

HB

279

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 24, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/10/95

The RESOURCES Committee considered:

HB 279

HOUSE BILL NO. 279

MUNICIPAL RIVER HABITAT TAX CREDIT

"An Act relating to a municipal river habitat protection tax credit."

recommends it be replaced
with the following committee substitute

CS HB 279 (RES)

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) f+G

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Nichols</i>			✓	
<i>Jim Davis</i>	X			
<i>Patricia</i>	X			
<i>Allen Crute</i>			✓	
<i>Kamona Barnes</i>			✓	
<i>Scott</i>	✓			
<i>W. J. Williams</i>	✓			
<i>Joseph</i>	✓			

CHAIR'S SIGNATURE

Joseph

DAVIES
HB279

without regard to the percentage of the total
protection or restoration that could be achieved
by ideal improved measures.

Alaska State Legislature

Interim:
P.O. Box 1287
Soldotna, AK 99669
(907) 262-8414



Session:
State Capitol
Juneau, AK 99801
(907) 465-2693

Representative Gary L. Davis

SPONSOR STATEMENT

HOUSE BILL 279

"An Act relating to a municipal river habitat protection tax credit".

This bill deletes the requirement that the Department of Fish and Game develop regulations to implement the tax credit provisions for habitat protection on the Kenai River.

The proposed language mandates that any proposed municipal ordinance developed to implement this law will include the regulatory aspects of the legislation. The ordinance must be approved by the Department of Fish and Game before it is adopted. Improvements that will qualify for tax credits will be included in the ordinance.

Fish and Game is also required to respond in writing to the municipality within 60 days of receipt of an ordinance by approving or giving the basis for disapproval

Alaska State Legislature

Interim:
P.O. Box 1287
Soldotna, AK 99669
(907) 262-8414



Session:
State Capitol
Juneau, AK 99801
(907) 465-2693

Representative Gary L. Davis

HOUSE BILL 279

"An Act relating to a municipal river habitat protection tax credit".

Sectional Analysis

Section 1: This section deletes language that requires that credits be certified by the Department of Fish and Game. A credit may be granted for an improvement that has been constructed in compliance with state and federal laws.

Section 2: This section adds subsection (d) establishing that a municipal ordinance is the vehicle for certification of the tax credits. The Commissioner of Fish and Game must approve or disapprove the ordinance within 60 days after receipt.

Section 3: This section repeals subsection (c) which required the Department of Fish and Game to establish regulations.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB279

Revision Date: _____ Dept. Affected: Fish and Game
 Title: An Act relating to a municipal river habitat BRU: Habitat and Restoration
protection tax credit Component: Habitat
 Sponsor: Rep. G. Davis
 Requester: Resources COMPONENT SERIAL NO. 486

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB257 amends AS 29.45.046(b) to eliminate existing requirements that the Alaska Department of Fish and Game prepare habitat tax credit regulation for the Kenai River, and that the department inspect projects to make sure that they meet the criteria. HB 257 adds a new requirement that the department review and approve the Kenai Peninsula Borough's tax credit ordinance within 60 days of receipt.

The department does not believe that review of the borough's tax credit ordinance will entail substantial cost to the department. Therefore a zero fiscal note is recommended.

Prepared by: Ellen Fritts, Acting Director
 Division: Habitat and Restoration
 Approved by Commissioner: *Frank...*
 Agency: Fish and Game

Phone: 465-4105
 Date: 3/31/95
 Date: 4.6.95

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB279

Revision Date: _____ Dept. Affected: Fish and Game
 Title: An Act relating to a municipal river habitat BRU: Habitat and Restoration
protection tax credit Component: Habitat
 Sponsor: Rep. G. Davis
 Requester: Resources COMPONENT SERIAL NO. 486

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB257 amends AS 29.45.046(b) to eliminate existing requirements that the Alaska Department of Fish and Game prepare habitat tax credit regulation for the Kenai River, and that the department inspect projects to make sure that they meet the criteria. HB 257 adds a new requirement that the department review and approve the Kenai Peninsula Borough's tax credit ordinance within 60 days of receipt.

The department does not believe that review of the borough's tax credit ordinance will entail substantial cost to the department. Therefore a zero fiscal note is recommended.

Prepared by: Ellen Fritts, Acting Director
 Division: Habitat and Restoration
 Approved by Commissioner: *[Signature]*
 Agency: Fish and Game

Phone: 465-4105
 Date: 3/31/95
 Date: 4.6.95

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

DEPARTMENT OF FISH AND GAME POSITION PAPER

BILL NO: HB279

SPONSOR: Representative Davis

DIVISION: Habitat and Restoration

DEPARTMENT POSITION: Support HB279 with sponsor clarification of Sec. 2. AS 29.45.046(d) intent.

HB279 deletes the existing AS 29.45.046(b) requirement that ADF&G prepare and adopt regulations for a fish habitat protection and restoration tax credit program for the Kenai River. It also eliminates the requirement that the department review each application and inspect and certify each project to determine if the project qualifies for a tax credit under the regulations. These are positive changes. Although a higher level of habitat protection would have been provided if the department could have developed regulations with criteria for projects which restore or protect fish habitat, and department habitat biologists had been able to review each project application, and inspect each completed project to insure that the project met the criteria for a tax credit, the department was never provided with staff or funding for either of these tasks.

HB279 adds a new section (d) which requires the Commissioner of ADF&G to review and approve draft Kenai River tax credit ordinances prepared by the Kenai Peninsula Borough Assembly within 60 days of receipt of the ordinance. It further requires the ADF&G to approve the ordinance "if the improvements for which a credit is authorized aid in protecting or restoring habitat as required under this section without regard to the scope of the protection or restoration that would be achieved by the improvements." The requirement that the ADF&G review and approve a draft ordinance to ensure that projects that receive tax credits truly provide a commensurate level of habitat protection and restoration seems like a reasonable cost-effective compromise between writing the tax credit regulations and inspecting each project, versus no participation. This amendment would provide department habitat and fisheries specialists with an opportunity to review the draft ordinance and determine if the taxes foregone by the borough as credits for habitat protection and restoration would actually buy a commensurate amount of habitat protection or restoration.

DEPARTMENT OF FISH AND GAME
POSITION PAPER
CONTINUATION PAGE FOR HB279

The intent of the section that requires the department to approve the ordinance "without regard to the scope of the protection or restoration that would be achieved by the improvement," is not clear. One interpretation would be that the department would be expected to approve the ordinance even if it believed that a type of very costly tax incentive project would only provide a small amount of habitat protection or restoration. Because it seems unlikely that this is what the bill sponsors intended, they may want to rewrite this section to clarify its intent.

COMMISSIONER'S SIGNATURE

Frank A.

DATE

9.6.95



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

April 6, 1995

The Honorable Joe Green, Co-Chairman
The Honorable Bill Williams, Co-Chairman
House Resources Committee
State Capitol
Juneau, AK 99801

Re: HB 279: Municipal River Habitat Tax Credit
SB 147: Municipal River Habitat Tax Credit

Dear Sir:

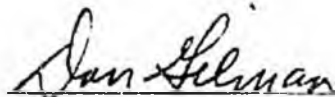
The Kenai Peninsula Borough supports the enactment of HB 279, and its companion Senate Bill 147. The Legislature in its last session enacted a provision for an optional tax credit for improvements that protected or restored habitat in the Kenai River. However, in order to implement the tax credit program protecting the Kenai River, regulations had to be adopted by the Alaska Department of Fish & Game defining improvements that qualified as being protective or restorative. This requirement for the adoption of regulations has delayed the process and complicated the matter. The intent of having the Alaska Department of Fish & Game adopt regulations was to bring expertise into the matter so that the credit would be granted only for protective or restorative improvements. Cities and boroughs generally do not have staff who can address those issues. At the same time, the legislation sought to insure that municipalities did not choose to grant credits under the guise of the improvement being a protective measure. We think the proposed change in these bills will accomplish the original objective of allowing municipalities to provide an incentive for protection of the Kenai River without the cumbersome process of the Alaska Department of Fish & Game having to adopt regulations.

The proposed changes would eliminate the regulations and allow a local government to define improvements and measures which it deems would be protective or restorative. The ordinance defining these eligible activities would be subject to review by the Commissioner of Alaska Department of Fish & Game. The Commissioner's review would be to determine that the eligible improvements in an ordinance were protective or restorative. It would allow the municipality to define the eligible improvements in its ordinance with oversight to insure that the program is limited to protective and restorative improvements. This allows the expertise of the Alaska Department of Fish & Game to be utilized by the municipality in

The Honorable Joe Green
The Honorable Bill Williams
April 6, 1995
Page 2

crafting the ordinance and a final review by the Commissioner before the ordinance goes into effect. The Commissioner's involvement would not look at the extent of the credit or the choice of activities to be granted the credit other than to determine whether they were truly protective measures or not.

KENAI PENINSULA BOROUGH



Don Gilman, Mayor

DG:bl

cc: Representative M. Navarre
Representative G. Davis
Representative G. Phillips

TOTAL F.02

August 8, 1994

The Honorable Don Gilman
Mayor
Kenai Peninsula Borough
144 North Binkley
Soldotna, AK 99669-7599



Dear Mayor Gilman:

Thank you for your leadership in getting HB 306 passed by the legislature. This statute will provide an important tax incentive for private property owners to protect and restore valuable habitat that produces our Kenai River fisheries, which are so important to the economy of the Kenai Peninsula and the state.

As you know, the Kenai Peninsula Borough will have to develop a local ordinance, and the Alaska Department of Fish and Game (ADF&G) will need to develop regulations to implement this statute. The department would like to coordinate the development of these regulations with the borough. This will require that department staff work closely with borough staff to formulate criteria, forms, and procedures for this process. We will need to hold public workshops to get the landowners' perspective and acceptance and public hearings will be required to adopt the regulations. I anticipate that the development of good regulations will require considerable staff time.

Because of the downsizing of state government, ADF&G does not have funds for the senior staff person needed to begin development of these regulations at this time, however we are actively looking for funding to provide the necessary support for the HB 306 regulations and hope to begin full scale work soon. In the interim, the Habitat and Restoration Division, which has responsibility for the regulations plans to contact the borough in the near future to begin the scoping and background work for the project. Please let me know who in the borough we should contact to begin developing a coordinated approach to implementing HB 306.

Thank you for all your help on this and other Kenai River issues. We look forward to working with you on the successful implementation of the tax incentive program.

Sincerely,

A handwritten signature in cursive that reads "Carl L. Rosier".

Carl L. Rosier
Commissioner