

HB

24

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 24(RES)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Agreements on management of fish and game BRU Commissioners Office
 Component Commissioners Office
 Sponsor Reps Weyhrauch, Whitaker
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 |

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FUND SOURCE (Thousands of Dollars)

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|--|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type—Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Gordy Williams, Legislative Liaison Phone 465-6143
 Division: Commissioners Office Date/Time 4/9/03 12:30 PM
 Approved by: Kevin C. Duffy, Commissioner Date 4/9/2003
 Agency: Department of Fish and Game

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

MEMORANDUM

DATE: March 7, 2003
TO: Rep. Lesil McGuire
FROM: Rep. Bruce Weyhrauch
SUBJECT: CS for HB 24 (RES) – Co-Management Agreements RE: Glacier Bay

Attached are materials in support of HB 24. At this time I respectfully request a hearing before your committee on this piece of legislation that is very important to the State of Alaska. This bill passed out of the Resources committee on Thursday, March 6, 2003.

If you have any questions or need further information, I invite you to contact myself, or my aide, Linda Sylvester.

Thank you for your kind attention to this matter.

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

CS FOR HB 24 (RES)

CO-MANAGEMENT AGREEMENTS GLACIER BAY NATIONAL PARK AND PRESERVE

The committee substitute, adopted by the Resources Committee, requires the legislature to approve co-management agreements concerning Glacier Bay National Park and Preserve. Once passed, HB 24 would require that intergovernmental agreements with the National Park Service regarding management of the navigable waters within or adjoining Glacier Bay to be approved by law before they become effective. The form of approval would be a regular bill, requiring committee referrals, public hearings and the signature of the governor.

HB 24 includes transitional language that allows the legislature to review any current intergovernmental agreements and if an existing agreement is not approved before July 1, 2004, that agreement or relevant portion is voided.

The intent is to prevent government officials from ceding the state's management jurisdiction over fish and game resources by means of a contract without a full airing of the public policy implications through the legislature.

Rep. Bruce Weyhrauch
Contact: 465-3744

Updated: February 27, 2003

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
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(907) 465-3744
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CS for HB 24 (RES)

Co-Management Agreements Regarding
Glacier Bay National Park & Preserve

Sectional Analysis

Section 1 of the bill amends AS 16.20.010 by adding a new subsection providing that no provision of AS 16 grants authority to the Department of Fish and Game, the Board of Fisheries, or the Board of Game to enter into agreements with the National Park Service regarding management of fish or game in the navigable waters within or adjoining Glacier Bay National Park and Preserve unless the legislature has approved the agreement by law. This subsection does not prevent the department or a board from entering into agreements with other federal agencies involving the Migratory Bird Treaty Act, Northern Pacific Halibut Act, Marine Mammal Protection Act, Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, or the Pacific Salmon Treaty Act.

Section 2 of the bill is a transitional provisor, providing for legislative review of current intergovernmental agreements with the National Park Service relating to the management of Glacier Bay National Park and Preserve. If an agreement that is in effect on the effective date of this Act is not approved by the legislature before July 1, 2004, that agreement or the pertinent portion of the agreement is void.

Updated: February 27, 2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 24(RES)
(H) Publish Date: 3/10/03

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Agreements on management of fish ar BRU _____
Sponsor Representative Weyhrauch Component _____
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
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| Supplies | | | | | | |
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| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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FUND SOURCE (Thousands of Dollars)

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|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
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| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

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| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jim Pound Phone 465-2338
Division Resources Committee Date/Time 3/7/03 4:32 PM
Approved by: Representative Fate Date 3/7/2003
Agency Co-Chair House Resources Committee

S 501

One Hundred Sixth Congress
of the
United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand

An Act

To address resource management issues in Glacier Bay National Park, Alaska.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Glacier Bay National Park
Resource Management Act of 2000".

SEC. 2. DEFINITIONS.

As used in this Act—

- (1) the term "local residents" means those persons living within the vicinity of Glacier Bay National Park and Preserve, including but not limited to the residents of Hoonah, Alaska, who are descendants of those who had an historic and cultural tradition of sea gull egg gathering within the boundary of what is now Glacier Bay National Park and Preserve;
- (2) the term "outer waters" means all of the marine waters within the park outside of Glacier Bay proper;
- (3) the term "park" means Glacier Bay National Park;
- (4) the term "Secretary" means the Secretary of the Interior; and
- (5) the term "State" means the State of Alaska.

SEC. 3. COMMERCIAL FISHING.

(a) IN GENERAL.—The Secretary shall allow for commercial fishing in the outer waters of the park in accordance with the management plan referred to in subsection (b) in a manner that provides for the protection of park resources and values.

~~MANAGEMENT PLAN.—The Secretary and the State shall cooperate in the development of a management plan for the regulation of commercial fisheries in the outer waters of the park in accordance with existing Federal and State laws and any applicable international conservation and management treaties.~~

(c) SAVINGS.—(1) Nothing in this Act shall alter or affect the provisions of section 123 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1999 (Public Law 105-277), as amended by section 501 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31).

(2) Nothing in this Act shall enlarge or diminish Federal or State title, jurisdiction, or authority with respect to the waters of the State of Alaska, the waters within Glacier Bay National Park and Preserve, or tidal or submerged lands.

(d) STUDY.—(1) Not later than one year after the date funds are made available, the Secretary, in consultation with the State,

the National Marine Fisheries Service, the International Pacific Halibut Commission, and other affected agencies shall develop a plan for a comprehensive multi-agency research and monitoring program to evaluate the health of fisheries resources in the park's marine waters, to determine the effect, if any, of commercial fishing on—

(A) the productivity, diversity, and sustainability of fishery resources in such waters; and

(B) park resources and values.

(2) The Secretary shall promptly notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives upon the completion of the plan.

(3) The Secretary shall complete the program set forth in the plan not later than seven years after the date the congressional committees are notified pursuant to paragraph (2), and shall transmit the results of the program to such committees on a biennial basis.

SEC. 4. SEA GULL EGG COLLECTION STUDY.

(a) ~~STUDY.—The Secretary, in consultation with local residents,~~ shall undertake a study of sea gulls living within the park to assess whether sea gull eggs can be collected on a limited basis without impairing the biological sustainability of the sea gull population in the park. The study shall be completed no later than two years after the date funds are made available.

(b) RECOMMENDATIONS.—If the study referred to in subsection (a) determines that the limited collection of sea gull eggs can occur without impairing the biological sustainability of the sea gull population in the park, the Secretary shall submit recommendations for legislation to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

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 Bill Version: CSHB 24(RES)
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Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
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and game Component Commissioners Office
 Sponsor Reps Weyhrauch, Whitaker
 Requester House Judiciary Component No. _____

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FUND SOURCE (Thousands of Dollars)

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| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: 0.0
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POSITIONS

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|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Gordy Williams, Legislative Liaison Phone 465-6143
 Division: Commissioners Office Date/Time 4/9/03 12:30 PM
 Approved by: Kevin C. Duffy, Commissioner Date 4/9/2003
 Agency: Department of Fish and Game

LAW OFFICE OF
BRUCE B. WEYHRAUCH, LLC

whyrock@ptialaska.net

114 S. FRANKLIN ST.

SUITE 200

JUNEAU, ALASKA 99801

TELEPHONE: (907) 463-5566

FAX: (907) 463-5858

January 15, 2001

Honorable Bill Hudson
State Capitol
Juneau, Alaska 99801-1182

- Re: *Legislative Guidelines and Development of Policies to Guide
Comanagement Agreements Entered into by the State of Alaska*

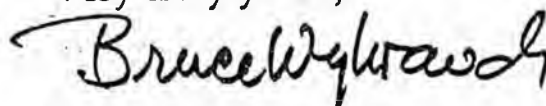
Dear Representative Hudson:

Last year I wrote you about the advisability of the Legislature setting policy guidelines for the State of Alaska when it enters comanagement agreements with the federal government. After I wrote you that letter, Congress passed S. 501, which requires the State and Secretary of the Interior to develop a cooperative management plan for commercial fisheries in the "outer waters" of Glacier Bay. (See enclosed copy, section 3.b.)

There are still no policy guidelines that govern what ADF&G will do in this planning process. It is the state agency that will most likely develop the cooperative management plan with the Park Service. This may be an opportune time to address this matter through State legislation.

Please let me know if you would like to discuss this in any more detail.

Very truly yours,



Bruce B. Weyhrauch

Enclosure

LAW OFFICE OF
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whyrock@ptialaska.net

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SUITE 200

JUNEAU, ALASKA 99801

TELEPHONE: (907) 463-5566

FAX: (907) 463-5858

January 28, 2000

Honorable Bill Hudson
State Capitol, Room 108
Juneau, Alaska 99801-1182

**Re: *Legislative Oversight of Comanagement Agreements Entered into by
the State of Alaska***

Dear Representative Hudson:

The State of Alaska will enter into an increasing number of comanagement agreements with the federal government and entities seeking sovereignty. These agreements will affect the development and use of Alaska's resources. The trend to comanagement agreements will probably lead to increased confusion over which government or entity has jurisdiction over the State's resources. This will potentially lead to impediments to the use and development of the State's resources by business. Therefore, the Legislature should consider implementing policies to guide State agency officials before they commit the State to these comanagement agreements.

In general, in the fish and game context, "comanagement" refers to the sharing of management responsibilities of fish and game resources according to express agreements with state or federal governments. Specific areas of comanagement are research, regulation, allocation, enforcement, and finance. Calls for comanagement often times arise in rural areas because of frustrations with, or distrust of, historic management institutions.

If comanagement involves the use of information and decentralized data management, or the use information on social, economic, political, and biologic impacts of past, present, or future harvest policies, then comanagement has a

Representative Hudson
January 28, 2000
Page 2

legitimate role in (for example) the state's management authority over fish and game resources. However, if comanagement means the voluntary or forced usurpation of the state's sole jurisdiction to manage fish and game resources by allowing other governments, unresponsive to the electorate, to dictate fish and game harvest, enforcement, or financing policies -- then comanagement is probably unacceptable to the business community. Comanagement based upon the latter would be of particular concern if comanagement ventures are voluntarily allowed by the state. That is because such a regime could have broad, negative policy implications statewide on all kinds of resource users.

I offer two specific examples of the trend towards comanagement in Alaska. In March 1997, at an Anchorage seminar on Comanagement in Alaska, an ADF&G spokesman indicated that there would be comanagement of fish and game resources in Alaska. However, this representative did not give precise definitions, or discuss implementation.

In 1999, the National Park Service promulgated regulations closing commercial fishing in Glacier Bay. In allowing commercial fishing to continue temporarily in some portions of Glacier Bay proper, and in the outside waters that are included in the park's boundaries (outside to three miles), the Park Service dictates as follows: "Commercial fishing shall be administered pursuant to a cooperatively developed State/federal park fisheries management plan, international conservation and management treaties, and existing federal and Non-conflicting State law. The management plan shall provide for the protection of park values and purposes, the prohibition on any new or expanded fisheries, and the opportunity to study marine resources." 64 Fed. Reg. 56463 (Oct. 20, 1999).

One of the easier political decisions to make when conflicts arise over which entity should have the ability to manage resources, who should pay for the management, and who should have enforcement authority, is to compromise and enter into mutually agreed upon cooperative agreements that share resource management responsibilities. The result often concedes state jurisdiction by contract.

Resource dependant organizations and businesses have some general

Representative Hudson

January 28, 2000

Page 3

understandings of the trend towards comanagement, and an ability to carry out business plans in light of the cooperative management by agencies other than the state. In the best situation, a business owner would deal with one sovereign, and know with certainty that the resource under development is being managed under the authority and jurisdiction of the State of Alaska. Despite some disputes between business and the State, the State has generally been the preferred resource manager because it has, when appropriately financed and staffed, been better to deal with than, for example, the federal government. And, if given a choice, for a variety of reasons, most businesses would rather deal with State regulators than regulators from non-state entities.

However, resource dependant industries will eventually be faced with management and legal issues that arise from the terms of the comanagement agreements. Therefore, it may be an appropriate time for the Alaska Legislature to address a policy framework to guide the State's comanagement agreements with non-State entities, and make policy decisions on factors the state should consider before it enters these agreements.

Without such policies in place, there may not be a consistent state interest articulated in the agreements. There may be little understanding or concern about the precedential impact of cooperative management agreements entered into by State bureaucrats. Expediency to reach a "feel good" conclusion may override the need to carefully articulate and assess the long-term impacts of cooperative agreements on business, and on other State agencies, on a State-wide basis. Finally, policy guidelines on State comanagement agreements will be in the best interests of resource development businesses so they can continue to operate with some additional certainty on how government will manage resources, and continue to maintain profitable business plans.

Given the statement by the administration that there would be comanagement of fisheries, and the federal regulation requiring cooperative management of the State's resources in Glacier Bay, the businesses that will be subject to these agreements should have various policy concerns addressed before the State signs any agreements, or delegates its management authority.

Representative Hudson

January 28, 2000

Page 4

Using historic political and legal trends in Alaska and the United States, it is likely that there will be continued, and increasing, use of comanagement agreements by the State of Alaska. Executive branch agencies will probably use comanagement as a power sharing tool to bring the various constituencies "under the tent" to insure consensus of majority interests. In addition, negotiations leading to possible comanagement agreements would necessarily require significant discussions, compromise, and some mediation.

Because the State has not defined its policy guidelines on comanagement, it may be a fertile area for the Legislature's involvement, and a reasonable issue to discuss with the Administration. The Legislature may want to address limiting, or placing policy bounds upon, Executive Branch agencies' use of comanagement arrangements.

Legislation addressing comanagement could require, for example, that before any comanagement agreements are entered into by State agencies, that they be publicly noticed like a regulation, require retention of state jurisdiction, and establish a biologic, social, and/or administrative basis of necessity.

Whether the legislature does enter the comanagement fray, private organizations and businesses involved with resource extraction must carefully monitor any comanagement agreements involving the state and natural resources. Activities or discussions between the State's resource managers and any other political, social, or government entity must be monitored to determine the effect that these discussions, and any resulting agreements, will have on a private entities' ability to continue to harvest and develop the State's resources.

Action on comanagement by the Legislature seems timely. Once a constituency develops that supports comanagement agreements without legislative guidelines, the political/legislative arena will be a difficult forum achieve potential legislative goals and consensus. Thus, it is probably advisable to assess the politics of implementing comanagement policies now, while there is time to still carry on a rational and reasoned legislative debate on this matter.

I would be happy to assist you in formulating a draft policy framework or

Representative Hudson

January 28, 2000

Page 5

concepts for your consideration. I suggest using the State's proposed comanagement plan with the Park Service over commercial fisheries in the Park as a starting point. Please give me a call to discuss this at your convenience.

Very truly yours,

A handwritten signature in cursive script that reads "Bruce B. Weyhrauch". The signature is written in dark ink and is positioned above the printed name.

Bruce B. Weyhrauch