

**HB**

**137**

<TARGET><BILL>HB 137</BILL><SUBJECT>HB  
137</SUBJECT><COMM>HEDC30</COMM></TARGET>



## House Education Committee Bill

### House Bill 137 "State Council on the Arts"

House Bill 137 quasi-privatizes the Alaska State Council on the Arts (ASCA) by restructuring it as a public corporation in order to help the ASCA to continue its work with self-employed Alaskan artists and art businesses during these challenging fiscal times. This new status will allow the ASCA to increase its ability to leverage funds from non-governmental contributors and better adapt to the shifting economic climate. This effort responds to the widespread interest in governmental entities, as much as they are able, to at least partially privatize their operations and increase their operating efficiency.

Under HB137, ASCA will remain within the Department of Education & Early Development. Changes to the ASCA include exemption from the State Procurement Code, while still providing for formal, appropriate procurement protocols for ASCA. Restructuring will keep ASCA's operating budget under the Executive Budget Act for openness and transparency. Transition language in SB 66 will allow ASCA's advisory committees, public processes, and public participation to remain in place as ASCA administers grants, programs, and services.

As the State of Alaska evolves and grows in response to fiscal challenges, ASCA wants to ensure that it is in a position to expand its important work to serve all Alaskans. Private funders across the nation are increasingly approaching ASCA to offer support for the work of the Council, and carefully considered restructuring efforts have the potential to allow the Council to advance the opportunity to grow the development base of ASCA, as well as reduce its reliance on State funds, including in its work with students in Alaska's schools.

HB137 will improve the ability of ASCA to leverage non-state funding and represents a real opportunity to realign ASCA to better perform in the environment which exists in Alaska today.

Posted February 25, 2017 08:01 pm  
By [Benjamin Brown](#)  
FOR THE JUNEAU EMPIRE

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## My Turn: Arts council restructuring presents great opportunities

As Alaska faces the most severe fiscal crisis since statehood, Alaskans are responding in a variety of ways. These responses are individual, as people adjust their spending habits and economic choices, and collective, as government locally and statewide seeks ways to economize, become more efficient and reconsider methods of doing business that have gone unchanged for decades.

The Alaska State Council on the Arts (ASCA) is Alaska's state arts agency, and over the years has done an admirable job ensuring that Alaskans enjoy the arts in their daily lives, and reap the economic, emotional and other benefits of artistic and cultural activity. I am a huge believer in ASCA's work, and have a direct interest in and responsibility for what the agency does as I serve as chairman of ASCA's 11-member volunteer board. Even before the fiscal crisis reached its current, acute phase, we at ASCA were thinking proactively about what we could do to provide more and better services with the least amount of government funding. In the last year, we have focused intently on the possibilities for positive change, and potential rewards that may come from rising to meet the challenges we face.

ASCA was created and continues to exist as an agency of the state of Alaska in order to be able to receive crucial matching funds from the National Endowment for the Arts. The National Arts & Humanities Act mandates placement within state government and a dollar-for-dollar appropriation to trigger federal moneys. But this is a minimum requirement, which doesn't place an upper limit on what ASCA can do. The Council has crafted and put forward a plan to restructure the agency to allow for the highest level of operational efficiency and maximum ability to leverage non-governmental sources of funding, to support individual artists, arts organizations, arts education programs and all ASCA's other important programs and activities.

This past week, identical pieces of legislation were introduced in the Alaska Legislature, sponsored by the House and Senate Education Committees. House Bill 137 and Senate Bill 66 are designed to keep ASCA firmly established as a state agency, but to change structural elements that have caused problems in the past and thus open up opportunities for improved operations in the future.

ASCA's restructuring bills keep the Council housed for administrative purposes as it is currently within the Alaska Department of Education & Early Development. ASCA would be reconstituted as a public corporation, giving it more operational independence. Key changes include taking ASCA out from under the unhelpful and burdensome State Procurement Code, substituting appropriate procurement rules. Because ASCA uses

substantial amounts of private foundation funds to provide services, the strictures of the existing way of doing business have caused a host of unnecessary problems without providing any actual benefit to the public.

ASCA's budget will still be controlled by the provisions of the Executive Budget Act, allowing legislative and executive branch oversight, and openness and transparency for all Alaskans. ASCA's grant-making processes, public arts programs and capacity enhancement efforts will be run as they currently are, and Council members and staff will remain subject to all the provisions of the Executive Branch Ethics Act. Council members will still have to file annual Public Official Financial Disclosure forms to disclose any potential conflicts to the public.

Over the past decade, ASCA has been fairly and equitably treated by the Alaska Legislature, and the minimal funding needed to keep the agency in existence has been duly appropriated. At the same time, ASCA has found ways to partner with private foundations to significantly expand activities, especially in arts education. ASCA is now poised to be able to expand our work to serve more Alaskans in fields beyond arts education, and restructuring will help make this happen.

Every state and territory in the nation has an arts agency, and there have been few efforts across the field to move away from continued operations as run-of-the-mill government agencies. A misguided effort to privatize the state arts agency in Kansas ended disastrously, with the complete loss of all federal funds in that state and the loss of artistic and cultural opportunities to the people living there. ASCA's restructuring effort is informed by this example of how not to do it, and is carefully balanced between changing things that will make a difference but keeping the affiliation with state government that justifies public funding and ensures accountability and responsiveness to the public.

HB 137 and SB 66 will be heard in the coming weeks by the House and Senate Education Committees, and if successfully reviewed by these panels, will move on to the Finance Committees. ASCA hopes to see this legislation pass after being carefully considered, and enacted into law before the beginning of the new fiscal year in July. This outcome will enable ASCA to be part of the solution to the fiscal crisis, continuing to support a vital economy in the great land and the highest quality of life for all of us so fortunate as to call Alaska home.

**Benjamin Brown is a lifelong Alaskan and an attorney who lives in Juneau. He serves as chairman of the Alaska State Council on the Arts.**

# Bill would change state arts council to a corporation

By Ed Schoenfeld, CoastAlaska - Juneau -

March 1, 2017

Lawmakers take their first look Friday at a bill changing the [Alaska State Council on the Arts](#) from an agency to a public corporation.

The council distributes funds to artists and art organizations around the state.

Executive Director Andrea Noble-Pelant said it would allow for more partnerships and funding opportunities.

“Our choice is we can stay the same and watch our organization dwindle, or be less effective,” Noble-Pelant said. “Or we can take a step to become more efficient.”

[Senate Bill 66](#) and [House Bill 137](#) call for the change.

The switch to a public corporation would result in a number of operational adjustments.

One would remove the council from requirements of the state procurement code.

Juneau’s Ben Brown, who chairs the arts council’s board, said it’s a necessary change.

“The procurement code is something to make sure that state agencies operate in a certain matter,” Brown said. “We’re a little bit different than some other state agencies in some of the programs and services we are trying to provide. We’re certainly different in having funding available to us from private foundation partners.”

The council’s budget for this year is about \$2.8 million. About a quarter comes from the state, a quarter from the federal government and the rest from foundations and other private donors.

The legislation was proposed by the council after an extensive operational review, Brown said.

It will have its first hearing at 8 a.m. Friday before the Senate Education Committee. The identical House version is not yet scheduled.

Both versions were authored by their chamber's Education Committees, which reflects broader support than a measure sponsored by individual legislators.

Another section would exempt artists' submissions to the council from public records laws.

Noble-Pelant said information about accepted art commissions would remain public. The bill removes those from artists whose proposals are not accepted.

"Artists are business people and they are part of that creative economy," Noble-Pelant said. "They are often sole proprietors and when they apply for a commission, it's much like someone who's applying for a job."

The bills would keep the state arts council within the Department of Education.

The legislation changes board member requirements, from having interest in the arts to having expertise. Brown said that's important.

"Hopefully, all Alaskans have interest in the arts. That's one of the reasons the council exists," Brown said. "But I don't know that it's fair to say that as many Alaskans have expertise in the arts. And to be a member of the council, it's appropriate that people have more than just a passing interest, but have some level of expertise, whatever that may be."

The change could expand the pool of applicants to administrators and others who are not necessarily artists themselves, Noble-Pelant said.

Under the bills, the board's 11 members would automatically become trustees for the new corporation. Members would continue to be appointed by the governor.

# Fiscal Note

State of Alaska  
2017 Legislative Session

Bill Version: HB 137  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB137-EED-ASCA-3-03-17  
Title: ST. COUNCIL ON THE ARTS: PUBLIC CORP.  
Sponsor: EDUCATION  
Requester: (H) Education

Department: Department of Education and Early Development  
Appropriation: Commissions and Boards  
Allocation: Alaska State Council on the Arts  
OMB Component Number: 192

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<b>OPERATING EXPENDITURES</b>	<b>FY 2018</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	***	0.0	***	***	***	***	***

**Fund Source (Operating Only)**

None							
<b>Total</b>	***	0.0	***	***	***	***	***

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0

**Estimated SUPPLEMENTAL (FY2017) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2018) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By: <u>Andrea Noble-Pelant, Executive Director</u>	Phone: <u>(907)269-6610</u>
Division: <u>Alaska State Council on the Arts</u>	Date: <u>03/03/2017 12:40 PM</u>
Approved By: <u>Dr. Michael Johnson, Commissioner</u>	Date: <u>03/03/17</u>
Agency: <u>Department of Education &amp; Early Development</u>	

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2017 LEGISLATIVE SESSION

BILL NO. HB 137

### Analysis

This legislation re-establishes the Alaska State Council on the Arts (ASCA) in a different title of Alaska Statutes, making the Council into a public corporation and instrumentality of the State of Alaska. This structure maintains ASCA's position housed administratively in the Department of Education & Early Development (DEED) and other structural elements, but at the same time seeks to make ASCA more nimble and capable of operating as independently and successfully as possible in the current challenging fiscal environment.

Under this legislation, ASCA continues to be subject to the Executive Budget Act in order to ensure appropriate gubernatorial and legislative awareness of and supervision over ASCA's budget and operations; ASCA continues to be subject to the Executive Branch Ethics Act to ensure transparency and irrefutably ethical operations and behavior by Council members and staff; and finally moves ASCA staff from the classified service to exempt service.

This fiscal note is indeterminate at this time. The positive impact of cost reductions cannot be determined until the agency restructures. Efficiencies that are anticipated in operating costs cannot be quantified at present. The ASCA is undergoing an external evaluation for efficiency in arts education programming in April 2017. ASCA expects to leverage private funding without any adverse fiscal impact to the state.

This legislation takes effect July 1, 2017.



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TELLER  
UNALAKLEET  
WALES  
WHITE MOUNTAIN

March 9, 2017

Alice Bioff  
P.O. Box 862  
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Public Testimony Given to the House Education Committee

HB137 - Alaska State Council on the Arts Restructuring Initiative

Position: **SUPPORT**

Dear Honorable Committee Chair and Committee members,

My name is Alice Bioff, resident of Nome, Alaska, currently employed at Kawerak, Inc. and an Alaska State Council on the Arts (ASCA) council member. Thank you all for the opportunity to testify in support of HB137. I am testifying today in my capacity as an ASCA council member. I am a tribal member of the Native Village of Koyuk, and grew up there and in Nome. My family and I have lived in Nome for the last 17 years. For much of that time, I have been employed by Kawerak, Inc., the regional Native non-profit consortium of tribes for the Bering Strait region, as a Business Planning Specialist.

Through our work here at Kawerak, I am honored and privileged to work with artist entrepreneurs within our communities. We provide direct technical assistance offering tools and resources to assist artists continue their work so that they can sustain themselves, their families and their communities. It is through this work that I have seen firsthand how important it is for these artists who live in communities with very few resources and infrastructure, to grow their businesses through opportunities such as those that become available through ASCA and others.

Artist Entrepreneurs are economic development drivers in their communities and the Alaska State Council on the Arts supports these communities through their work and advocacy. With their partnerships, resources and programs, we see a bright future and growth opportunity to support all artists across the State.

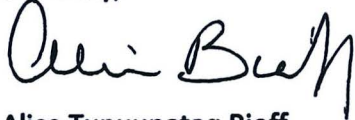
Through the restructuring initiative, we see ASCA services continued and strengthened to support the artists through improved ability to react to funding opportunities and

better represent, support and advance the artists by offering the tools and services needed to strengthen an already existing and important economy. This is critical to strengthening and sustaining our rural communities in this fiscally challenging time.

HB137 streamlines the process ASCA will use to present opportunities to artists all over Alaska, including those artists we have worked with for years here in the Bering Strait region. From my perspective, this will be a great benefit for all artists including those in rural Alaska.

Thank you for this opportunity, and if you have any questions, please feel free to contact me at, (907) - 443- 4366 or email me at [bp.spec@kawerak.org](mailto:bp.spec@kawerak.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Alice Bioff". The signature is fluid and cursive, with the first name "Alice" written in a larger, more prominent script than the last name "Bioff".

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