

SB

48

Alaska State Legislature

SENATOR
GENE THERRIAULT

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Senate

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SENATE DISTRICT F

Memorandum

To: The Honorable Representative Jay Ramras
Chair, House Judiciary Committee

From: Senator Gene Therriault 

Date: April 14, 2009

Re: CSSB 48 (JUD) House Judiciary Hearing Request

CSSB 48 (JUD) amends AS 44.62.310(d) by adding a new section to exempt municipal boards, commissions, and other similar bodies from Alaska's Open Meetings Act when meeting solely to conduct administrative and managerial business. The legislation also clarifies an abnormality in state statute regarding the definition of a "meeting." Meeting requirements for advisory bodies are currently more stringent than those for policy setting bodies. CSSB 48 (JUD) places the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

AS 44.62.310-312 prevents municipal government bodies from conducting administrative duties such as responding to unforeseen road conditions without first triggering the open meetings act. Unless a public meeting is first scheduled and held, board members may not discuss and act upon time sensitive issues. CSSB 48 (JUD) will grant service area boards and commissions the necessary legal authority to more efficiently implement their duties and responsibilities and respond quickly to unforeseen local events like heavy snowfall or flooding.

CSSB 48 (JUD) also resolves an unintended consequence caused by the definition of "meeting." Under the current language, meeting requirements for advisory bodies are more stringent than those for policy setting bodies. The committee substitute places the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

I respectfully request you schedule CSSB 48 (JUD) for a House Judiciary Committee hearing on Wednesday, April 15, 2009.

Committee Substitute for Senate Bill 48 (JUD) Sectional Analysis

Page 2, lines 12-14

AS 44.62.310(d):

- (8) **“...meetings by municipal service area boards, committees, commissions, or other similar bodies when meeting solely to act on matters that are administrative or managerial in nature.”**

Explanation: CSSB 48 (JUD) expands SB 48’s original road conditions exemption to now include administrative and managerial duties which fall within a municipality’s purview.

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AS 44.62.310(h)(2):

- (B) **“...more than three members or a majority of the members, whichever is less, are present,...”**

Explanation: AS 44.62.310(2) defines the constitution of an “open public meeting” between members of a governmental body. AS 44.62.310(2)(A) mandates that “...more than three members or a majority of the members, whichever is less...” constitutes a meeting for governmental bodies responsible for formulating and establishing public policy. However, AS 44.62.310(2)(B) does not require this same prerequisite for advisory-only bodies; the meeting needs only to be pre-arranged. Consequentially, meeting requirements for advisory bodies (e.g.: local service district) are more stringent than those for policy making bodies (e.g.: borough assembly). CSSB 48 (JUD) establishes a uniform public meetings requirement by placing the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

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Short Title: Meetings of Road Service Area Boards

Summary:

- CSSB 48 (JUD) expands SB 48's original exemption of road service areas from the Alaska's open meetings act (AS 44.62.310-312) to now include all municipal boards, committees, commissions, and other similar bodies meeting solely for the purpose to conduct administrative or managerial business.
- Establishes a uniform definition of "meeting" under AS 44.62.310(h)(2) for both policy setting and advisory government bodies.

Benefits:

- Grants municipal bodies the legal authority to efficiently carry out in a timely manner administrative duties such as responding quickly to unforeseen road conditions that may cause damage to a road system and subsequent danger.
- Preserves the spirit of an informed and involved citizenry when formulating local public policy. Municipal bodies will still be required to schedule and hold public meetings when discussing policy issues such as contract negotiations and local tax rates.

Background:

- Established under Article X Section 5 of the Alaska State Constitution and AS 29.35.450-490, municipal service areas districts provide essential road maintenance, fire protection, and park and recreation services. In keeping with America's federalist foundations, service districts promote local governance through residents joining together and taking responsibility for providing basic community services.
- AS 44.62.310-312 limits a road service area's ability to efficiently respond to road conditions caused by adverse weather. Unless a public meeting is first scheduled and held, board members cannot discuss and act upon time sensitive issues.
- Under AS 44.62.310(h)(2), meeting requirements for advisory bodies are more stringent than those for policy setting bodies. CSSB 48 (JUD) places the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 48(CRA)
 (S) Publish Date: 2/11/09

Identifier (file name): SB48-CED-CRA-02-09-09 Dept. Affected: DCCED
 Title: Meetings of Road Service Area Boards RDU: Community & Regional Affairs
 Component: Community & Regional Affairs
 Sponsor: Senator Therriault
 Requester: Senate Community & Regional Affairs Component Number: 405

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
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	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
1036 Com Fish							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill grants service area boards the legal authority to respond quickly to hazardous road conditions affected by harsh weather by bypassing the open public meeting requirements.

The Department of Commerce, Community & Economic Development foresees zero fiscal impact with passage of this legislation.

Prepared by: Tara Jollie, Division Director
 Division: DCCED - Community & Regional Affairs
 Approved by: Emil Notti, Commissioner,
DCCED

Phone 465-2510
 Date/Time 2/6/09 3:35pm
 Date 2/9/2009

