

HB

297

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

Kie

NAME: BARBARA KARL

TITLE:

ADDRESS: 2400 EAST 16TH

CITY: ANCHORAGE

PHONE: 279-5229

ZIP: 99508

BILL NO: HB 297

SUBJECT: NOTICE OF ACTIONS TO COMMUNITY COUNCILS

MESSAGE: I URGE YOUR SUPPORT OF HB 297 IN ITS PRESENT VERSION. PLEASE PASS IT OUT OF COMMITTEE SO THAT THE FULL SENATE MAY ADDRESS THE MATTER. NOTIFICATION TO THE PUBLIC OF GOVERNMENTAL ACTIONS AFFECTING THE AREA IN WHICH THEY LIVE IS MERITORIOUS. COMMUNITY COUNCILS FACILITATE THE PROCESS.

POMID: 03143909

DATE: 04/25/88

TIME: 14:39:09

LIONAME: ANCHORAGE LIO

COPIES: SENATORS

HALFORD

KELLY

SZYMANSKI

ZHAROFF

ABOOD

FANNING

HENSLEY

JOSEPHSON

UEHLING

BILL: HB 297

NAME: CSHB 297(FIN) AM

TITLE: "An Act relating to the notification to community councils and nonprofit community organizations of certain state actions."

PRIME SPONSOR: DONLEY

CO-SPONSOR: BOUCHER, BROWN, ELLIS, GRUENBERG, MARTIN, PEARCE, POURCHOT, MENARD ZAWACKI, COLLINS, LARSON, BARNES

FUNDING : \$8,000 GENERAL(FNOTE) \$000 OTHER(FNOTE)

CURRENT STATUS: (S) STA STATUS DATE: 03/10/88
THEN CRA, FIN

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU	TEXT	PRINT	BWD	FWD		FIRST	LAST	QUIT
HB 297											

Bill/Resolution Action

Page 2 of 3

Current Status: (S) STA

	Jrn-Date	Jrn-Pg		Action
1	04/29/87	1032	(H)	READ THE FIRST TIME - REFERRAL(S)
2	04/29/87	1032	(H)	C&RA, STATE AFFAIRS, FINANCE
3	05/09/87	1293	(H)	CO-SPONSOR ADDED: COLLINS
4	05/16/87	1497	(H)	CRA RPT CS(C&RA) NEW TITLE 2DP 1NR
5	05/16/87	1498	(H)	2 FISCAL NOTES PUBLISHED 5/16/87
6	05/16/87	1498	(H)	ZERO FISCAL NOTE PUBLISHED 5/16/87
7	01/29/88	2039	(H)	STA RPT CS(SA)NEW TITLE 6DP 1NR
8	01/29/88	2039	(H)	2 FISCAL NOTES PUBLISHED 1/29/88
9	01/29/88	2039	(H)	ZERO FISCAL NOTE PUBLISHED 1/29/88
10	01/29/88	2039	(H)	ZERO FISCAL NOTE/ANALYSIS 1/29/88
11	02/19/88	2288	(H)	FIN RPT CS(FIN) NEW TITLE 8DP 1NR 1OTH
12	02/19/88	2289	(H)	FISCAL NOTE PUBLISHED 2/19/88
13	02/19/88	2289	(H)	ZERO FISCAL NOTE PUBLISHED 2/19/88
14	03/04/88	2458	(H)	CO-SPONSOR ADDED: LARSON
15	03/07/88		(H)	RULES TO CALENDAR 3/7/88
16	03/07/88	2470	(H)	READ THE SECOND TIME
17	03/07/88	2471	(H)	FIN CS ADOPTED UNAN CONSENT
18	03/07/88	2471	(H)	AM NO 1 ADOPTED UNAN CONSENT

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU	TEXT	PRINT	BWD	FWD		FIRST	LAST	QUIT
HB 297											

Bill/Resolution Action

Page 3 of 3

Current Status: (S) STA

	Jrn-Date	Jrn-Pg		Action
1	03/07/88	2471	(H)	ADVANCED TO THIRD READING UNAN CONSENT
2	03/07/88	2471	(H)	READ THE THIRD TIME CSHB 297(FIN) AM
3	03/07/88	2471	(H)	RETURN TO SECOND FOR AM 2 UNAN CONSENT
4	03/07/88	2472	(H)	AM NO 2 FAILED Y16 N22 X2
5	03/07/88	2472	(H)	PASSED Y31 N6 X2 A1
6	03/07/88	2473	(H)	CO-SPONSOR REMOVED: BARNES
7	03/07/88	2473	(H)	MARTIN NOTICE OF RECONSIDERATION
8	03/09/88	2517	(H)	RECON TAKEN UP - IN THIRD READING
9	03/09/88	2518	(H)	RETURN TO SECOND FOR AM 3 Y38 N- A2

10	03/09/88	2519	(H)	AM NO 3 ADOPTED Y32 N2 A6
11	03/09/88	2519	(H)	RETURN TO SECOND FOR AM 4 Y28 N9 A3
12	03/09/88	2520	(H)	AM NO 4 ADOPTED Y21 N17 A2
13	03/09/88	2521	(H)	PASSED ON RECONSIDERATION Y38 N- A2
14	03/09/88	2523	(H)	CO-SPONSOR ADDED: BARNES
15	03/09/88	2524	(H)	TRANSMITTED TO (S)
16	03/10/88	2582	(S)	READ THE FIRST TIME - REFERRAL(S)
17	03/10/88	2582	(S)	STA, THEN CRA, FINANCE

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU	TEXT	PRINT	BWD	FWD		FIRST	LAST	QUIT

Scheduled in State Affairs on
 Wednesday 4/27/88 -
 - will probably be passed out.

To

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Notification
to Community Councils and Non-Profit
Comm. Councils of Certain State Actions
Sponsor: Rep. Donley, Barnes, Brown et al
Requestor: _____

Agency Affected: Revenue
BRU: ABC
Components: OPERATING

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

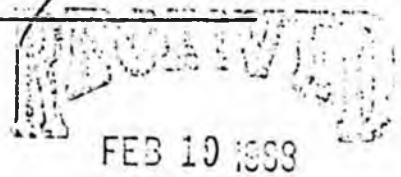
FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Royce B. Weller *RW* Phone: 465-2300
Division: Commissioner's Office Date: February 10, 1988

Approved by Commissioner: Hugh Malone *H Malone* Date: February 10, 1988
Agency: Department of Revenue

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



FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Notification to Community
Councils
Sponsor: Representative Donlev et.al.
Requestor: Senate State Affairs

Agency Affected: Natural Resources
BRU: Land & Water Management

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		0	0	0	0	0
TRAVEL		.8	.8	.8	.8	.8
CONTRACTUAL		2.2	2.2	2.2	2.2	2.2
SUPPLIES		1.2	1.2	1.2	1.2	1.2
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		4.2	4.2	4.2	4.2	4.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		4.2	4.2	4.2	4.2	4.2
FEDERAL FUNDS						
OTHER						
TOTAL		4.2	4.2	4.2	4.2	4.2

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This amended version of the bill removes DNR's liability for not notifying an organization. The fiscal note can therefore be reduced because the notices can be sent regular mail instead of by certified green card. Less personnel time will be involved.

Prepared by: Janet Burleson Phone: 465-3400
Division: Land and Water Management Date: 3/22/88

Approved by Commissioner: Tom Hal, King Date: _____
Agency: Natural Resources

Distribution (by preparer):

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

File

April 7, 1988

The Honorable Mitchell Abood
Chair, Senate State Affairs
Committee
P.O. Box V
Juneau, Alaska 99811

RE: CSHB 297, An Act Relating to the
Notification to Community Councils

Dear Senator Abood:

CSHB 297 has been recently passed out of the House of Representatives and referred to the Senate. This bill relates to the notification of community councils and nonprofit community organizations of certain state actions. Section 6 of this act proposes amending Title 38 to require the department to give notice to community councils, coordinating bodies established by community councils, and nonprofit community organizations or governing bodies, upon the request of such groups for such notice.

As the bill is currently written, it presents a problem in that the requirement for notifying the targeted groups is under AS 38.05.945(c). This section requires that the notice be issued no later than 30 days prior to the action. Should a community council request notification within a period of time less than 30 days prior to the action the result would be a delay of the action to meet the statutory requirement. This is of particular concern in the case of oil and gas lease sales which are uniquely threatened by delays due to scheduling provisions of AS 38.05.180(a)(2).

The Department of Natural Resources supports the concept and intent of CSHB 297 but is concerned about invalidation of actions, particularly oil and gas lease sales, if notification is requested less than 30 days prior to an action. Therefore, the department recommends the substitution of the following:

April 7, 1988

Sec. 7. Sec. 38.05.945 is amended by adding a new subsection to read:

(g) Notice of an action under (a) of this section shall also be given, upon the receipt of a request in writing, to the following:

(1) to a community council established by the charter or ordinance of the municipality if the land is located within the boundaries of the municipality, or a coordinating body established by community councils in a municipality in which the land is located;

(2) to a nonprofit community organization or a governing body, if the land is within the boundaries.

(h) Failure to give notice under this section to a community council, coordinating body established by community council, or organization listed in (g)(2) of this section shall not constitute a legal basis for invalidation of the action.

Sincerely,

Judith M. Brady
Commissioner

cc: Senator Sturgulewski
Senator Halford
Senator Binkley
Representative Donley

bcc: Jim Eason

JMB/LO/WS/phd

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

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 297 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

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

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

10 * Section 1. AS 04.11.310(b) is amended to read:

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

18 (1) immediately provide [TO THE COMMUNITY COUNCIL] written
19 notice of the application to

20 (A) the community council; and

21 (B) any nonprofit community organization that has
22 requested notification in writing; and

23 (2) at least 10 days before the date set for board action
24 on the application provide [TO THE COMMUNITY COUNCIL] written notice
25 of the proposed action and the time and place for a hearing to

26 (A) the community council; and

27 (B) any nonprofit community organization that has
28 requested notification in writing.

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

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

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

16 (2) the board may, on its own initiative or in response to
17 an objection or protest, hold a hearing to ascertain the reaction of
18 the public or a local governing body to an application if a hearing is
19 not required under [(1), (3), OR (4) OR] this subsection and the board
20 shall send notice of a hearing conducted under this paragraph 20 days
21 in advance of the hearing to each community council established within
22 the municipality and to each nonprofit community organization entitled
23 to notification under AS 04.11.310(b);

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

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

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 04.11.310(b) is amended to read:

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

18 (1) immediately provide [TO THE COMMUNITY COUNCIL] written
19 notice of the application to

20 (A) the community council; and

21 (B) any nonprofit community organization that has
22 requested notification in writing; and

23 (2) at least 10 days before the date set for board action
24 on the application provide [TO THE COMMUNITY COUNCIL] written notice
25 of the proposed action and the time and place for a hearing to

26 (A) the community council; and

27 (B) any nonprofit community organization that has
28 requested notification in writing.

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

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

5 * Sec. 3. AS 04.11 is amended by adding a new section to read:

6 Sec. 04.11.525. NOTICE TO COMMUNITY COUNCIL. On receipt of an
7 application for the issuance, renewal, relocation, or transfer of the
8 ownership of a license, the board shall provide written notice under
9 AS 04.11.310(b).

10 * Sec. 4. AS 33.30 is amended by adding a new section to read:

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

18 * Sec. 5. AS 35.30.010(a) is amended to read:

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

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

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

27 (3) if the project is located within one-half mile of the
28 boundary of an area represented by a community council established by
29 municipal charter or ordinance, the department shall submit the plans

except oil and gas ^{and geothermal} leasing under AS 38.05.180 and AS 38.05.181

1 to the community council for review and comment.

except for

2 * Sec. 6. AS 38.05.945(c) is amended to read:

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

5 (1) to a municipality if the land is within the boundaries
6 of the municipality, to a coordinating body established by community
7 councils in a municipality if the coordinating body or a community
8 council within the area served by a coordinating body requests notice
9 in writing; if there is no coordinating body within the municipality,
10 notice shall be provided to each community council established by the
11 charter or ordinance of the municipality if the land is located within
12 the boundaries of the municipality and if the community council re-
13 quests notice in writing;

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

18 (3) to a village corporation organized under sec. 8(a) of
19 the Alaska Native Claims Settlement Act if the land is within 25 [SIX]
20 miles of the village for which the corporation was established and the
21 land is located outside a municipality;

22 (4) to the postmaster of a permanent settlement of more
23 than 25 persons located within 25 [SIX] miles of the land if the land
24 is located outside a municipality, with a request that the notice be
25 posted in a conspicuous location;

26 (5) to a nonprofit community organization or a governing
27 body that has requested notification in writing and provided a map of
28 its boundaries, if the land is within the boundaries.

29 * Sec. 7. Sec. 38.05.945 is amended by adding a new subsection to read:

1 (g) Failure to give notice under this section to a community
2 council, a coordinating body established by community council, or
3 organization listed in (c)(5) of this section shall not constitute a
4 legal basis for invalidation ^{or delay} of the⁰ action.

(c) Notice at least 30 days before action under (a) of this section, except oil and gas leasing under AS 38.05.180 and geothermal leasing under AS 38.05.181, shall ~~be~~ also be given to the following: