

SB

147

HOUSE COMMITTEE REPORT

(9)
Date Referred: April 13, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/25/95

The RESOURCES Committee considered:

SB 147

SENATE BILL NO. 147

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 HCS SB 147 (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) _____ zero fiscal note(s) F+G 4-10-95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Alan Quate</i>			✓	
<i>W.R. Williams</i>	✓			
<i>Smith</i>	✓			
<i>Joseph [unclear]</i>	✓			
<i>John [unclear]</i>			✓	

CHAIR'S SIGNATURE *Joseph [unclear]*

Alaska State Legislature

SENATOR
JOHN TORGERSON
DISTRICT D



Senate

SESSION ADDRESS
STATE CAPITOL, ROOM 427
JUNEAU, ALASKA 99801-1182
(907) 485-2828
FAX (907) 485-4779

S.B. 147 - Municipal River Habitat Tax Credit Sponsor Statement

HB 306 was enacted in 1994. That legislation provided the authority for a municipality to establish, by ordinance, a Kenai river habitat protection credit against property taxes. The current statute requires the Department of Fish and Game to develop criteria for accomplishing the tax credits and the department is also responsible for reviewing and certifying land owner applications.

This bill, SB 147, revises the review and certification process. The bill provides for the Commissioner of the Department to approve criteria set forth in an ordinance developed by the municipality. Also, the Department would no longer be required to review and then certify the land owner applications. The municipality will be responsible for the process, based on the criteria established in the ordinance.

Alaska State Legislature

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S.B. 147 - Municipal River Habitat Tax Credit Sectional Analysis

Sec. 1: Amends subsection (b) by deletion of language requiring credits to be certified by the Department of Fish and Game.

Sec. 2: Adds new subsection (d), establishing that the municipal ordinance is the vehicle for certification of the credits, subject to the approval of the Commissioner of Fish and Game.

Sec. 3: Repeals subsection (c), language which requires the Department of Fish and Game to certify, and the criteria under which it is would be certified.

DEPARTMENT OF FISH AND GAME POSITION PAPER

BILL No: SB147

SPONSOR: Senator Torgerson

DIVISION: Habitat and Restoration

DEPARTMENT POSITION: Support SB147 with sponsor clarification of Sec. 2. AS 29.45.046(d) intent.

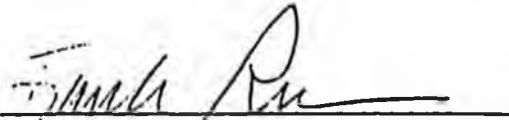
SB147 deletes the existing AS 29.45.046(b) requirement that the ADF&G prepare and adopt regulations for a fish habitat protection and restoration tax credit program for the Kenai River. It also eliminates the requirement that the department review each application and inspect and certify each project 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.

SB147 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 ADF&G review and approve a draft ordinance to ensure that projects that receive tax credits will 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 SB147

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



DATE

7.6.95



BILL ANALYSIS

DEPARTMENT Department of Fish and Game	DIVISION Habitat and Restoration	BILL NUMBER SB147	SPONSOR Senator Torgerson
SHORT TITLE OF BILL An Act relating to a municipal river habitat protection tax credit.			
DEPARTMENT POSITION Support			
PREPARED BY Ellen Fritts <i>gllm Fritts</i>	DATE 04/03/95	COMMISSIONER'S SIGNATURE <i>Frank...</i>	DATE 4-6-95

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources Kenai Peninsula Borough Cities of Kenai, Soldotna, and Cooper Landing	CONSTITUENT GROUP(S) AFFECTED BY BILL Sport fishermen Landowners Commercial fishermen Kenai Peninsula Borough residents
ORGANIZATIONAL SUPPORT FOR BILL None known	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

SB147 amends AS 29.45.046(b) to eliminate the existing requirements that: (1) the Alaska Department of Fish and Game (ADF&G) develop regulations with criteria for projects that would qualify for a Kenai Peninsula Borough tax credit, and (2) obligate the department to review each application and inspect and certify that each tax credit project constructed meets tax credit criteria. A new section is added which requires ADF&G to review and approve a habitat protection tax credit ordinance adopted by the Kenai Peninsula Borough.

ANALYSIS OF BILL/PROGRAM EFFECTS

See attached sheet.

AMENDMENTS PROPOSED

Sponsor should rewrite Sec 2. AS 29.45.046(d) lines 12-16 to clarify what criteria they want the Commissioner to use in approving a tax credit ordinance.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS

ANALYSIS OF BILL/PROGRAM EFFECTS

SB147 deletes the existing AS 29.45.046(b) requirement that the 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.

SB147 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 ADF&G review and approve a draft ordinance to ensure that projects that receive tax credits will 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 will 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 will actually buy a commensurate amount of habitat protection or restoration.

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.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB147

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: Senator Torgerson
 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)

SB147 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. SB147 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: Department of Fish and Game

Phone: 465-4105
 Date: _____
 Date: 4.6.95

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FISCAL NOTE

Revision Date: April 6, 1995 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to a municipal river BRU: none
habitat protection tax credit Component none
 Sponsor: Senator Torgerson
 Requestor: Senate Resource COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

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

REVENUE FUND SOURCE: _____

FUNDING: (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

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This legislation amends legislation passed last year which provides for tax credits for municipalities which have provisions for river habitat protection. The law applies only to the Kenai River. The amendment would relieve the Department of Fish and Game from the requirement of certifying the habitat improvement. Under the proposed legislation, ADFG would also have to approve ordinances passed by a municipality in this regard. These changes have no effect on DCRA and, consequently, no fiscal impact.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 4/6/95
 Approved by Commissioner: *Mike Duran* Date: 4/6/95
 Agency: Community & Regional Affairs

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KENAI PENINSULA BOROUGH

144 N. BINKLEY SOLDOTNA, ALASKA 99669-7599
BUSINESS (907) 262-4441 FAX (907) 262-1892

DON GILMAN
MAYOR

April 6, 1995

The Honorable Loren Leman, Chairman
Senate 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.

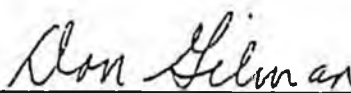
The proposed changes would eliminate the regulations and allow a local government to define improvements and measures which it deems would be protective or restorative. The ordinance defining these eligible activities would be subject to review by the Commissioner of Alaska Department of Fish & Game. 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 crafting the ordinance and a final review by the Commissioner before the ordinance goes into

— **SUPPORT** —

The Honorable Loren Leman
April 6, 1995
Page 2

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: Senator J. Torgerson

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 25525
JUNEAU, ALASKA 99802-5526
PHONE: (907) 465-4100

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,

Carl L. Rosier
Commissioner



SUPPORT

Alaska State Legislature

SENATOR
JOHN TORGERSON
DISTRICT D



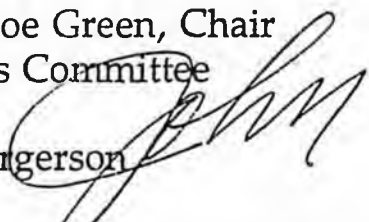
Senate

SESSION ADDRESS
STATE CAPITOL, ROOM 427
JUNEAU, ALASKA 99801-1182
(907) 465-2828
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MEMORANDUM

DATE: April 20, 1995

TO: Representative Joe Green, Chair
House Resources Committee

FROM: Senator John Torgerson 

RE: Scheduling S.B. 147 Municipal River Habitat Tax Credit

This is to request that you schedule Senate Bill 147, regarding Municipal River Habitat Tax Credits, before the House Resources Committee.

Attached, find information regarding the bill; a sponsor statement, the sectional analysis, and support letters.

Thank you in advance for your time and consideration.