

S B

8 1

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 22, 1991

FURTHER REFERRALS:

Resources
Finance

Date of Committee Action: 5-8-91

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

CSSB 81(FIN)am

CS FOR SENATE BILL NO. 81 (FINANCE) am

PLATTING AUTHORITY FOR STATE

"An Act establishing the Department of Natural Resources as the platting authority in certain areas of the state; relating to subdivisions and dedications; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____ the same title & new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) DNR

zero fiscal note _____

zero fiscal note(s) DOT&PF, DEC, DORA

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Richard J. Jones</i>	X				
<i>Danny W. Smith</i>					
<i>[Signature]</i>	X				
<i>J. D. Douglas</i>	X				
<i>Cheri Davis</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

Alaska State Legislature



SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, ADMINISTRATIVE REGULATION
REVIEW COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 456-2899

WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

Senate

MEMORANDUM

TO: Representative Jerry Mackie, Chair, Community and Regional Affairs Committee.

FROM: Senator Bettye Fahrenkamp

DATE: May 1, 1991

SUBJECT: SB 81.
An Act establishing the Department of Natural Resources as the platting authority in certain areas of the state; relating to subdivisions and dedications; efd.

BILL SUMMARY:

- * DNR is established as the plat approval authority in areas of the unorganized borough without land use planning ordinances.
- * Minimal monumentation standards are established (page 4, line 4). The commissioner is directed to establish plat standards, but is specifically prohibited from setting engineering standards for subdivisions.
- * Maps prepared for the purpose of transferring leasehold interests; extraction of natural resources; or solely for the issuance of licenses or permits are exempted from approval requirement. Land disposals by aliquot part descriptions of 40 acres or more within surveyed sections are also exempt.

FISCAL IMPACT:

\$74.0 FN from DNR; Zero FNs from DEC, C&RA, and DOT.

DEPARTMENT POSITION:

Supported by DNR, DEC, DOT, C&RA. Requested by State Surveying and Mapping Advisory Board. Supported by AFN.

ABOUT THE BILL:

Under present law, in areas of the unorganized borough without land use planning ordinances, there is no requirement for subdivision plats to meet standards of mapping and monumentation before recording. This leads to problems of proving clear and clean title to subdivision parcels. With increased activity in subdivision, acquisition and conveyance in the unorganized borough; state agencies, survey professionals and Native regional corporations have come to the legislature to propose this bill as a solution.

An Act establishing the Department of Natural Resources as the platting authority in certain areas of the state; relating to subdivisions and dedications; and providing for an effective date.

This bill was drafted at the request of the State Surveying and Mapping Advisory Board in order to address certain deficiencies and ambiguities in statute pertaining to subdivision plats in the unorganized borough.

Present Situation: In the unorganized borough, outside of municipalities with the power of land use regulation under AS 29.40, there is no requirement for any authority to approve the plat of a subdivision except for re-plats and vacations. At least two state agencies have limited approval authority. DEC has authority to see that a subdivision plat addresses environmental health questions, i.e. sewage and water provisions. DOT has authority relating to access from public roads and highways. However, no agency is granted authority to approve the plat of a subdivision to ensure that it will substantiate clear and clean title to the component parcels. This can lead to expensive re-plats and contentious litigation when questions of clear title arise.

WHAT THIS BILL DOES:

- ◆ CLOSES LOOPHOLE THAT ALLOWS RECORDING OF SUBDIVISIONS IN THE UNORGANIZED BOROUGH WITH INADEQUATE MONUMENTATION AND SLOPPY PREPARATION.
- ◆ APPLIES ONLY TO AREAS OF THE UNORGANIZED BOROUGH WHERE THERE IS NO MUNICIPALITY WITH LAND USE PLANNING ORDINANCES.
- ◆ ENSURES CLEAR AND CLEAN TITLE TO PARCELS.
- ◆ APPLIES TO SUBDIVISIONS FOR THE PURPOSE OF SALE OR BUILDING DEVELOPMENT, DOES NOT INCLUDE CADASTRAL PLATS, CADASTRAL CONTROL PLATS, OPEN-TO-ENTRY PLATS, OR REMOTE PARCEL PLATS CREATED BY, OR ON BEHALF OF THE STATE.
- ◆ DOES NOT APPLY TO MAPS PREPARED FOR LEASES, NATURAL RESOURCE EXTRACTION OR LICENSES OR PERMITS.
- ◆ DOES NOT APPLY TO ALIQUOT PART SUBDIVISIONS 40 ACRES OR LARGER.
- ◆ MINIMUM MONUMENTATION:
 - 5 OR FEWER LOTS= MONUMENT AT CONTROLLING EXTERIOR CORNER OF SUBDIVISION.
 - MORE THAN 5 LOTS= MONUMENT AT EACH CORNER OF THE SUBDIVISION.
 - IF NO MONUMENT OF RECORD LIES ON PARCEL OR TRACT BOUNDARY,

PLAT WILL REFLECT A BOUNDARY SURVEY AND TIE TO A MONUMENT OF RECORD.

◆ ESTABLISHES SPECIFIC MONUMENTATION REQUIREMENTS FOR GOVERNMENTAL BODIES ACQUIRING RIGHTS OF WAY FOR ROADS, AIRPORTS AND OTHER PUBLIC PURPOSES (THESE ARE MINIMAL AND REFLECT CURRENT DOT PRACTICES).

◆ FISCAL: BILL REQUIRES APPROVAL OR RETURN TO APPLICANT WITHIN 45 DAYS. ESTIMATED 150 PLATS PER YEAR WOULD FALL UNDER THIS SECTION. DNR FISCAL NOTE FOR \$74.0/YEAR IS FOR 1 FTE CADASTRAL SURVEYOR I AND A PART TIME CLERK TYPIST III. NOTE: DNR FY 92 DECUREMENT REQUEST OF REDUCTION FROM 20 TO 12 CADASTRAL SURVEYORS. HOUSE BUDGET REFLECTS 14. THIS WOULD ADD ONE MORE BACK. STATE WOULD STILL HAVE 5 LESS CADASTRAL SURVEYORS THAN FY 91.

◆ THIS BILL DOES NOT AFFECT LAND USE PLANNING AUTHORITY IN MUNICIPALITIES OF THE UNORGANIZED BOROUGH THAT HAVE ORDINANCES.

◆ DOES THIS BILL MAKE SUBDIVISION PLAT REQUIREMENTS MORE STRINGENT IN THE UNORGANIZED BOROUGH?

YES, BECAUSE NOW THERE ARE NO REQUIREMENTS FOR APPROVAL, OTHER THAN FOR VACATIONS OF RIGHTS OF WAY ETC. AND RE-PLATS. REMEMBER, THIS BILL ONLY APPLIES TO AREAS OUTSIDE OF MUNICIPALITIES THAT HAVE LAND USE PLANNING ORDINANCES.

Article 2. Control of Plats, Subdivisions and Dedications.

Section
70. Platting authority

Section
75. Authority in the unorganized borough and third class boroughs

AMENDED

Sec. 40.15.070. Platting authority. If land proposed to be subdivided or dedicated is situated within a first or second class borough, the proposed subdivision or dedication shall be submitted to the borough planning commission for approval. If the land is situated within a city in the unorganized borough or the third class borough, the proposed subdivision or dedication shall be submitted to the city planning commission for approval. The borough planning commission is the platting authority for the first or second class borough, the city planning commission is the platting authority for the city, and the Department of Natural Resources is the platting authority in the remaining areas of the state and third class borough for the change or vacation of existing plats or a portion of such plats, as provided in AS 40.15.075. If the borough or the city does not have a planning commission, the borough assembly or the city governing body, respectively, is the platting authority and the proposed subdivision or dedication shall be submitted to it. A subdivision may not be filed and recorded until it is approved by the platting authority. (§ 1 (ch II) ch 115 SLA 1953; am § 68 ch 69 SLA 1970; am § 2 ch 112 SLA 1971; am § 36 ch 161 SLA 1988)

Cross references. — For planning, platting, and zoning by municipalities, see AS 29.40.

Effect of amendments. — The 1988 amendment, effective January 1, 1988, made a series of minor punctuation changes in the first two sentences, substi-

tuted "Department of Natural Resources" for "Division of Lands" in the third sentence, and rewrote the last sentence, which read "No subdivision may be filed for record until it is approved by the platting authority."

NOTES TO DECISIONS

Approval by department of environmental conservation. — Department of environmental conservation can validly require its approval of potential subdivision plans as a prerequisite to the recording and sale of any lots in the subdivision. State v. Anderson, Sup. Ct. Op. No. 3267 (File No. S-1824), P.2d (1988).

Stated in State v. Weidner, Sup. Ct. Op. No. 2788 (File Nos. 6220, 6240, 6272), 684 P.2d 103 (1984).

Cited in Kenai Peninsula Borough v. Kenai Peninsula Bd. of Realtors, Inc., Sup. Ct. Op. No. 2576 (File No. 6374), 652 P.2d 471 (1982).

REPEALED

~~**Sec. 40.15.075. Authority in the unorganized borough and third class boroughs.** The Department of Natural Resources is the platting authority in the area outside organized boroughs and outside cities in the unorganized borough and in the third class borough for only the purposes of hearing and acting on petitions for the change or vacation of plats and shall execute this function substantially in conformity with the provisions of AS 29.40.130 — 29.40.160. Costs of publication and mailing authorized in AS 29.40.130 shall be paid to the Department of Natural Resources by the petitioner. The Department of Natural Resources shall adopt reasonable regulations governing the exercise of the authority conferred by this section. (§ 1 ch 112 SLA 1971; am § 7 ch 118 SLA 1972; am § 64 ch 74 SLA 1985; am § 37 ch 161 SLA 1988)~~

Effect of amendments. — The 1985 amendment substituted "AS 29.40.130 — 29.40.160" for "AS 29.33.210 — 29.33.240" at the end of the first sentence and in the second sentence deleted "as well as other costs" following "mailing" and substituted "AS 29.40.130" for "AS 29.33.210."

The 1988 amendment, effective January 1, 1989, substituted "Department of Natural Resources" for "Division of Lands" in the first sentence and for "division" in the second sentence, and deleted "upon the Division of Lands" at the end of the third sentence.

Repealed

Sec. 40.15.290. Definitions. In this chapter

(1) "street" includes streets, avenues, boulevards, roads, lanes, alleys, and other ways;

(2) "subdivision"

(A) means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or areas subdivided;

(B) does not include cadastral plats, cadastral control plats, open-to-entry plats, or remote parcel plats created by or on behalf of the state regardless of whether these plats include easements or other public dedications. (§ 7 (ch II) ch 115 SLA 1953; am § 3 ch 95 SLA 1955; am § 41 ch 113 SLA 1981)

provided in SB 81
DEFINITIONS

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

3601 C STREET
P.O. Box 107005
ANCHORAGE, ALASKA 99510-7005
PHONE: (907) 762-2692

March 19, 1991

The Honorable Pat Pourchot, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Re: Senate Bill 81, State Platting Authority

Dear Senator Pourchot:

At the committee meeting held on March 12, 1991 you requested more information about three subjects. The following is in response to those questions.

Land ownership outside of organized municipalities

Of the 367,700,000 acres of land in the state, 201,261,238 acres lie outside of organized municipalities. This is comprised of 45,123,770 acres of state land, 22,660,538 acres land conveyed under ANCSA, and 133,476,930 acres of federal land (31,957,676 acres managed by BLM, 49,462,615 acres managed by the F&WS, 15,621,972 acres managed by the Forest Service, and 36,434,230 managed by the NPS).

There is also 5,055,536 acres of land in private ownership which includes Native allotments. We were not able, in this short period of time, separate that amount into how much is outside of municipalities. However, I would expect that the vast majority lies inside of municipalities.

Disposal by aliquot parts

The proposed legislation, at Section 40.15.360, states that the provisions making the state the platting authority do not apply to surveyed sections that are being disposed of by aliquot parts that are described as 40 acres or larger. This 40 acre aliquot part exclusion is the same that is offered in the Matanuska-Susitna, Fairbanks North Star, and Kenai Peninsula Boroughs.

The platting requirements that are being proposed in Senate Bill 81 are very easy to accomplish and have been abbreviated to a point that a further platting waiver to a smaller aliquot part is not necessary nor in a future land owners best interest. For example

Senator Pourchot
March 19, 1991
Page 2

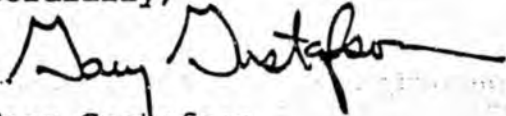
the legislation lightens the monumentation requirement for subdivisions of 5 and fewer lots to the point where only the exterior corners need to be monumented. This is also less than is required by most municipalities.

Positions

Enclosed is a revised fiscal note and the request for new positions. I apologize for not including the position forms with the original the fiscal note.

Please feel free to contact me if you or members of the committee have any additional questions.

Cordially,



Gary Gustafson
Director

cc: Senator Fahrenkamp, Dan Austin
Commissioner Heinze

FISCAL NOTE

STATE OF ALABAMA
1991 LEGISLATIVE SESSION

BILL NO. CSSB 81

Revision Date: 19-Mar-91 Department Affected: Natural Resources
 Title: Establishing DNR as platting authority BRU: Land & Water Management
in certain areas Components: Land & Water Management
 Sponsor: Senator Fahrenkamp
 Requestor: Senate Finance COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	66.0	66.0	66.0	66.0	66.0	66.0
TRAVEL						
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	74.0	74.0	74.0	74.0	74.0	74.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	74.0	74.0	74.0	74.0	74.0	74.0
FEDERAL FUNDS						
OTHER						
TOTAL	74.0	74.0	74.0	74.0	74.0	74.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact: None

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Ron Swanson Phone: 762-2680
 Division: Land & Water Date: 19-Mar-91

Approved by Commissioner: Harold Heinze Date: 19-Mar-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,
 & Impacted Agency(ies).

Position Title Cadastral Surveyor I		No. of Positions	Range/Step 19 A	Barg. Unit GGU
Time Status FT	Staff Months 12	Location Anchorage		Election District
		Justification		
Type of Expenditure		Amount		
1	2	3		
Salary	41.4			
Benefits	16.0			
Premium Pay				
Other				
Total Personal Services		58.2		
Travel				
Contractual		4.0		
Commodities		2.0		
Equipment				
Other				
Total Cost		64.2		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	64.2		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
<p>Personal Services Salary and Benefits costs are from PACS.</p>				
<p>A professional land surveyor is required to review all survey plats outside of organized municipalities with platting authority to ensure that all plats meet minimum requirements before they are recorded. SB 81 requires that all plats must be reviewed within 45 days of submittal. The bill also requires that surveys of subdivisions have sufficient ties to monuments of record to ensure the accurate geographic position of the new subdivision and that the plat is done in such a way to make individual lots readily locatable to future owners and surveyors retracing the lots in the future.</p> <p>We expect that we will need to review between 150 to 200 plats per year under this program. The review will ensure that all plats meet state standards and future land owners rights of valid ownership are protected.</p> <p>Existing staff cannot handle this increased workload. This is a new service. The department is proposing a reduction of Cadastral Survey staff from 20 positions to 12 in the FY 1992 budget.</p>				

**Request For
New Position**

Agency Natural Resources
 BRU Land and Water
 Component Land and Water

Page of
 Revised Date

FY 92

Position Title Clerk Typist III			No. of Positions 1	Range/Step 3B	Barg. Unit GGU
Time Status PP3	Staff Months 3		Location Anchorage		Election District
			Justification		
Type of Expenditure		Amount			
1	2	3			
Salary	5.1				
Benefits	2.7				
Premium Pay					
Other					
Total Personal Services		7.8			
Travel					
Contractual		1.0			
Commodities		1.0			
Equipment					
Other					
Total Cost		9.8			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	9.8			
I-A Receipts	1006				
CIP Receipts	1061				
Other					
*Personal Services Salary and Benefits costs are from PACS.					

Three months of a Clerk-Typist time will be needed to receive submittals, track plats through until recorded, process correspondence associated with the platting authorities review, and to maintain files.

Existing staff cannot handle this increased workload. This is a new service. The department is proposing a reduction of Cadastral Survey staff from 20 positions to 12 in the FY 92 budget.

**Request For
New Position**

Agency Natural Resources
 BRU Land and Water
 Component Land and Water

Page of
 Revised Date

FY 92

Fiscal Note for SB 31, continued

This bill requires the Department of Natural Resources to approve a plat or return it to the applicant for modification or correction within 45 days. If the department fails to take action within 45 days, and the applicant does not consent to an extension of time, the plat is automatically approved and a certificate of approval must be issued. Because of the need to review an estimated 150 plats per year within the 45 day time period, a new, full time Cadastral Surveyor I position and a part time Clerk Typist III position are required. Additional funds are needed for rental space, telephones and supplies.

Alaska Federation of Natives, Inc.

April 2, 1991

Mr Lyman Hoffman
Alaska Senate
P. O. Box V
Juneau, Alaska 99811

Dear Senator Hoffman:

The drafting of CSSB 81 was an effort of the Department of Natural Resources Platting Advisory Board. Membership of the Advisory Board represents DNR, DCRA, private surveying interests and the AFN Land Committee.

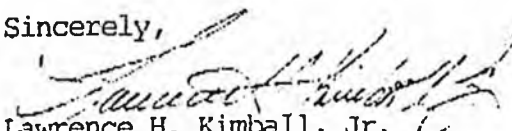
The AFN Land Committee represents twelve regional and twenty five village ANCSA corporations. Mr Pete Nagel of Chugach Alaska Corporation has held a seat on the Advisory Board representing the Land Committee. The entire Land Committee has met on a quarterly basis to review draft language.

The CSSB 81 currently in Senate Finance Committee is supported by the Land Committee. The bill will assist ANCSA corporations in their efforts to purify title by codifying surveying and recording standards for those areas outside of municipal jurisdictions that administer subdivision and platting regulations.

The Land Committee appreciates your interest in this bill and requests your continued support for it.

Thank you.

Sincerely,


Lawrence H. Kimball, Jr.
Chairman, AFN Land Committee