community councils represent a community area before their city councils and/or assemblies and the state?

Representative Springer
May 8, 1987
Page 2

In summary, the board has and does give every consideration to public comment about license applications no matter how minor or insignificant concerns might appear. Most public objections received by the board are a result of persons having seen or heard the required public notice or seen the required posting of an application.

Section 1 of the bill will require the staff to provide a copy of each of the board's agendas to all community councils. According to my information there are 36 councils in the Municipality of Anchorage and 14 within the Matanuska-Susitna Borough. Board member agendas with attachments are usually in the neighborhood of 100 pages. There are usually 15-18 pages of agenda items without attachments and these are available for public review at all board meetings. A copy of the board's last agenda is also enclosed.

One person, the licensing supervisor, spends almost full time with preparation of the agenda. Her primary duties are to assure accuracy of information and that an application is not prematurely taken to the board prior to proper notice to local governments and community councils unless those bodies waive the notice requirements in writing.

Preparation of the agenda is time-consuming and costly. Copying, mailing, filing, and documenting additional notice requirements imposes an additional burden on an already overburdened licensing staff. Three licensing positions have processed applications which have grown from 1,300 to over 2,000 during the last ten years. Therefore, the fiscal note for this bill proposes an additional licensing document processor position.

The section also proposes that agendas be provided to councils no later than 10 days prior to a board meeting. This strongly suggests that an item could not be added to the agenda 10 days before a board meeting. This restriction could produce severe hardship on new license, relocation, and transfer applicants whose applications might become ready for board consideration during the ten-day period. This occurs at almost every board meeting. Additionally, this becomes important, because time between board meetings is anywhere from five to seven weeks and board meetings are not always held in the same city where an applicant resides.

Section 2 of the bill requires notice to a council when an application is for a premises within one-half mile from the boundary of the council area. This requirement could predictably require notice to three councils (two notices would probably be frequent). I suspect that applicants would have to provide maps of council boundaries to show locations of their premises within an adjacent council area. Board staff would be responsible to confirm the accuracy of a premises location. This responsibility could be placed on the licensing or investigator staff.

Representative Springer
May 8, 1987
Page 3

Section 3 of the bill requires notice to a council of any public hearing held by the board concerning an application for premises in a council area. This has always been the practice of the board and all public hearings have been held in community council meeting rooms.

Section 4 establishes a new section which is unclear to me.

Finally, an addition should be inserted which requires local governing bodies to annually provide the board with names and addresses of community councils, names and addresses of current council officers, and detailed maps which clearly show community council boundaries.

This letter has become more lengthy than I had expected. However, the issue at hand is quite significant and of great concern to the board. Alternatively, the board had proposed in legislation last year that applicants provide all required notices prior to filing their applications with the board. Until there are clarifications of the matters noted, the board respectfully opposes the legislation.

If I can provide you any additional information, please do not hesitate to call.

Sincerely,



Patrick L. Sharrock
Director
(907) 277-8638

PLS:cr
Enclosures

cc w/encl: Representative Dave Donley

87-97

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB 297
Publish Date: _____

Revision Date: _____
Title: Notification to Community Councils

Agency Affected: Department of Revenue
BRU: Alcoholic Beverage Control Board

Sponsor: Representative Donley et al
Requestor: House Community & Regional Affairs Committee

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		26.6				
TRAVEL						
CONTRACTUAL		.6				
SUPPLIES		.4				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	27.2	27.2	27.2	27.2	27.2

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	27.2	27.2	27.2	27.2	27.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Personal Services - Document Processor II -	26,616
Contractual - Postage -	601
Supplies - Envelopes/Paper	400
	<u>27,217</u>

Prepared by: Patrick L. Sharrock, Director Phone: 277-8638
Division: Alcoholic Beverage Control Board Date: 5/8/87

Approved by Commissioner: Hugh Malone Date: _____
Agency: Department of Revenue

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA

Steve Cowper, Governor

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

550 W. 7th Avenue
Anchorage, Alaska 99501

First - Date _____

Second - Date _____

Community Council of:

Re: Application for transfer, issuance, renewal of a
_____ liquor license, d/b/a

Dear _____:

Legislation enacted into law on June 6, 1985 requires that the Alcoholic Beverage Control Board provide notice to a "community council" about pending applications for liquor licenses. At AS 04.11.310(b) the law requires the following two notices:

First - Notice of the application (copy of the application enclosed) XX

Second - Consideration by the board will take place at its meeting to be held in _____ on _____

Note: Board meetings and action on applications are governed by AS 04.06.050 and AS 04.11.510, respectively.

This letter serves to provide both notices. The first notice will include a copy of the application. The second final notice will be a copy of the first notice; the second box will be completed but will not include a copy of the application.

Additionally, under the law at AS 04.21.010 the governing body (municipal council or assembly) shall provide notice to you "at least 10 days before the date set for municipal action on an application...." You may contact your municipal clerk for information about scheduling the application on the council or assembly agenda for purposes of "protest" under AS 04.11.480. Any comments you may have about the application should first be presented to your local governing body.

If you have any questions, please do not hesitate to contact your municipal clerk or this office.

Sincerely,
Betty J. Calhoun
Betty J. Calhoun
Licensing Supervisor

FORMAT FOR ADVERTISING

Applicants must advertise once each week for three (3) weeks, seven (7) days apart by newspaper of general circulation in the area of the license, or if by radio, two (2) times each week for three (3) consecutive weeks. See instruction sheet. This public notice must be given within the sixty (60) days immediately preceding the filing of the application.

** Statement to be included in all advertising.

FORMAT FOR NEW APPLICATIONS

(Licensee/Individual(s) or Corporation Applying for Liquor License)

is making application for a new _____
(Type of License & Statute Reference Number)

liquor license, d/b/a _____
(Name of Establishment)

located at _____
(Premises Address & City)

** Interested persons should submit written comment to their local governing body, the applicant and to the Alcoholic Beverage Control Board at 550 West Seventh Avenue, Anchorage, Alaska, 99501.

FORMAT FOR TRANSFER APPLICATIONS

(Ownership, Location or Both)

_____, d/b/a _____
(Present licensee(s)) (Name of Establishment)

located at _____
(Premises Address and City)

is applying for transfer of a _____
(Type of License and Statute Reference Number)

liquor license to _____
(New Licensee(s))

d/b/a _____
(Only if Different)

located at _____
(Only if Different)

** Interested persons should submit written comment to their local governing body, the applicant and to the Alcoholic Beverage Control Board at 550 West Seventh Avenue, Anchorage, Alaska, 99501.

Sherrill
Court Decision

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

VERA STOLTZ d/b/a FAIRBANKS)
BAR,)

Appellant,)

v.)

CITY OF FAIRBANKS,)

Appellee.)

File No. S-581

O P I N I O N

[No. 2957 - August 2, 1985]

NOTICE TO COUNSEL: This opinion will be re-
leased to the press and public at 12:30
p.m. each time the Alaska Appellate
Clerk of the Appellate Courts
This copy is provided to you for your
in advance. Prior to the release time,
please do not inform persons other than your
clients in this case of the outcome.

Appeal from the Superior Court of the State
of Alaska, Fourth Judicial District, Fairbanks,
Gerald J. Van Hoomissen, Judge.

Appearances: C.R. Kennelly, Kennelly, Azar &
Donohue, P.C., Anchorage, for Appellant. Wm.
Ronald Smith, Deputy City Attorney, Herbert
P. Kuss, City Attorney, Fairbanks, for
Appellee.

Before: Rabinowitz, Chief Justice, Burke,
Matthews, Compton, and Moore, Justices.

MATTHEWS, Justice.

This case involves Vera Stoltz's attempt to move her
bar, known as the "Fairbanks Bar," from 542 Second Avenue to 409
Second Avenue in Fairbanks. The Fairbanks City Council protested
the move, but the Alcohol Beverage Control Board ("the Board")
found that the City's protest was arbitrary, capricious, and

unreasonable. Thus, it approved the move. The City appealed to the superior court, and the superior court reversed the Board's decision, thus disallowing the move. Mrs. Stoltz appeals the superior court's decision. We affirm.

I.

Mrs. Stoltz leased the premises on which the Fairbanks Bar is located. Sometime before October 28, 1982, Mrs. Stoltz received notice from her landlord that the premises had been sold and that she would have to move. As such, on October 28, 1982, Mrs. Stoltz applied to the Board for a transfer of her alcohol license from 542 Second Avenue to 402 Second Avenue, where she had agreed to lease new premises.

Prior to this, in August of 1982, the Fairbanks City Council passed Resolution 2245 which provided that the Council would protest any renewal or transfer of liquor licenses within a specified area in Fairbanks (the "bar block"). The new location proposed by Mrs. Stoltz was approximately 300 feet outside the boundaries of this "bar block."

In late January of 1983, Mrs. Stoltz contacted Fairbanks City Manager W.C. Droz. She asked Droz if there was any way to get assurances from the City Council that her application would not be protested before she invested considerable sums in remodeling the premises. Droz prepared a memorandum to

the City Council outlining these concerns on January 25, 1983. This memorandum was considered by the Council at its January 31, 1983 meeting. The Council decided unanimously at that meeting to issue a "policy statement" to Mrs. Stoltz, informing her that if the matter formally came before the Council, the Council would protest the move. The main reason given by members of the Council was that the proposed location was vigorously opposed by residents of the Golden Towers, a senior citizens housing complex, and by owners of other businesses in the area. The Golden Towers is located less than one-half block from the proposed location of Mrs. Stoltz's bar.

Mrs. Stoltz nonetheless continued to formally pursue her transfer application before the Board, and the matter again came before the City Council on February 28, 1983, when the Council held a public hearing on the matter. Once again, the Council voted unanimously to protest the move.

On March 8, 1983, the Fairbanks City Attorney sent the Board a letter objecting to Mrs. Stoltz's proposed license transfer.¹ The reasons stated for the objection were that the

1. The letter stated in pertinent part:

The Fairbanks city council at its regular meeting on February 28, 1983, voted unanimously to object to the transfer of the beverage dispensary liquor license of the Fairbanks Bar from 542 Second Avenue to 409

(Footnote Continued)

location would be near a concentration of other bars, and that many residents of the Golden Towers had objected to the move.

In early May of 1983, the Board informed the City that the Board had found the City's protest arbitrary, capricious, and unreasonable. Thus, the Board approved the application.

The City then requested a hearing before the Board, and one was granted. A hearing officer was appointed, and a hearing was held de novo on September 15, 1983. The hearing officer upheld the Board's determination on October 12, 1983, finding that the reasons given by the City for its protest were arbitrary, capricious, and unreasonable. This decision was adopted as the final decision of the Board.

The City appealed the Board's decision to the superior court. Judge Van Hoomissen reversed the Board's decision, finding it to be contrary to the clear mandate of the controlling statute, and therefore unreasonable and unsupported. Mrs. Stoltz appeals this ruling.

(Footnote Continued)

Second Avenue. The council members stated the reason they voted against it was because of the location near a concentration of other liquor establishments, even though not within the core area of Fairbanks, and its proximity to the Golden Towers, an Alaska State Housing Authority apartment house for senior citizens. Numerous residents there had protested the transfer to council members.

II.

There is only one issue in this case: whether the City's protest was arbitrary, capricious, and unreasonable. If not, then the Board was not permitted to approve the transfer under AS 04.11.480(a). That statute provides:

Protest. (a) If a local governing body wishes to protest the issuance, renewal, transfer of location or transfer to another person of a license, it shall furnish the board and the applicant with a protest and the reasons for the protest within 30 days of receipt from the board of notice of filing of the application. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (b)(4) when it considers the application, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (b)(4) shall be retained as part of the board's permanent record of its review of the application. If an application is protested, the board may not approve the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(Emphasis added).

The statute makes it clear that the Board may not substitute its judgment for that of the local governing body. The limit of the Board's inquiry is therefore analogous to our inquiry of Administrative action: the action will be upheld unless arbitrary, capricious, or unreasonable.

We think that the City's protest was not arbitrary, capricious, and unreasonable. The City advanced two reasons for its protest: first, that the proposed location was too close to

the Golden Towers, and second, that the proposed location was in an area which already contained a high concentration of bars. The evidence adduced at the hearing before the Board supported these reasons. These reasons represent logical and traditional grounds for opposing liquor licenses. Williams v. Liquor Control Comm'n, 399 A.2d 834 (Conn. 1978); Polman v. City of Royalton, 249 N.W.2d 466 (Minn. 1977); Arizona State Liquor Bd. v. Jacobs, 511 P.2d 179 (Ariz. App. 1973). Therefore, the superior court correctly determined that the Board's decision was contrary to AS 04.11.480(a).²

AFFIRMED.

*Pursuant to Appellate Rule 508 (a), Atty Geny of \$750.00 are awarded to the Appellee
Entered at the direction of Justice Thayer*

Pursuant to Appellate Rule 508
(f) (1), the (appellant) (appellee)
shall serve and file with this

court by 8-12-85 an itemized
and verified bill of costs.

2. Mrs. Stoltz also contends and the Board held that since the proposed location is outside the "bar block" created by Resolution 2245, the City Council impliedly approved of a bar at the proposed location. This is an absurd inference, which if taken to its extreme would mean that the city council issued a blanket approval of all transfers to locations outside the bar block, without regard to the merits of such transfers. We find this point to be without merit.

COMMUNITY COUNCIL NOTIFICATION BILL

*Sectional
ANALYSIS FROM REVENUE*

ABC BOARD

Amends Sec. 04.06.050.

At least 10 days prior to the meeting of the board, the board is required to send to all community councils within a municipality a copy of the board's agenda.

Requires the board to send a copy of the agenda to each nonprofit community organization which has requested a copy of the agenda.

Amends Sec. 04.11.310(b)

Upon receipt of an application for issuance, renewal, relocation or transfer of ownership of a liquor license, the board is required to notify all community councils whose boundaries are within one-half mile of the premises or proposed premises.

Amends Sec. 04.11.510(b)(2)

At least 20 days prior to a hearing held within the jurisdiction of a municipality, the board is required to send to all community councils located within that municipality notification of the hearing.

Requires the board to send a notification of the hearing to each nonprofit community organization which has requested to be notified.

Adds new Sec. 04.11.525 NOTIFICATION OF COMMUNITY COUNCIL

Requires the board to provide notification of the proposed action and the time and the place of the hearing to community councils entitled to receive notification under AS 04.11.310(b) at least 10 days prior to the board's action.

CORRECTIONS

Adds new Sec. 33.30.025 SITING OF PRISON FACILITIES

Requires the commissioner of the department of corrections to provide notification to each community council of plans to locate or operate a correctional or residential facility or a rehabilitation program if the facility is located within one-half mile of a community council boundary.

Establishes notification procedures for communities located outside a municipality.

DOT/PF

Amends Sec. 35.30.010

Requires the Department of Transportation and Public Facilities to provide notification to each community council whose boundary is within one-half mile of a proposed project.

Establishes notification procedures for communities located outside a municipality.

DNR

Amends Sec. 38.05.945(c)

Requires the Department of Natural Resources to provide notification to each community council whose boundary is within one-half mile of a proposed action to classify, reclassify, zone, sale, lease or dispose of state land.

Establishes notification procedures for communities located outside a municipality.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

(3) HB 297

ERA file.

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

May 8, 1987

MAY 8 1987

The Honorable Heinrich Springer
Chair, House Community and
Regional Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Springer:

Subject: House Bill 297, which would require that official notice be provided to community councils of certain state actions.

Position: The Department of Natural Resources cannot support this bill because of the potential liability it would create for failure to give notice, and the difficulties the department will face in determining the names, locations and boundaries of the various community councils.

Background: The department undertakes hundreds of actions each year that require public notice. Municipalities are currently provided notice of activities that will occur within municipal boundaries. This bill would place an additional burden on the department that could more appropriately be borne by local governments.

Community councils are created under municipal charter or ordinance. There is no statewide federation of councils that can supply information about council locations. To date, the only councils we have identified are the 36 within the Municipality of Anchorage and the 13 within the Matanuska-Susitna Borough. We do not know whether other community councils exist. Obtaining reliable data concerning the boundaries of identified councils will take additional time and the opportunities for error will be great.

Recommendations: We suggest this bill be amended to require local governments that receive notice under 38.05.945(c) to notify their respective community councils about the proposed

Representative Springer

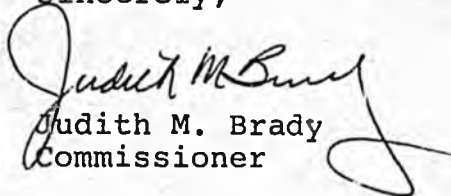
-2-

May 8, 1987

action. We also suggest that a provision be added which states that a failure to provide notice does not invalidate the proposed action (see AS 44.62.190(c)).

Please let me know if you have questions about our current public notice procedures or our suggested amendments to this bill.

Sincerely,


Judith M. Brady
Commissioner

cc: Sponsors
Committee Members
George Sullivan
Rod Swope