

SB

2009

Senator Linda Menard

Session

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Alaska State Legislature

SB 209 Sponsor Statement

Senate Bill 209 will provide the Alaska State Council on the Arts the authority to adopt regulations relating to its statutory powers and duties.

The bill has been introduced at the request of the Alaska State Council on the Arts (ASCA), which is the Last Frontier's state arts agency, created over 40 years ago. The council works in partnership with the National Endowment for the Arts (NEA) to foster the development of the arts for all Alaskans through education, partnerships, grants and services.

Several of ASCA's programs are governed by regulations, which ASCA has promulgated and updated over the years. Recently ASCA has sought to improve and streamline its grant-making policies, procedures, and regulations. In the course of this effort, ASCA was informed by the Department of Law that ASCA technically does not have statutory authority to adopt regulations under the Administrative Procedures Act (APA). While this legal opinion is at odds with long-standing practice, ASCA considered the advice from the Attorney General's office, and determined that the best way to rectify the current anomalous situation is to amend its enabling statute to allow ASCA the explicit statutory authority to adopt regulations.

This legislation will in essence codify existing practice and will enable ASCA to continue to administer and oversee its existing programs. Any and all regulations adopted in future will have to comply with the review and public-notice provisions of the APA. This bill has a zero fiscal note and will help ASCA continue performing its long-standing mission of helping more Alaskans appreciate, create, and enjoy the arts and having regulatory authority will directly contribute to ASCA's ability to do so.

SENATE BILL NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

BY SENATOR MENARD

**Introduced:
Referred:**

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing the Alaska State Council on the Arts the authority to adopt**
2 **regulations relating to its statutory powers and duties; and providing for an effective**
3 **date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1. AS 44.27.052(a) is amended to read:**

6 (a) The council may

7 (1) hold public and private hearings;

8 (2) enter into contracts, within the limit of funds available, with
9 individuals, organizations, and institutions for services furthering the educational
10 objectives of the council's programs;

11 (3) enter into contracts, within the limit of funds available, with local
12 and regional associations for cooperative endeavors furthering the educational
13 objectives of the council's programs;

14 (4) accept gifts, contributions, and bequests of unrestricted funds from

1 individuals, foundations, corporations, and other organizations or institutions for the
2 purpose of furthering the educational objectives of the council's programs; [AND]

3 (5) make and sign agreements and do and perform any acts necessary
4 to carry out the purposes of AS 44.27.040 - 44.27.060; and

5 (6) adopt regulations under AS 44.62 (Administrative Procedure
6 Act) to carry out the provisions of AS 44.27.040 - 44.27.060.

7 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

The Hon. Kevin Meyer and Joe Thomas
Co-Chairmen, Senate Education Committee
State Capitol, Rooms 101 & 504
Juneau, Alaska 99811

Dear Senators Meyer and Thomas:

I am writing on behalf of the Alaska State Council on the Arts (ASCA) to express our support for Senate Bill 209. I hope to ensure that all members of the Senate Education Committee and, indeed, the full Senate, will support this simple yet important piece of legislation.

SB 209 was necessitated by a determination of the Alaska Department of Law that ASCA does not possess statutory authority to adopt regulations, although ASCA had been so doing for many years. When this technical lack of authority came to our attention, the members of the State Council weighed our options, and decided that simply adding the missing language from the statute would be the best way to remedy the situation.

ASCA's work is vitally important to the cultural well-being of Alaskans, and we could not operate our regrant program in accordance with federal standards without the state regulations that implement our enabling statutes. Giving ASCA the explicit power to adopt simple regulations subject to the same scrutiny that applies to all other regulations adopted in Alaska will allow Alaska's state arts agency to continue to do its job to the benefit of all Alaskans.

Please don't hesitate to let me know if I can answer any questions about this legislation or ASCA, and thank you for your consideration of this bill.

Yours sincerely,

Benjamin Brown, Chairman
Alaska State Council on the Arts

LEGAL SERVICES

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MEMORANDUM

February 8, 2010

SUBJECT: Sectional summary; regulatory authority for the Alaska Council on the Arts (SB 209; Work Order No. 26-LS1236A)

TO: Senator Linda Menard
Attn: Mike Rovito

FROM: Dennis C. Bailey 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

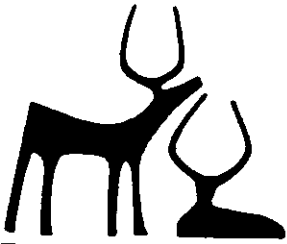
As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Gives the Alaska State Council on the Arts the authority to adopt regulations relating to its statutory powers and duties.

Section 2. Provides an immediate effective date for the measure.

If I may be of further assistance, please advise.

DCB:plm
10-057.plm



Senator Linda Menard
Alaska State Legislature
State Capitol Building
Juneau, Alaska
Sent via email

January 24, 2010


Dear Senator Menard:

I would like to lend the support of myself and the Alaska State Council on the Arts, a division of the Department of Education, to Senate Bill 209, which will at long last provide our agency the authority to adopt regulations.

While, in many respects, this legislation is a housekeeping matter, it is a critical bill for our agency. We need the ability to update and amend our regulations over time, and without the statutory authority to do so, the Alaska State Council on the Arts will remain static and unable to respond to changes in the field.

Thank you, Senator Menard, for carrying this legislation. I look forward to working with you and your office.

Sincerely,



Charlotte A. Fox
Executive Director

Alaska State Council on the Arts

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Alaska State Legislature

February 12, 2010

To: Senator Hollis French

From: Sen. Linda Menard

Re: Hearing Request for Senate Bill 209

Honorable Senator French

This letter is to request a hearing for Senate Bill 209, an act providing the Alaska State Council on the Arts the authority to adopt regulations relating to its statutory powers and duties.

Along with this request is the pertinent material requested.

Thank you for your consideration,

A handwritten signature in cursive script that reads "Linda Menard".

Sen. Linda Menard