

HB

378



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us webpage: www.akrebublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-465-3732

888-461-3732

FAX 907-465-2652

Date: 4-26-06

To: Senator Stedman, Chair, Senate Community and Regional Affairs Committee

From: Representative Thomas

Re: Sponsor Statement for CSHB 378 An act providing for selection of a member of the Haines Borough Assembly to serve as an ex officio member of the Alaska Chilkat Bald Eagle Preserve Advisory Council and removing the mayor of the City of Haines as an ex officio member of the council.

The Alaska Chilkat Bald Eagle Preserve was created by the State of Alaska in 1982. The preserve, located along the Haines Highway, was created to protect the world's largest concentration of Bald Eagles and their habitat. Along with the large eagle population, the preserve is home to five species of salmon that spawn in the surrounding streams and tributaries.

At the heart of the Eagle Preserve, between 18 and 24 mile of the Haines Highway, is the main viewing area for eagle watchers. This area hosts a particularly large concentration of eagles due to the availability of salmon and open water in the winter months.

In order to protect the sanctity and utility of the Eagle Preserve, the Alaska Bald Eagle Preserve Advisory Council was created. The council consists of 12 seats representing local, state, environmental, traditional, and commercial interests. One of these seats was dedicated to the Haines City Mayor. However, the City of Haines and the Haines Borough have since consolidated leaving the seat for the Haines City Mayor open. CSHB 378 designates this open seat to a person who sits on the Haines Borough Assembly and who has been selected by the assembly. The bill also requires that preference be given to members who sit on the Assembly and who do not already sit on boards that are represented on the Advisory Council.

I respectfully request your support of CSHB 378.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 8th St., Rm. 329

MEMORANDUM

April 18, 2006

SUBJECT: Appointment by governor (HB 378)

TO: Representative Bill Thomas

FROM: Brian J. Kane *BJK*
Legislative Counsel

I discussed with Kaci weeks back, in a memorandum dated February 15th, the problems regarding the Chilkat Bald Eagle Preserve Advisory Council member being selected by the Assembly. Hence, I drafted the bill allowing the Haines Borough Assembly to recommend a member of the Assembly for appointment, but the governor would be the one actually appointing.

The executive has always asserted that, under article III, sections 1 and 26, of the Alaska Constitution, the governor has the sole authority to appoint the members of state boards and commissions. The Department of Law, citing *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976), contends that article III, section 26, marks the bounds of the legislature's authority over the governor's power to appoint. Those constitutional provisions do not make a distinction or exception as to boards and councils that have only an advisory function. Consistent with that interpretation of the constitutional authority to make appointments, AS 41.21.625(b) currently gives the governor the authority to appoint individuals to the Advisory Council. Hence, the governor is the person that should do any appointing for any positions regarding the council, not the borough assembly. The current phrasing regarding this member of the Advisory Council best conforms with the appointing authority exercised under AS 41.21.625(b).

If I may be of further assistance, please advise.

BJK:med
06-318.med

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 15, 2006

SUBJECT: Draft CSHB 378(), Chilkat Bald Eagle Preserve Advisory Council (Work Order No. 24-LS1486\Y)

TO: Representative Bill Thomas
Attn: Kaci

FROM: Brian J. Kane *BJK*
Legislative Counsel

I have drafted the change to the Chilkat Bald Eagle Preserve Advisory Council as you requested, but I would like to call one point to your attention.

AS 41.21.625(b) gives the governor the authority to appoint individuals to the council. Hence, it is likely that the governor is the person that should do any appointing for any positions regarding the council, not the borough assembly. Your change allows for the Haines Borough Assembly to appoint one of its own members, which appears to be in conflict with the requirements of subsection (b).

The sentence regarding the Haines Borough Assembly may need to be changed to: "A member of the Haines Borough Assembly who has been appointed by the *governor* is also...." This phrasing will better conform with the appointing authority exercised under AS 41.21.625(b).

If I may be of further assistance, please advise.

BJK:lmb
06-063.lmb

Enclosure

State of Alaska**Office of Boards and Commissions**

BALD EAGLE PRESERVE

BOARD: Alaska Chilkat Bald Eagle Preserve Advisory Council

BOARD IDENTIFICATION NUMBER: 009

DEPARTMENT: DEPARTMENT OF NATURAL RESOURCES

AUTHORITY: AS 41.21.625; Chapter 95, SLA 1982

STATUS: Active

SUNSET DATE:

REQUIREMENTS: No Legislative Confirmation or Financial Disclosure required

PROHIBITIONS: None

TERM: 2 years

DESCRIPTION: 12 member council. Governor appoints a resident of the Haines Borough representing a conservation organization, a representative of the U.S. Fish and Wildlife Service, and a member of the Upper Lynn Canal fish and game advisory committee. The Mayor of the City of Haines, the Mayor of the Haines Borough, the President of Klukwan, Inc., the chairman of the Council of the Chilkat Indian Village, and the chairman of the Chilkoot Indian Association serve as ex officio members. The Mayor of the Haines Borough may recommend to the Governor for appointment to the council a resident of the Haines Borough for representation of commercial or industrial interests. The commissioner of Fish and Game, the director of the Division of Parks, and the director of the Division of Forestry, or their designees also serve ex officio. Members may select alternates to act as members in their absence.

FUNCTION: Assists the department in the development and monitoring of a management plan for the Alaska Chilkat Bald Eagle Preserve.

CHAIR: No provisions.

SPECIAL FACTS: Advisory.

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: 7 times per year; 7 days total; September through March.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Eberhardt
Southeast Area Superintendent
Division of Parks and Outdoor Recreation
DNR, 400 Willoughby Avenue, Fifth Floor M/S 1000
Juneau, AK 99801
Phone: (907) 465-4563, FAX: (907) 465-5330

Chilkat Bald Eagle Preserve Advisory Council Members
February 2006

Kimberley Strong	Chilkat Indian Village P.O. Box 210, Haines, Ak 99827 kstrong@aptalaska.net	
Gary Hess	Upper Lynn Canal Fish and Game Advisory Committee P.O. Box 125, Haines Ak 99827 gdhess@aptalaska.net	
Fred Shields	Mayor, Haines Borough P.O. 1209, Haines Ak 99827 fshields@haines.ak.us	Co-Chair
Mike Jacobson	U.S. Department of the Interior Fish and Wildlife Service/Raptor Management 3000 Vintage Blvd #240 Juneau, Ak 99801 Mike_Jacobson@fws.gov	
Travis Reid	Business and Industry P.O. Box 267, Haines Ak 99827 travisreid@chilkatguides.com	
Lori Crupi	Conservation Organization P.O. Box 1606, Haines Ak 99827 Cassadie22@yahoo.com	
Bill Thomas	Chilkoot Indian Association P.O. Box 490 (CIA business office), Haines Ak 99827 Thomasgroup@aptalaska.net	
Roy Josephson	Division of Forestry P.O. Box 263, Haines Ak 99827 Roy_Josephson@dnr.state.ak.us	
Les Katzeek	Klukwan, Inc P.O. Box 104, Haines Ak 99827	
Randy Bachman	Department of Fish and Game P.O. Box 330, Haines Ak 99827 Randy_Bachman@fishgame.state.ak.us	
Jerry Lewanski, Director or Joel Telford	Department of Parks and Outdoor Recreation P.O. Box 430, Haines Ak 99827	
Vacant	City Mayor	



AMERICAN EAGLE FOUNDATION™

P.O. Box 333 • PIGEON FORGE, TENNESSEE 37868

WWW.EAGLES.ORG

February 7, 2006

House Committee on Community and Regional Affairs: State of Alaska

Mr. Chairman and Members of the Committee:

I am writing in behalf of the American Eagle Foundation (AEF) of Pigeon Forge, TN, a nonprofit organization of concerned citizens and professionals founded in 1985 to develop and conduct bald eagle and environmental recovery programs in the United States.

We are among many state and national groups committed to the absolute protection of the Alaska Chilkat Bald Eagle Preserve, a small but nationally precious set-aside inside the Haines State Forest.

We understand that the Alaska Chilkat Bald Eagle Preserve is again subject to threat. We believed that threats to this area were resolved in 1982, when Congressional support, and that of the National Audubon Society resulted in the State of Alaska's establishing the Chilkat Bald Eagle Preserve.

The law provides for multiple use in the Haines State Forest and sets aside the Eagle Preserve for protection of the Bald Eagle habitat, including its salmon food supply. However, since 2001 there has been increasing political pressure to ignore this division.

We understand House Bill 378 replaces a publicly elected municipal seat on the Preserve's advisory council with a possible special interest seat, and that it is viewed as a potential first step by some interests to destroy the Preserve. If so, we would strongly oppose such loss of publicly elected balance on the Council.

As you well know, the Chilkat is known worldwide. In September, 2003, AEF Eagle Consultant Bob Hatcher, retired Tennessee Endangered Species Coordinator (1978-2001), visited that stretch of the Chilkat River. Even though it was two months prior to the early winter eagle concentration, he reported that felt the tingling effect of walking on "hallowed ground".

The preserve is a magnet for tourism with all protections in place, and one of the great assets of Alaska. Please do not ignore your trust to America's national symbol.

Sincerely,

Al Ceere, President

American Eagle Foundation

P.O. Box 333, Pigeon Forge, TN 37868