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Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 20

critical habitat areas, written approval is required before the activity can commence.

In refuges and critical habitat areas, as well as for anadromous streams, ADF&G's conditioning or denial of a permit is limited to the probability of adverse impacts on fish, game or habitat. In contrast, DNR must balance effects on fish, game, or habitat as one of many, sometimes competing, factors in deciding under AS 38.05.035(e) whether a land disposal best serves the state's interests, a policy decision subject to very limited judicial review. Hammond v. North Slope Borough, 645 P.2d 750, 758 - 759 (Alaska 1982).

For sanctuaries, the statutory framework is quite different. The legislature in AS 16.20.120 delegated to the boards the broader authority to adopt regulations for sanctuaries governing

entry, development, construction, hunting, fishing, and all other uses or activities not in conflict with AS 16.20.130 and 16.20.140 for the purpose of preserving the natural habitat and the fish and the game of the Walrus Islands State Game Sanctuary.

This also applies to the other sanctuary, at McNeil River, AS 16.20.170. Land in neither sanctuary may be sold, and under AS 16.20.140 may be leased only as mineral land, as authorized in DNR regulations. Oil and mineral exploration and development are subject to state and federal laws and regulations and additional

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 2, 1985
Page 21

limitations jointly determined by ADF&G and DNR. 17/ (In developing additional limitations, ADF&G is governed by its statutory charge with regard to fish, game, or their habitat, while DNR again operates under the best-interest-of-the-state standard in AS 38.05.035(e).)

E. Coastal zone consistency review

Any exercise of authority by a state agency in the state's coastal zone 18/ must be consistent with the Alaska Coastal Management Program. AS 46.40.090(a). 46.40.100(a). For activities occurring in the state's coastal zone for which two or more state permits (or a federal permit or authorization) are required, a process is in place for coordinating permit applications between or among the relevant state agencies and

17/ AS 16.20.130 provides:

Oil and mineral exploration and development is permitted on the Walrus Islands State Game Sanctuary in accordance with state or federal laws and regulations, subject to the limitations of AS 16.20.140 and to additional limitations jointly determined by the commissioner of natural resources and the commissioner of fish and game to assure compatible multiple land use practices.

18/ Pursuant to 6 AAC 85.040, the boundaries of the coastal zone are initially based on Biophysical Boundaries of Alaska's Coastal Zone, incorporated by reference and described in the regulation, including the zones of direct interaction and direct influence, and may be modified consistent with specified guidelines by each coastal resource district in an approved district plan.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 3, 1985
Page 22

rendering an overall determination, after which the state permits are either all issued (with appropriate conditions) or denied by the respective state agencies. 6 AAC 50. This procedure applies, then, to any activity in the coastal zone over which both DNR and ADF&G have permitting authority.

The Alaska Coastal Management Program ("ACMP") is, in effect, pursuant to AS 46.40.010 -- AS 46.40.210 and the federal Coastal Zone Management Act, 16 USC § 1451 et seq., and governs activities or uses located in or possibly affecting the coastal zone. The objectives of the ACMP include ensuring "the use, management, restoration and enhancement of the overall quality of the coastal environment," "the orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles," and "the full and fair evaluation of all demands on the land and water in the coastal area." AS 46.40.020(1), (3), and (8).

The ACMP consists of standards contained in 6 AAC 80 and the district coastal plans formulated and approved under AS 46.40 and 6 AAC 85, and covering subjects such as coastal development, recreation, habitats, and air, land, and water quality. Permits may not be issued for activities in or affecting the coastal zone that are inconsistent with the ACMP. AS 46.40.200, 6 AAC 80.010.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 23

Interagency review of activities under the ACMP occurs in the context of an entire project, which may require several separate permits. The Office of Management and Budget ("OMB") is responsible for rendering a conclusive consistency determination for projects requiring two or more permits, leases, or authorizations. AS 44.19.145(a)(11), 6 AAC 50.020.

The procedures controlling this coordination are set out in 6 AAC 50 and are designed to facilitate inter-agency communication and consensus, with provisions for elevating consideration of a project from the regional to the directors' level, and on to the commissioners' level, if necessary. 6 AAC 50.070. OMB is closely involved in the review and discussions, and is ultimately responsible for rendering a final consistency decision. 6 AAC 50.070 and 6 AAC 50.120. ^{19/} Within five days after that determination, the agencies must issue relevant permits (except leases), which must contain any conditions required by the consistency determination. 6 AAC 50.130.

ADF&G and the boards in combination have been given specific authorities in special areas, the significance and scope

^{19/} If only permits from a single state agency, and no federal permits, are required, that agency takes the place of OMB in coordinating state review and rendering a final consistency determination. 6 AAC 50.030, 6 AAC 50.120. In that role, the agency is charged by 6 AAC 50.070 with encouraging and facilitating discussion among the state resource agencies, listed in 6 AAC 50.190 as including the Department of Environmental Conservation as well as DNR and ADF&G.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 3, 1985
Page 24

of which are discussed in more detail in sections III, IV, and V below. Where special areas are in the coastal zone, the ACMP and the consistency review procedures would apply to the exercise of those authorities, and provide a mechanism for inter-departmental coordination.

III. PRIOR ATTORNEY GENERAL OPINIONS

Over the last 10 years, this office has analyzed and commented upon DNR and ADF&G responsibilities within special areas in several informal and one formal opinion. A review of those opinions provides a background to the present analysis.

In 1976, Assistant Attorney General Peter Froehlich discussed the legal requirements necessary for ADF&G to grant or deny approval of a proposed use on a state game refuge. 1976 Inf. Op. Att'y Gen. (Oct 25; J-66-045-77). The memorandum concluded that, under the facts addressed, ADF&G had acted legally in disapproving plans for a proposed transmission line across the Palmer Hay Flats, state game refuge.

In 1979, Assistant Attorney General Thomas Meacham evaluated a preference right within the Kalgin Island critical habitat area that was granted by DNR without notification to and approval by ADF&G. 1979 Inf. Op. Att'y Gen. (Dec 27; A-66-254-80). The opinion concludes that the grant of the preference right could not be considered complete until ADF&G had been

Hon. Esther Wunnicke
Commissioner. DNR
Hon. Don W. Collinsworth
Commissioner. ADF&G
File 366-045-84 & 366-122-84

November 3, 1985
Page 15

notified under AS 16.20.250. 20/

In 1980, Assistant Attorney General Thomas Mencham evaluated whether a land exchange between DNR and private land holders which resulted in state-owned land within the Letter Marsh state game refuge entering private ownership was invalid because ADF&G had not been notified under AS 16.20.250. 1980 Inf. Op. Att'y Gen. (Oct 9; A-66-022-81). The memorandum notes that apparently DNR was not aware at the time of the exchange that the lands were "under the jurisdiction" of ADF&G and thus completed the exchange without giving the required notice. The mistake was not discovered until nearly two years later. The opinion concludes that the private party held the status of a bona fide purchaser, and that equity would not allow the exchange to be overturned because of a jurisdictional mistake made by a state agency which was in no way the fault of the private party.

20/ The opinion also notes in passing that the possible requirement for submission and approval of plans under AS 16.20.260 before construction is commenced would not bar the preference right and the conveyance. That observation may not be correct in all cases, since the requirement of notice to ADF&G in AS 16.20.250 would provide the opportunity for comment by ADF&G to DNR. Such statutorily mandated opportunities are not to be considered as merely a pro forma step that can be viewed lightly and avoided without consequence. See 1985 Inf. Op. Att'y Gen. (Sep. 11; 366-105-86), which discusses the need in each such situation to balance a number of factors, including the possibility of curing the neglected consultation and the relative potential harms, in determining the consequences of such a default.

Hon. Esther Munnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 26

Thus, the analysis determined that ADF&G review was no longer authorized because the land had from the private party's perspective, apparently become private two years earlier, and only state-owned lands are included in refuges. 21/

In 1981, Assistant Attorney General Douglas Mertz noted that, in the Mendenhall Wetlands state game refuge, DNR and ADF&G both have "primary management authority, and hence necessarily decisionmaking authority," under AS 16.20.035(j). 1981 Inf. Op. Att'y Gen. (Nov 9; J-66-274-82). The memorandum addressed the fact that AS 16.20.034(j) specifies that both departments are granted final decision making authority over a request by the City and Borough of Juneau to use refuge land for another purpose.

In 1982, Assistant Attorney General Jonathan Tillinghast wrote a formal attorney general's opinion that discusses the authority of ADF&G and the boards to protect habitat. 1982 Op. Att'y Gen. No. 1 (Mar. 4). Most of that opinion deals with ADF&G's permit authority over anadromous streams, set out in AS 16.05.870, but the opinion also discusses permit jurisdiction in refuges, sanctuaries, and critical habitat

21/ As the more detailed analysis in section IV below concludes, in fact state land in refuges cannot be transferred in fee out of state ownership without specific legislative action.

areas. At pages 3 through 4, the similar statutory format used for anadromous streams, refuges, and critical habitat areas is described. The analysis concludes that the notice and written approval provisions are clearly licensing statutes and that they had been regarded as such by the Department of Law for at least the preceding 18 years. The opinion notes that the statutory format is somewhat cumbersome and, at pages 9 through 12, concludes that the boards and ADF&G have the implied authority to adopt regulations implementing their respective permit programs. For anadromous streams, refuges, and critical habitat areas, that conclusion is based on implied powers. 22/ In sanctuaries, as noted in section II D above, the boards have explicit authority to adopt regulations "governing entry, development, construction, hunting, fishing, and all other uses or activities...." AS 16-20.120. Thus, for the sanctuaries, there is express authority to adopt regulations, which necessarily includes the authority to require permits before entry.

IV. INTERACTION BETWEEN DNR AND ADF&G AUTHORITIES

From the similar questions we have been asked by DNR and ADF&G, and from other contact with the two agencies, it is apparent that considerable confusion exists over the interaction

22/ The Administrative Procedure Act recognizes in AS 44.62.030 that regulatory authority may be express or implied.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 28

between DNR and ADF&G authorities in special areas. Administrators are seeking guidance on when they are required to consult with their counterparts in the other department before making a decision. Further, they seek clarification of when they may make an independent decision for their department which is controlling, and when an independent decision from the other department is necessary as well for an activity to occur.

A. Consultation requirements

As discussed in section II B above, DNR has various statutory authorities and responsibilities with respect to state-owned land, such as acquisition, lease, and sale. In exercising those powers, DNR makes its own decisions. However, in some cases when making its decisions DNR is required by statute to consult with ADF&G regarding the proposed action, although the ultimate decision rests with DNR. For example, under AS 38.50.010, DNR is authorized to exchange state land or interests in state land for other land, interest in land, or other consideration. However, "if land under the jurisdiction of a state agency other than the Department of Natural Resources may be involved," AS 38.50.090(a) requires DNR to "afford the head of that agency an opportunity to participate in the discussions respecting the lands." The Department of Law has previously concluded that this provision requires consultation with ADF&G when exchanges of interest in refuge land are being considered. 1980 Inf. Op.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-043-84 & 366-122-34

November 3, 1985
Page 29

Att'y Gen. (Oct 9: A-66-022-81). ^{23/} Another example is the requirement that DNR "provide for meaningful participation in the planning process" by affected state agencies in developing land use plans by regions or areas. AS 38.04.065(b)(8). Further, before classification, zoning, or disposal actions, AS 38.05.945 requires notification of parties "known or likely to be affected."

In other cases, the duty to consult with ADF&G has been set out in regulation. For example, a 1981 memorandum by Assistant Attorney General G. Thomas Roester discussed DNR's authority to incorporate restrictions requested by ADF&G in a multiple land-use permit. 1981 Inf. Op. Att'y Gen. (Dec 15: J-66-352-82). That opinion discussed the then current version of 5 AAC 55.230, which allowed land classified as wildlife habitat to be used for mineral exploration "subject to restrictions which may be imposed by the commissioner [of DNR] at the request of the Commissioner of the Department of Fish and Game." The regulation further stated that lands classified as wildlife habitat could be leased and the disposal of timber and materials allowed if approved by DNR "after consultation with the Commissioner of the Department

^{23/} As discussed later in this section, land in refuges and sanctuaries cannot be transferred in fee out of state ownership without specific legislative authorization.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 30

of Fish and Game."

In addition to instances of mandatory consultation, we assume that DNR and ADF&G regularly consult about matters of mutual concern where either agency may be contemplating exercising one of its authorities or responsibilities.

B. Nature of separate, complementary authorities

With respect to special areas, ADF&G and the boards have some authorities and responsibilities which are independent of DNR's and some which overlap. If someone wishes to conduct an activity in a special area, often both DNR and ADF&G have separate rights of review and decision. In those cases, an affirmative decision by each agency would be needed before the activity could begin. This is similar to the situation discussed by Assistant Attorney General Jeffery Lowenfels in a 1981 memorandum evaluating AS 38.05.030(a). 24/ 1981 Inf. Op. Att'y Gen. (Mar. 20; A-66-303-81). That provision specified that the disposal of university lands was to be made by DNR, but that "no sale, lease, exchange or other disposal of university lands may be made without the approval of the Board of Regents of the University of Alaska." The opinion concludes at page 3 that the issuance of a mining lease or mineral patent by DNR on university lands is

24/ This section was subsequently repealed by ch. 152, SLA 1984.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 4, 1985
Page 31

prohibited unless expressly approved by the Board of Regents. Thus, absent a "classification prohibiting staking which would cover all or part of the university grant lands ... such lands are open to mineral entry, i.e., claim staking, but removal of minerals without prior issuance of a Board of Regents approved lease would not be lawful." Id.

Similarly, in each of the three special areas, DNR and ADF&G have certain dual authorities, not identical in scope, which call for independent review; each agencies' approval is equally necessary for certain activities to occur.

C. Separate, complementary authorities in sanctuaries

In game sanctuaries, governed by AS 16.20.090 -- AS 16.20.170, the authorities given to ADF&G and the boards are set out in a format different from the format for refuges and critical habitat areas, and are much broader. As discussed in section II D above, in sanctuaries the boards are given broad regulatory authority over "entry, development, construction, hunting, fishing, and all other activities or uses...." AS 16.20.120 and AS 16.20.170. These regulations must be for the "purpose of preserving the natural habitat and fish and game" Id. The only other restriction is that they shall not be inconsistent with AS 16.20.130 and AS 16.20.140, which in concert with AS 16.20.170 prohibit the sale of sanctuary land and allow leasing only as mineral land under DNR regulations.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 32

Thus, the boards' regulations under AS 16.20.120 could not prohibit authorized oil and mineral exploration and development but could condition it as long as the conditions were not inconsistent with federal and state laws and regulations, nor with other limitations determined jointly by DNR and ADF&G. AS 16.20.130. Additionally, the boards can in all other respects govern uses and activities so as to preserve the habitat or fish or game of the area. 25/ As discussed in section III above, this authority includes permitting authority. In sanctuaries, then, DNR's role is limited to regulation and limitation of oil and mineral exploration and development.

D. Separate, complementary authorities in refuges and critical habitat areas

For refuges and critical habitat areas, as discussed in section II D above, the statutory framework which gives authority to ADF&G and the boards differs from the one just reviewed for sanctuaries, and the standard under which the authority is exercised is limited to possible effects on fish, game or their habitat. The powers and duties of ADF&G and the boards in those two types of special areas are quite similar.

25/ Therefore, activities inconsistent with preserving the habitat could not be authorized by the boards, and we see no occasion for board regulations to conflict with general land management statutes.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 13

ADF&G is given a general permitting authority for refuges 26/ and shares that authority with the boards for critical habitat areas. Whenever the "use, lease or disposal of real property" in refuges is "under the control or jurisdiction of the state," AS 16.20.050 requires the responsible state department (in many cases, DNR) to notify ADF&G before "initiating" the use, lease or disposal. Under AS 16.20.250, in critical habitat areas private land as well as state-owned land is subject to the requirement, 27/ and thus, the statute imposes the duty to notify ADF&G upon the private party as well as the responsible state agency.

After notice is received by ADF&G, the person or governmental agency may be required to submit full plans and specifications. For refuges, ADF&G makes that decision, and for critical habitat areas, the boards decide. AS 16.20.060 and AS 16.20.260. The description of what can be required is identical

26/ In addition, with respect to game refuges, ADF&G has a further statutory mandate. For the Mendenhall Wetlands state game refuge and Creamer's Field migratory waterfowl refuge, ADF&G is explicitly directed to develop a plan to promote the purposes of the refuges, and activities in those refuges are permitted only if compatible with the overall plan. AS 16.20.034(e), (f), (g) and (i), and AS 16.20.039(d).

27/ As discussed in section II C above, DNR is authorized but not required to adopt zoning regulations on private land contained within five of the refuges. AS 16.20.030(b) and (d), AS 16.20.032(d), AS 16.20.036(e), and AS 16.20.038(e).

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 34

for refuges and critical habitat areas: full plans and specifications for the anticipated use, for the proposed construction work, and for the proper protection of fish and game, as well as the approximate date when the construction or work is to commence. Id. Further, ADF&G (for refuges) and the boards (for critical habitat areas) are given the authority to require the person or governmental agency to obtain written approval from ADF&G "as to the sufficiency of the plans and specifications before construction is commenced." Id. As discussed in section III above, written approval that is a prerequisite to commencement of an activity has been determined previously by this office to be a permit. 1982 Op. Att'y Gen. No. 1 (Mar. 4). The legislature has thus required that the impact on fish and game in these areas, specifically established to protect and preserve the natural habitat and to perpetuate fish and wildlife, be evaluated by the agency charged with fish and game management, ADF&G.

Although the requirement in AS 16.20.060 and AS 16.20-.260 for approval before "construction is commenced" can be interpreted several ways, 28/ we believe the most supportable reading encompasses the commencement or continuation of any

28/ "Construct" means "to form, make, or create by combining parts or elements." Webster's Third New International Dictionary, 489. (1976).

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 3, 1985
Page 33

activity which ADF&G determines is likely to affect fish or wildlife or their habitat. In Alaska, a sliding scale for construction of statutes has been established. State v. City of Haines, 627 P.2d 1047, 1049, n.e (Alaska 1981); accord State v. Alex, 646 P.2d 203, 208-09, n.4 (Alaska 1982). Alaska courts will now construe a statute in light of the overall purposes of the legislation as a whole and will not construe a statute in a manner inconsistent with the express objective of that very legislation. Anchorage Municipal Employment Association v. Municipality of Anchorage, 618 P.2d 575, 580 (Alaska 1980). As detailed in section II A above, the express purpose of refuges and critical habitat areas is to "protect and preserve" the natural habitats and fish and wildlife populations. AS 16.20.020 and AS 16.20.220. Further, for critical habitat areas, the objectives include restricting "all other uses not compatible with" that protection and preservation. AS 16.20.220. Thus, it is most likely that the legislature intended ADF&G's review and approval function in legislatively designated areas to be triggered by the likelihood of impact on fish or game or their habitat.

A narrower reading -- that the written approval applies only to the actual nailing of boards, digging of holes, or building of dikes, and not to cutting down trees or driving heavy vehicles across fragile tundra -- would be inconsistent with the

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 3, 1985
Page 36

clearly articulated legislative concern for the habitat and fish and game in special areas, and with the explicit review provided for the "anticipated use." It is unlikely that the legislature intended the notice and approval statutes to be so narrowly construed as to undermine fish and game protection.

However, we do not believe that an extremely broad reading -- under which ADF&G could require an ADF&G permit for any use, lease, or disposal of land in special areas -- is supportable. The language of AS 16.20.050, AS 16.20.060, AS 16.20.250 and AS 16.20.260 precludes an interpretation which would grant ADF&G permit authority over transactions which are not likely to affect fish or game or their habitat.

Consequently, we believe that the most logical reading of AS 16.20.060 and AS 16.20.260 gives ADF&G permit authority in special areas over any activity which ADF&G determines may affect fish or game or their habitat. That interpretation is consistent with the language of the statutes and the general rule articulated by the Alaska Supreme Court that "conservation laws such as fish and game laws should be liberally construed to achieve their intended purpose." Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State, 628 P.2d 897, 903 (Alaska 1981). It is reasonable to assume that the legislature intended to give meaningful review authority in refuges and critical habitat areas to the agency primarily responsible for fish and

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 37

game conservation -- ADF&G. (In order to further clarify what activities are encompassed by ADF&G permit authority under AS 16.20.060 and AS 16.20.260, it would be strongly advisable for ADF&G to adopt a regulation identifying activities it has determined may affect fish or wildlife or their habitat in special areas.) 29/

For a use, lease, or disposal that will not affect fish or wildlife or their habitat, AS 16.20.050 and AS 16.20.250 still require that ADF&G be notified. The purpose of that notification is to provide ADF&G the opportunity to comment on the lease or disposal to DNR or other relevant agencies and, in critical habitat areas, the private land owner. That consultation may be very important to DNR or the private person in evaluating the wisdom of the transfer; for example, if ADF&G anticipates that it would not be able to permit the eventual use to which the land would be put, those involved are likely to benefit from that knowledge.

E. Water appropriation and use

DNR has the authority to adjudicate water rights among competing claimants and to issue water appropriation permits, as discussed in section II B above. AS 46.15. In doing

29/ See discussion of the need for regulations in section V, under question B, below.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985

Page 38

so, DNR is to consider a number of factors, including the effect on fish and game. AS 46.15.080(b)(2); Alaska Const. art. VIII, § 13. ADF&G, on the other hand, has no authority to appropriate water to particular individuals, although it has a role in commenting to DNR on permit applications and providing information which will assist DNR in fulfilling its constitutional and statutory responsibility to consider fish and game.

However, before use can be made of water appropriated by DNR to a particular claimant, in certain instances a permit must also be issued by ADF&G. If the water is from an anadromous fish stream, the procedures of AS 16.05.870, described in section II D above, must be followed, which may affect how the water appropriated by DNR can be taken. Similarly, if the water appropriated is in a special area, the provisions discussed in section IV C and D above apply. If the method of taking or the use within the special area may affect fish or game or their habitat in a refuge or a critical habitat area, ADF&G has permit authority under AS 16.20.060 and AS 16.20.260. If the use is in a sanctuary, the ADF&G permit authority is found in AS 16.20.120 and AS 16.20.170.

This distribution of complementary DNR and ADF&G authorities over water is analogous to those over land. For example, as discussed in section IV D above, DNR has the power to lease a piece of refuge land, as it has to appropriate water in a

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 39

refuge. However, in this example, ADF&G has permit authority over any use of the leased land that might affect fish or game or their habitat, as it has over use of the appropriated water which could have those effects.

Given the related DNR and ADF&G water appropriation and use authorities over special areas and anadromous fish streams, it is very important that the two departments cooperate and communicate during the water permitting processes. This will ensure that an applicant is not accidentally misled into assuming that only DNR has permitting authority. Further, comment to DNR by ADF&G early in the DNR permitting process will ensure that an applicant is aware of ADF&G's separate and additional AS 16 permitting structures.

F. Prohibition on transfer of state land out of refuges

In refuges, a change in land status out of state ownership could threaten the overall legislative purposes for the refuge by virtue of the different statutory standards that come into play. 30/ In refuges, if state land were conveyed in fee out of state ownership, the land would no longer be refuge land and ADF&G would be unable to require review and approval of later

30/ This discussion does not apply to those refuges which have been incorporated by reference from the national wildlife refuge system, since they do not consist of state land. AS 16.20.030(a).

Mon. Escher Wunnicke
Commissioner, DNR
Mon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 60

use of the transferred parcel, regardless of the effect on fish, game or habitat. This result would do violence to the statutory scheme as a whole.

Moreover, if DNR had the authority to effectively extinguish a legislatively created refuge by transferring state land in fee, it would be contrary to the separation of powers doctrine. The doctrine of separation of powers is implicit in the Alaska Constitution, and precludes one branch of government from interfering with the proper functioning of another branch. State v. Williams, 681 P.2d 310, 315 n.2 (Alaska 1984). This doctrine places primary responsibility for the conduct of legislative activities upon the legislature. Van Brunt v. State, 653 P.2d 343, 346 (Alaska App. 1982). Thus, the executive branch (here, DNR) cannot undo (by transferring state land in refuges out of state ownership) the legislature's actions (providing certain protections for fish and game and their habitat on refuge lands).

Further, it is a fundamental principle of statutory construction that statutes are to be read as a whole, in context, and in a manner that avoids absurdities and carries out legislative intent. 2A N. Singer, Sutherland Statutory Construction §§ 45.12 and 46.05 (4th ed. 1984). We believe that, under those guidelines, refuge land may not be transferred in fee out of state ownership unless such transfer is specifically authorized

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 9, 1985
Page 41

by the legislature, as, for example, in AS 16.20.034(i), which provides for acquisition by the City and Borough of Juneau of state land in the Mendenhall Wetlands refuge for three specified purposes.

Critical habitat areas, unlike refuges, include both private and state land (except for the Anchor River/Prize Creek area, which includes only state lands). AS 16.20.200. This fact probably reflects legislative recognition that statutory protections in critical habitat areas should extend beyond just state lands, and that multiple land ownership exists in these areas.

Because the legislature specified that the purposes for critical habitat areas include restricting all other uses not compatible with the primary purpose of protecting and preserving the habitat (AS 16.20.220), the legislature must not have intended to allow unrestricted conveyances (in fee) of land out of critical habitat status -- i.e., to federal or municipal entities that are not subject to the notice and permit requirements of AS 16.20.250 and AS 16.20.260. The legislature did not prohibit conveyances per se, but based on the same separation of powers principles articulated above, we interpret AS 16.05.220 as requiring that any fee transfers of state lands in critical habitat areas to private, municipal, or federal ownership, be subject to covenants running with the land that make the land subject to the protections of AS 16.20.240 -- AS 16.20.270.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 42

Without such protections, DNR could effectively dissolve legislatively created critical habitat areas.

The necessity for including protective covenants in conveyances in fee of state land does not apply to land held in private ownership at the time the critical habitat area was established, because private citizens are not subject to the separation of powers principle and their actions cannot be restricted based on this doctrine. Moreover, had the legislature intended to prohibit or restrict alienability of privately held lands in critical habitat areas, it would presumably have so stated in the legislation. Thus, a private landowner must give ADF&G notice of intent to convey land in fee under AS 16.20.250, but the restrictions of AS 16.20.260 do not apply, and there is no basis for requiring covenants in such private conveyances.

G. Summary and examples

Thus, we believe state land in refuges, as well as sanctuaries, 31/ cannot be conveyed in fee out of state ownership absent legislative authorization. Further, we believe that ADF&G and the boards in combination have permit authority over certain activities within refuges (consisting of state owned land) and critical habitat areas (consisting in almost all cases

31/ AS 16.20.140 and AS 16.20.170.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 43

of both private and state owned land). It is clear from both AS 16.20.060 and AS 16.20.260 that plans for any anticipated use are reviewable and that under the most supportable interpretation, they must be approved before the use can proceed if ADF&G determines that it would be likely to affect fish or wildlife or their habitat. This does not supplant DNR's separate authorities discussed in sections II B and C above, but it is, rather, in addition to them. 32/ Some examples may be helpful.

If an individual wished to lease a piece of refuge land and to construct on it a boat-launching facility, DNR could evaluate the conveyance under the relevant statutes and regulations, giving notice to ADF&G as required by AS 16.20.050, and determine whether or not under the relevant ENR provisions the lease is in the state's best interest and could be approved. In doing so, DNR could consider any input from ADF&G, but would not be bound by it. However, ADF&G would at the same time be reviewing the proposed plans and specifications for the boat-launching facility to evaluate possible impact on fish, game, or their habitat. If a permit were not issued by ADF&G, the in .d not

32/ We do not mean to suggest that DNR and ADF&G may not work together and make their decisions simultaneously. Indeed, such an approach would be consistent with the Administration's ongoing efforts at "permit reform" and, as discussed in section II E above, is provided for currently in the coastal zone consistency review process established in 6 AAC 50.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 44

construct the facility on the land, even if the lease were approved by DNR. If an individual wanted to commercially harvest trees on refuge land, ADF&G would be again notified under AS 16.20.050 and could require a permit under AS 16.20.060. Meanwhile, DNR would be reviewing the proposal under its own authority, such as AS 38.05.115. Approval from both agencies, each operating under its separate statutory standard, would be necessary. If the activity were to be located in or were to affect the coastal zone, the consistency review procedures in 6 AAC 50 would apply.

If an owner of private land in a critical habitat area wished to sell or lease his parcel to another individual, the owner would be required to notify ADF&G under AS 16.20.250, but ADF&G approval would not be required. (Similarly, DNR would notify ADF&G if it were considering a sale or lease of state land in critical habitat areas, but ADF&G approval would not be required.) If, however, the land owner wished to cut down all the trees on his parcel to achieve a better view of the nearby mountains, he would again notify ADF&G under AS 16.20.250, but in this instance, since something more than a change in paper status is involved, and if ADF&G determined that fish or wildlife or their habitat could be affected, ADF&G could require that he not proceed without a permit under AS 16.20.260.

If a tour guide wanted to set up expeditions into a

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page -5

sanctuary, he could be required by the boards to obtain a permit under AS 16.20.120 and AS 16.20.170, and DNR would not be involved. If a company, on the other hand, wanted to lease sanctuary land for oil exploration, the lease would be governed by DNR regulations under AS 16.20.140, and the exploration would be subject to state and federal laws and limitations jointly determined by DNR and ADF&G under AS 16.20.130. The boards could also impose requirements not inconsistent with those laws and limitations under AS 16.20.120 and AS 16.20.170.

V. SPECIFIC QUESTIONS FROM DNR AND ADF&G

Both DNR and ADF&G have posed specific questions about their complementary authorities in special areas. 33/ Although

33/ In addition, DNR has asked what authorities it holds in yet a fourth type of legislatively created area, state range areas. State range areas are set out in AS 16.20.300 through AS 16.20.360, and two are established. The Delta Junction Bison Range Area is described in AS 16.20.300, and the Matanuska Valley Moose Range is described in AS 16.20.360.

For the Delta Junction Bison Range Area, ADF&G is directed by AS 16.20.310 to develop a plan for bison which includes activities such as planting grains and other wild forage, altering existing plant cover, and tilling in order to produce forage. ADF&G is directed by the statute to "coordinate as closely as possible" with "the activities of the Agricultural Development Authority, Department of Natural Resources, relating to the Big Delta Agricultural Project." (No other reference to this "Authority" appears to be contained in the Alaska statutes.)

The Matanuska Valley Moose Range is established for several purposes, including improving and enhancing moose population.
(Footnote continued)

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 3, 1985
Page 46

the answers are largely provided above, the questions (somewhat paraphrased) and specific answers are set out here.

Question A: Is the authority exercised by ADF&G under AS 16.20.050 and AS 16.20.060 on state game refuges exclusive of the authority of DNR under Title 38 on state lands? Does DNR retain its traditional role as lessor of interests in land and permitter of certain activities in special areas, while ADF&G holds a veto over the actual exercise of these activities within refuges, critical habitat areas and sanctuaries? Do ADF&G or the boards have the authority to give controlling approval, conditional approval, or denial to a use, lease, or disposal of real property otherwise allowed by DNR in state refuges, critical habitat areas, and game sanctuaries?

Answer: As discussed in section IV above, the statutory authorities of ADF&G and the boards in relation to the

(Footnote continued),
lations and habitat and perpetuating public multiple use of the area through fishing, grazing, forest management, hunting, trapping, and mineral and coal entry and development. AS 16.20.340. The management of fish and game resources in the range is the responsibility of ADF&G, under AS 16.20.350(a). Management of the surface and subsurface estate is the responsibility of DNR, which is directed to adopt a management plan for the range that reflects the concurrence of ADF&G. AS 16.20.350(b). DNR is authorized by AS 16.20.250(c) to adopt regulations governing the public use of the area and is specifically directed to consult with ADF&G before the adoption. Thus, the DNR plan for the area must be approved by ADF&G, but the regulations may be adopted after consultation with ADF&G, even (presumably) if agreement cannot be reached between the two departments.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 47

authorities of DNR are of several kinds. Some authorities must be exercised after consultation, some are joint authorities requiring concurrence, and some are separate and may be independently exercised (although public policy would often best be served by cooperative joint decision making).

ADF&G, in combination with the boards, does have permit authority to approve, condition, or deny activities which could affect fish or game on their habitat in those special areas, whether or not approved by DNR. Similarly, DNR has certain authorities within those areas, and even if a use were one which ADF&G would approve, if DNR also had jurisdiction and for some separate reason did not approve it, it could not be carried out. Thus, it is misleading to characterize ADF&G's authority as a "veto" over DNR's authority, just as it would be inaccurate to characterize DNR's authority as a "veto" over ADF&G's authority. Each is necessary and each is to be exercised independently, under the relevant statutory authorities and standards.

Question B: Do ADF&G or the boards have the authority to adopt regulations setting guidelines for the issuance of their permits in state refuges, critical habitat areas and sanctuaries? Do ADF&G or the boards have the authority to adopt plans for state refuges, critical habitat areas, and game sanctuaries for the purpose of guiding the agency in making permit decisions, species enhancement decisions, species harvest decisions,

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-S4 & 366-122-84

November 3, 1985
Page 48

scientific investigations, and decisions designating specific geographic areas as appropriate locations for particular uses?

Answer: As discussed in section III above, this office has already concluded that ADF&G and the boards have implied authority to adopt regulations governing issuance of permits in refuges and critical habitat areas and more explicit authority in sanctuaries. 1982 Op. Att'y Gen. No.1 (Mar. 4). If guidelines are to be used in evaluating permit applications rather than a case-by-case assessment directly under the statute, the guidelines must be contained in regulations. In Kenai Peninsula Fisherman's Cooperative Association Inc. v. State, 628 P. 2d 897, 906 (Alaska 1981), the court discussed the broad definition of "regulation" contained in AS 44.62.640(a)(2), noting that it includes manuals, policies, instructions, guides to enforcement, interpretive bulletins, interpretations, and the like. Id. at 904-05.

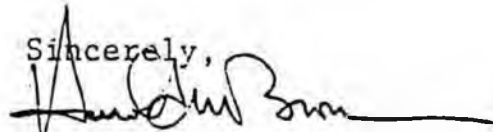
One indicator of a regulation is that it "implements, interprets or makes specific the law enforced or administered by the state agency," and another is that it "affects the public or is used by the agency in dealing with the public." Id. at 905. General guidelines for issuing permits in special areas would indeed fit both those descriptions, and thus should be adopted by "

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 53

two departments which are separate yet complementary. The Department of Natural Resources has many general authorities with regard to state-owned land, as well as specific authorities in state game refuges and sanctuaries. Some of those authorities must be exercised in conjunction with the Department of Fish and Game, some must be exercised after consulting with the Department of Fish and Game, and some may be independently exercised. The Department of Fish and Game and the Boards of Fisheries and Game have specific authorities in state game refuges, game sanctuaries, and critical habitat areas. Some of the authorities are to be exercised in conjunction with DNR, but for the three types of special areas, the Department of Fish and Game and the Boards of Fisheries and Game have separate permit authority which may be exercised independently of the Department of Natural Resources. In any event, any departmental actions which may affect the coastal zone must be consistent with the ACMP, and the consistency review process established in 6 AAC 50 is an example of inter-departmental coordination that might be useful statewide.

Sincerely,



Harold M. Brown
Attorney General

Attachment

SUMMARY OF DNR/ADF&G
 AUTHORITIES IN SPECIAL AREAS
 (AG # 366-045-84 and 366-122-84)

	Refuges	Critical habitat areas	Sanctuaries
Consists of state land only	X*	.	X
Consists of state and private land		X**	
State land cannot be transferred in fee without specific legislative authorization	X		X
Land can be leased only for oil and mineral exploration and development (by DNR)			X
Oil and mineral exploration and development governed by state and federal laws and regulations, and by limitations jointly determined by DNR & ADF&G			X
Boards may regulate all activities and uses not inconsistent with oil and mineral exploration and development			X
Leases and other paper changes of state land status executed by DNR, but ADF&G must be notified first	X		
Sales, leases, and other paper changes of land status executed by private land owner or DNR, but ADF&G must be notified first		X***	
ADF&G and boards may regulate those activities which they determine may affect fish, game or their habitat	X	X	X

* Except for the units which have incorporated by reference from the national wildlife refuge system. AS 16.20.030(a).

** Except for the Anchor River/Fritz Creek critical habitat area, which consists of state land only.

*** Transfers of state land must be subject to covenants running with the land that make it subject to the protections of AS 16.20.240 -- AS 16.20.270

the two departments 1/ have complementary statutory authorities in that each has separate, independent permitting authority, as well as other responsibilities which are to be carried out in conjunction with or after consultation with the other department. (The attached chart summarizes the authorities of DNR and ADF&G in special areas.) In addition, for activities located in or affecting the coastal zone, both departments must implement their authorities in a manner consistent with the Alaska Coastal Management Program. This opinion follows the following outline:

I.	Introduction	page 1
II.	The statutory framework	page 3
	A. Special areas	page 3
	B. DNR general authorities	page 6
	C. DNR authorities specific to special areas	page 13
	D. ADF&G authorities in special areas	page 15
	E. Coastal zone consistency review	page 21
III.	Prior attorney general opinions	page 24
IV.	Interaction between DNR and ADF&G authorities	page 27

1/ As discussed later in this memorandum, ADF&G and the Boards of Fisheries and Game each have been delegated slightly different authorities in special areas. Those will be outlined in detail, but throughout this opinion, the combined authorities will be generally referred to as belonging to ADF&G. In addition, the Commissioner of ADF&G will be referred to as "ADF&G."

§ 41.21.022

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PUBLIC RESOURCES

§ 41.21.172

Article 2. State Parks.

Section

124. [Repealed]

133. [Repealed]

143. [Repealed]

170. Declaration of purpose

172. Designated state land and water

Section

174. Designation of management respon-

sibility

176. Compatibility of uses

178. Additions to park

Sec. 41.21.124. Discharge of firearms. [Repealed, § 2 ch 126 SLA 1984.]

Sec. 41.21.133. Discharge of firearms. [Repealed, § 2 ch 126 SLA 1984.]

Sec. 41.21.143. Discharge of firearms. [Repealed, § 2 ch 126 SLA 1984.]

Sec. 41.21.170. Declaration of purpose. (a) The purpose of AS 41.21.170 — 41.21.178 is to establish, subject to valid existing rights, the state-owned or acquired uplands and freshwater bodies described in AS 41.21.172 as the Shuyak Island State Park. The primary purposes of establishing the Shuyak Island State Park are to protect the area's recreational and scenic resources, to protect the area's fish and wildlife habitat, and to preserve and enhance the continued use of the area for sport and subsistence hunting and fishing, trapping, and recreational activities.

(b) Under the provisions of AS 38.05.300, state land, water, or land and water containing more than 640 acres may be closed to multiple purpose use only by act of the legislature. Because the area described in AS 41.21.172 exceeds 640 acres, AS 41.21.170 — 41.21.178 are intended to close the described land and water to multiple purpose use in conformity with AS 38.05.300 and to dedicate them as a special purpose site in accordance with art. VIII, sec. 7, Constitution of the State of Alaska. (§ 1 ch 167 SLA 1984)

Sec. 41.21.172. Designated state land and water. The uplands and freshwater bodies owned or acquired by the state within the following described parcel are designated as the Shuyak Island State Park: all uplands, including Dark Island and other islands, islets, pinnacles, and rocks within the Shuyak Island complex lying easterly of Shelikof Strait, south of Stevenson Entrance, north of Shuyak Strait, and lying westerly and northerly of the following described boundary line (all sections of unsurveyed land are protracted): Beginning at the section corner common to sections 13 and 24 of T19S, R21W, S.M. and sections 18 and 19 of T19S, R20W, S.M., then

northerly and easterly approximately 2.8 miles along a line dividing the east and west sides of Neketa Bay (the island in the SW 1/4 of section 17, T19S, R20W, S.M. is on the east side of Neketa Bay for the purpose of this description) to the center of the isthmus dividing Neketa Bay and Big Bay located in the SW 1/4 of section 9, T19S, R20W, S.M., then northeasterly approximately 25 feet to the mean high tide line of Big Bay; then meandering easterly and northerly in a counter-clockwise direction along the mean high tide line of Shuyak Island to a point common to the W 1/16th line in the north half of the north half of Section 10, T19S, R20W, S.M.; then north along the W 1/16th line approximately 150 feet to the section line common to Sections 3 and 10, T19S, R20W, S.M.; then east 0.5 miles between Sections 3 and 10 to the E 1/16th corner of Sections 3 and 10, T19S, R20W, S.M.; then north 0.5 miles along the E 1/16th line of Section 3 to the C-E 1/16th corner of Section 3, T19S, R20W, S.M.; then west 0.25 miles along the E-W 1/4 line of Section 3 to the C 1/4 corner of Section 3, T19S, R20W, S.M.; then north 0.25 miles along the NS 1/4 line of Section 3 to the C-N 1/16th corner of Section 3, T19S, R20W, S.M.; then north-northeasterly approximately 1.65 miles to the C-E-W-SW 1/125th corner of Section 26, T18S, R20W, S.M.; then east 0.80 miles along the S 1/16th line of Section 26 to the S 1/16th corner of Sections 25 and 26, T18S, R20W, S.M.; then south 0.25 miles between Sections 25 and 26 to the corner common to Sections 25, 26, 35, and 36, T18S, R20W, S.M.; then east between Sections 25 and 36, T18S, R20W, S.M. and Sections 30 and 31, T18S, R19W, S.M. approximately 1.75 miles to the intersection with the mean high tide line on the west shore of the unnamed bay that connects to Shangin Bay; then meandering southerly and easterly along the mean high tide line of that unnamed bay to Shangin Bay and then continuing southerly, easterly, and northerly along the mean high tide line of Shangin Bay to a point common to the N 1/16th line of Section 32, T18S, R19W, S.M.; then east along the N 1/16th line of Sections 32 and 33 approximately 0.3 miles to the NW 1/16th corner of Section 33, T18S, R19W, S.M.; then northeasterly approximately 1.5 miles to the section corner common to Sections 22, 27, 28, and 21, T18S, R19W, S.M.; then north along the west boundary of Sections 22 and 15, T18S, R19W, S.M., to the point of mean high tide in Shangin Bay. (§ 1 ch 167 SLA 1984)

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Sec. 41.21.174. Designation of management responsibility. (a) The state uplands and freshwater bodies described in AS 41.21.172 are assigned to the Department of Natural Resources for control, maintenance, and development consistent with the purposes and provisions of AS 41.21.170 — 41.21.178.

(b) The Department of Fish and Game is responsible for the management of fish and game resources in the Shuyak Island State Park, consistent with the sustained yield principle and the purposes and provisions of this chapter. The Board of Fisheries, the Board of Game and the commissioner of fish and game are responsible for adopting regulations governing uses of fish and game in accordance with AS 16. The fish and game habitat and breeding areas shall be managed to ensure that the fish and game resources of the park continue on a sustained yield basis.

(c) The Department of Natural Resources shall consult with the Department of Fish and Game before adoption of regulations governing public use of the Shuyak Island State Park.

(d) The Department of Fish and Game shall consult with the Department of Natural Resources before adoption of regulations governing fish and game management in Shuyak Island State Park.

(e) The regulations established under this section shall be adopted in accordance with the Administrative Procedure Act (AS 44.62).

(f) The commissioner of natural resources shall permit reasonable camping within the Shuyak Island State Park on an extended basis on request.

(g) Nothing in AS 41.21.170 — 41.21.178 prohibits the Department of Fish and Game from engaging in stream rehabilitation enhancement and development under AS 16.05.092 on land within the Shuyak Island State Park.

(h) The Department of Public Safety and the Department of Fish and Game shall have necessary access for fish and game management, research, and enforcement purposes. (§ 1 ch 167 SLA 1984)

Sec. 41.21.176. Compatibility of uses. (a) The commissioner of natural resources may designate by regulation incompatible uses within the park uplands and freshwater bodies.

(b) Use of a weapon in the Shuyak Island State Park shall be allowed except in unique areas that may be closed for purposes of public safety by regulation by the commissioner of natural resources.

(c) The regulations governing public use of the Shuyak Island State Park shall provide ample access for legal sport and subsistence hunting and fishing, trapping, and recreational uses. Except to protect public safety the commissioner of natural resources may not restrict

the exercise of sport or subsistence fishing or hunting, or trapping permitted under law or under a regulation of the Board of Fisheries or the Board of Game within the Shuyak Island State Park. (§ 1 ch 167 SLA 1984)

Sec. 41.21.178. Additions to park. Land may be added to the Shuyak Island State Park only by an act of the legislature. The commissioner of natural resources may not acquire land within the boundaries of the Shuyak Island State Park by eminent domain. (§ 1 ch 167 SLA 1984)

Editor's notes. — Section 2, ch. 167, SLA 1984, provides: "(a) The commissioner of natural resources shall seek an amendment to the Agreement of Settlement and Consent Decree of June 19, 1981, between the state and the Kodiak Island Borough to make the following uplands that were retained by the state under that agreement of settlement available to the Kodiak Island Borough under AS 29.18.201 — 29.18.213:

"T19S, R20W, S.M.

"Sec. 16

"Sec. 17

"Secs. 19 — 21

"Sec. 29

"Sec. 30

"(b) The commissioner of natural resources shall seek a relinquishment of borough land selections under AS 29.18.201 — 29.18.213 and an amendment to the Agreement of Settlement and Consent Decree of June 19, 1981, between the state and the Kodiak Island Borough to include the following described land of an equal acreage to that land described in sec. 2(a) in the Shuyak Island State Park:

"T18S, R20W, S.M.

"Sec. 26

"Secs. 34 — 36

"T18S, R19W, S.M.

"Sec. 31

"(c) Subsections (a) and (b) of this section are repealed six months from July 12, 1984 if the Agreement of Settlement and Consent Decree of June 19, 1981, is not amended as proposed in (a) and (b) of this section.

"(d) If the Agreement of Settlement and Consent Decree of June 19, 1981, is amended as proposed in (b) and (c) of this section, the uplands within the following described lands are added to the Shuyak Island State Park:

"T19S, R20W, S.M.

"Sec. 8, SE1/4, SE1/4, SE1/4

"Sec. 9"

Section 3, ch. 167, SLA 1984, provides: "Subject to the availability of funds, the Department of Natural Resources shall construct public use cabins within the Shuyak Island State Park."

Section 4, ch. 167, SLA 1984, provides: "The commissioner of natural resources shall identify the boundaries of the Shuyak Island State Park by posting each inland boundary described in AS 41.21.172 as enacted in sec. 1 of this Act or as added under sec. 2 of this Act at its beginning and its end and not less often than each one-eighth of a mile."

Section 5, ch. 167, SLA 1984, provides: "The commissioner of natural resources shall identify and offer for sale to the public 500 acres of state-owned land within the Kodiak Island Borough under AS 38 within five years of July 12, 1984. The land offered for sale under this section shall be reasonably accessible to residents of the City of Kodiak, shall be land of good quality, and may not include land proposed as of February 1, 1984 by the Department of Natural Resources for sale by the department during fiscal years 1984, 1985, or 1986. The disposals of the land shall be held in the City of Kodiak. The commissioner of natural resources shall submit to the legislature not later than the 10th day of the Second Regular Session of the Sixteenth Alaska State Legislature a report on the compliance by the Department of Natural Resources with this section."

Section 6, ch. 167, SLA 1984, provides: "AS 41.21.170 — 41.21.178 enacted by sec. 1 of this Act is repealed July 1, 1990, if the commissioner of natural resources does not report to the legislature under sec. 5 of this Act that the Department of Natural Resources has identified and offered for sale 500 acres of state-owned land within the Kodiak Island Borough under AS 38 within five years after July 12, 1984."

Offered: 3/7/86
Referred: Finance

Original sponsor: Thompson

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

CS FOR HOUSE BILL NO. 605 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the Shuyak State Game Refuge."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 16.20 is amended by adding a new section to read:

9 Sec. 16.20.035. SHUYAK STATE GAME REFUGE. (a) The following
10 state-owned uplands and all uplands acquired by the state after the
11 effective date of this Act lying within the area described in this
12 subsection are established as the Shuyak State Game Refuge:

13 (1) Beginning at the E 1/16th corner common to Sections 23
14 and 26, T18S, R19W, S.M.; then south-southwesterly approximately 8.86
15 miles to the section corner common to Sections 31 and 32, T19S, R19W,
16 S.M., and Sections 5 and 6, T20S, R19W, S.M.; then westerly along the
17 township line between Townships 19 and 20S, Ranges 19 and 20W, S.M.,
18 approximately 2.5 miles to the 1/4 corner common to Section 35, T19S,
19 R20W, S.M., and Section 2, T20S, R20W, S.M.; then southerly along the
20 north-south centerline of Section 2, T20S, R20W, S.M., approximately
21 0.3 miles to the intersection of the mean high tide line of Shuyak
22 Strait; then meandering in a counter-clockwise direction easterly,
23 northerly, westerly, and southerly to the intersection of the mean
24 high tide with the section line common to Sections 15 and 16, T18S;
25 R19W, S.M.; then south approximately 1.25 miles to the section corner
26 common to Sections 22, 27, 28 and 21, T18S, R19W, S.M.; then east 1.75
27 miles between Sections 22 and 27, 23 and 26 to the E 1/16th corner
28 common to Sections 23 and 26, T18S, R19W, S.M.; to the point of begin-
29 ning; and

1 (2) Big Fort Island, Little Fort Island, the Perevalnie
2 Islands and all other islands, islets, pinnacles and rocks lying
3 easterly of and within one mile of the easterly shore of the lands
4 described in (1) of this subsection.

5 (b) The Shuyak State Game Refuge is established to provide the
6 following:

7 (1) protection and enhancement of habitat;

8 (2) continued opportunity for recreational uses, including
9 fishing and hunting, and continued trapping and commercial fishing;

10 (3) opportunity to view, photograph, study, and enjoy the
11 various species of plants and wildlife of the refuge.

12 (c) If the Kodiak Island Borough relinquishes to the state any
13 state land selected by the borough within the following parcels, that
14 land becomes part of the Shuyak State Game Refuge:

15 (1) T18S, R19W, S.M.

16 Sections 26 - 28

17 Sections 33 - 35

18 (2) T19S, R19W, S.M.

19 Section 3

20 Section 4

21 Section 6: S1/2

22 Sections 7 - 10

23 Sections 16 - 21

24 Sections 29 - 32

25 (3) T19S, R20W, S.M.

26 Section 1: S1/2

27 Section 2: S1/2

28 Section 10: SE1/4

29 Sections 11 - 16

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Sections 20 - 29

Sections 32 - 36

(4) T20S, R20W, S.M.

Section 2

Section 3

(d) Egress and ingress to and from private and borough property within or adjacent to land described in (a) of this section shall be provided through the reservation by the Department of Natural Resources of a 200-foot easement traversing Section 26, T18S, R19W, S.M.; Sections 15, 16, 21, and 22 of T19S, R19W, S.M.; and Section 32, T19S, R19W, S.M. The specific locations of the easements shall be agreed to by the Department of Fish and Game, the Department of Natural Resources, and the Kodiak Island Borough. If land is conveyed to the state as provided in (c) of this section, the easements shall be reserved so as to continue through that land.

(e) The Shuyak State Game Refuge shall be managed in accordance with a management plan prepared by the Department of Fish and Game. The management plan shall be adopted in accordance with the Alaska Administrative Procedure Act (AS 44.62).

(f) The Board of Fisheries and the Board of Game shall adopt regulations governing the taking of fish and game within the Shuyak State Game Refuge to implement (b) of this section.

(g) To the extent that funds are available, the commissioner of natural resources shall identify the boundaries of the Shuyak State Game Refuge by surveying and posting each inland boundary described in (a)(1) of this section, or as added under (c) of this section, at its beginning and its end.

Introduced: 2/14/86
Referred: Resources
and Finance

1 IN THE HOUSE

BY THOMPSON

2

HOUSE BILL NO.605

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the Shuyak State Game Refuge."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 16.20 is amended by adding a new section to read:

9 Sec. 16.20.035. SHUYAK STATE GAME REFUGE. (a) The following
10 state-owned uplands and all uplands acquired by the state after the
11 effective date of this Act lying within the area described in this
12 subsection are established as the Shuyak State Game Refuge:

13 (1) Beginning at the E 1/16th corner common to Sections 23
14 and 26, T18S, R19W, S.M.; then south-southwesterly approximately 8.86
15 miles to the section corner common to Sections 31 and 32, T19S, R19W,
16 S.M., and Sections 5 and 6, T20S, R19W, S.M.; then westerly along the
17 township line between Townships 19 and 20S, Ranges 19 and 20W, S.M.,
18 approximately 2.5 miles to the 1/4 corner common to Section 35, T19S,
19 R20W, S.M., and Section 2, T20S, R20W, S.M.; then southerly along the
20 north-south centerline of Section 2, T20S, R20W, S.M., approximately
21 0.3 miles to the intersection of the mean high tide line of Shuyak
22 Strait; then meandering in a counter-clockwise direction easterly,
23 northerly, westerly, and southerly to the intersection of the mean
24 high tide with the section line common to Sections 15 and 16, T18S;
25 R19W, S.M.; then south approximately 1.25 miles to the section corner
26 common to Sections 22, 27, 28 and 21, T18S, R19W, S.M.; then east 1.75
27 miles between Sections 22 and 27, 23 and 26 to the E 1/16th corner
28 common to Sections 23 and 26, T18S, R19W, S.M.; to the point of begin-
29 ning; and

1 (2) Big Fort Island, Little Fort Island, the Perevalnie
2 Islands and all other islands, islets, pinnacles and rocks lying
3 easterly of and within one mile of the easterly shore of the lands
4 described in (1) of this subsection.

5 (b) The Shuyak State Game Refuge is established to provide the
6 following:

7 (1) protection and enhancement of habitat;

8 (2) continued opportunity for recreational uses, including
9 fishing and hunting, and continued trapping and commercial fishing;

10 (3) opportunity to view, photograph, study, and enjoy the
11 various species of plants and wildlife of the refuge.

12 (c) If the Kodiak Island Borough relinquishes to the state any
13 state land selected by the borough within the following parcels, that
14 land becomes part of the Shuyak State Game Refuge:

15 (1) T18S, R19W, S.M.

16 Sections 26 - 28

17 Sections 33 - 35

18 (2) T19S, R19W, S.M.

19 Section 3

20 Section 4

21 Section 6: S1/2

22 Sections 7 - 10

23 Sections 16 - 21

24 Sections 29 - 32

25 (3) T19S, R20W, S.M.

26 Section 1: S1/2

27 Section 2: S1/2

28 Section 10: SE1/4

29 Sections 11 - 16

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 606 (FIN)
 Title : Art in public palces

 Sponsor : Hanley
 Requestor : House Finance Committee
 Date of Request : 5/2/86

FISCAL DETAIL

Agency Affected : DOT/PF
 BRU : _____

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : Attach a separate page if necessary

No additional funds should be needed. If costs are incurred, they can be absorbed within the Department's budget.

AAA

Prepared by : Al Adams, Chair Phone : 465-3706
 Division : House Finance Committee Date : 5/2/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Original sponsors: Hanley, Adams,
Ringstad, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 606 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to art in public places; and provid-
7 ing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 35.27.020(c) is amended to read:

10 (c) One-half [AT LEAST ONE PERCENT OR, IN THE CASE OF A RURAL
11 SCHOOL FACILITY, AT LEAST ONE-HALF] of one percent of the construction
12 cost of a building or facility approved for construction by the legis-
13 lature shall [AFTER SEPTEMBER 1, 1977, WILL] be reserved for the
14 following purposes: the design, construction, mounting and adminis-
15 tration of works of art in a school, office building, court building,
16 vessel of the marine highway system, or other building or facility
17 which is subject to substantial public use.

18 * Sec. 2. AS 35.27.020(g) is amended to read:

19 (g) Each selection committee established under AS 35.27.021 [THE
20 ARCHITECT, SUPERINTENDENT, DEPARTMENT, AND THE ALASKA STATE COUNCIL ON
21 THE ARTS] shall require [ENCOURAGE] the use of state cultural re-
22 sources in these art works and the selection of Alaska resident ar-
23 tists for the commission of these art works.

24 * Sec. 3. AS 35.27 is amended by adding a new section to read:

25 Sec. 35.27.021. SELECTION OF ART. (a) The artist who executes
26 a work of art for a public school shall be selected by a majority vote
27 of a committee, with the approval of the school board. The committee
28 shall be composed of the architect, the project manager administering
29 the facility construction, two representatives from the school

1 district, and three members of the public who reside in the community
2 where the school is located. At least one member of the public shall
3 be knowledgeable in the arts. The president of the school board or a
4 designee shall provide reasonable public notice that public member
5 seats on the committee are available. The representatives from the
6 school district, and members of the public shall be selected by the
7 president of the school board or a designee.

8 (b) Except as provided in (a) of this section, an artist who
9 executes a work of art for public buildings and facilities shall be
10 selected by a majority vote of a committee convened by the project
11 manager administering the facility construction. The committee shall
12 be composed of the architect, the project manager, a designee of the
13 Alaska State Council on the Arts, a designee of the principal user of
14 the public building or facility, and three members of the public who
15 reside in the community where the building is located. At least one
16 member of the public shall be knowledgeable in the arts. The members
17 of the public shall be selected by the project manager after reason-
18 able public notice that public member seats on the committee are
19 available.

20 (c) All meetings of the selection committee under (a) or (b) of
21 this section are subject to the public meeting and notice requirements
22 under AS 44.62.310.

23 * Sec. 4. AS 44.27.060(b) is amended to read:

24 (b) The commissioner of a department responsible for the design
25 and construction of a building or facility shall deposit into the art
26 in public places fund one-half of one percent of the construction cost
27 of a building or facility if the building or facility is exempt from
28 the requirements of AS 35.27 and the exemption is because

29 (1) the estimated construction cost of the building or

1 facility is less than \$250,000; or

2 (2) the building or facility is not designed for substan-
3 tial public use.

4 * Sec. 5. AS 44.27.060 is amended by adding a new subsection to read:

5 (e) A work of art shall be identified by a permanent plaque
6 installed on or near the work of art. The plaque must contain the
7 name or title of the work of art, the name of the artist, and the year
8 of completion.

9 * Sec. 6. AS 35.27.020(e) and (f) are repealed.

10 * Sec. 7. This Act does not apply to the construction of a building or
11 facility approved by the legislature before July 1, 1986.

12 * Sec. 8. This Act takes effect July 1, 1986.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB606 (State Affairs)
 Title : An Act Relating to Art in Public Places
(Committee Substitution)
 Sponsor : Hanley, Adams, Ringstad, et al
 Requestor : _____
 Date of Request : 4-28-86

FISCAL DETAIL

Agency Affected : DOT&PF & DOE
 BRU : Buildings Design & Construction and the Alaska State Council on the Arts
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		60.	61.8	63.6	65.6	67.5

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		60.	61.8	63.6	65.6	67.5
FEDERAL FUNDS						
OTHER						
TOTAL		60.	61.8	63.6	65.6	67.5

POSITIONS :

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Expenditures of \$60,000 per year are based on an assumed school construction cost of \$20,000.000 annually. If construction exceeds that amount figures should be increased proportionally.
 (Inflation assumed at 1.03/yr.)

Prepared by : *John P. Simpson, Director 5/1/86* Phone : 465-2951
 Division : Engineering and Operations Standards Date : _____

Approved by Commissioner : *Willie Jones* Date : 8/1/86
 Agency : Department of Transportation and Public Facilities

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATEMENT OF ANALYSIS
An Act Relating to
Art in Public Places

FISCAL NOTE PREPARATION FOR
House Bill 606 (State Affairs)
Committee Substitution

Specific Departmental tasks or language modifications presented in the committee substitution that were not envisioned in the earlier drafts of HB 606 and HB 607, or contained in existing legislation include:

- (1) establishment of the actual artwork budget (between 1/2 and 1 percent) by the selection committee,
- (2) extensive involvement of DOT&PF's personnel in the artwork selection process for public school facilities,
- (3) DOT&PF's selection of three individuals "knowledgeable in the arts and residing in the community" to serve on the selection committee,
- (4) elimination of the public hearing aspect as introduced in HB 607.

Anticipated Costs:

Items 1 and 3 above will place an increased burden on the administrative contingency presently provided from within the C.I.P. funds. Ultimately this will result in less available construction dollars, even though a visible impact to the overall project budget would not be noticed. Elimination of item 4 above would do little to offset this funding impact due to its rather insignificant cost.

Item 2 would cause substantial fiscal impact to the Department's budget since DOT&PF's expenses would not normally be reimbursed from the school's C.I.P. funds. Anticipated costs could run as high as \$60,000 annually and require the addition of 1 full time staff member for each 20 million dollars of construction costs. $[(\$20,000,000) \times (.01) \text{ percent for art} \times (.3) \text{ admin costs} = \$60,000]$

Additional Comments:

The language within AS 35.27.020(c) that suggests a funding range from which the actual artwork amount would be determined by the selection committee will create some impact on the project schedule and ultimate costs. As presently proposed it is quite likely that funding (and the ensuing artwork design) would not occur until the facility design is well into its design stages. This would likely result in re-design costs (and delays) to the

project itself often negating any savings realized by a reduced artwork budget. The Department and the Arts Council both realize the importance of establishing and providing the artwork funds at the conceptual stage of the facility design. The Department urges that a fixed amount (percentage) be established to facilitate this concept.

As presented in AS 35.27.021 the language would indicate that DOT&PF would act as project manager with respect to artwork selection within schools. Presently very little, if any, involvement on the part of DOT&PF is evident on school projects. Further more the individual school districts often employ their own project manager who could in most cases act on behalf of DOT&PF personnel as their activities under this bill would require. It appears that the major thrust of this section would be the inclusion of public members and not the infusion of DOT&PF into this phase of the program. It is suggested that the phase "project manager from the department" as it appears in this section be modified to read "project manager administering the school facility." Such change would eliminate the costs associated with this section as defined on page one of this statement and represented on the Fiscal Note document.

Both AS 35.27.020(a) and (d) refer to public members "knowledgeable in the arts". Such ambiguous language will certainly lead to considerable discussion between the Department and the Arts Council. It is urged that a more explicit definition be provided to this term.

In conclusion, the importance of the recommendations associated with the previous House Bill 607 -- specifically language changes allowing a "contingency" of the committee and Departmental review and approval of the Artwork contract (form) -- are not diminished by this committee substitution. The Department supports their inclusion into the legislation.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: HB 606 (State Affairs)
Committee Substitution
TITLE: An Act Relating to Art in
Public Places

APPROVED: R. J. Knapp
Commissioner
DATE: April 30, 1986

The Department supports the efforts of consolidating House Bills 606 and 607 into a single legislative document. However, in the process some "gray areas" have developed which may prove difficult to administer. The following topics are suggested as likely candidates for re-evaluation. [See the attached Statement of Analysis for additional comments concerning administrative and fiscal impacts.]

Lines 9 & 10, page 1. While no suggestion as to the "actual amount" of funding is suggested the Department strongly recommends a fixed percentage in lieu of a range [i.e. 1/2 to 1%] as presently proposed.

Lines 16, 17 & 18, page 1. Similar to above comment, an established fixed percentage is preferred to one that is determined after the construction budget has been set.

Line 29, page 1. The language as proposed would indicate that DOT&PF would become heavily involved in the artwork selection in schools. This is contrary to present Departmental involvement and cannot be supported as written. Also how many members of the public (three?) are envisioned within the committee makeup (see line 3, page 2). Suggest further consideration be given to Sec. 35.27.021(a).

Lines 3 & 12, page 2. The term "knowledgeable in the arts" is ambiguous. Since our project manager would convene the committee a more well defined set of guidelines is requested.

Comments pertaining to Fiscal Note on House Bill 607 (previous), dated 3/12/86 and attached. The comments pertaining to a contingency of the committee and the Departmental review and approval of artwork agreements are still valid, even if a public hearing phase is not reinstated.

HB 606 BRIEFING AND BACKGROUND

TABLE OF CONTENTS

I. CSHB 606 (SA)
Sectional Analysis
Fiscal Notes - DOT/PF
Position Paper- DOT/PF

II. HB 606
Sectional Analysis
Fiscal Notes - DOT/PF and Education
Position Paper - DOT/PF

III. SSHB 607
Sectional Analysis
Fiscal Notes - DOT/PF and Education
Position Paper - DOT/PF

IV. Sampling of Supportive Letters

V. Chart and Articles

- o "Accountability in Public Art" from Juneau Empire
- o Chart--"State Art Grants Up..." from USA TODAY
- o "Saturday Sundry" from Anch. Times
- o "Giving Art a Bad Name" from Newsweek
- o "Reaction mixed to changes..." from Fbks. News Miner
- o "Nimbus gets the Boot" from Juneau Empire
- o "Public must be part of Its Art" from Juneau Empire
- o "Nimbus: Going but not gone" from Juneau Empire
- o "Farewell to Nimbus" from Juneau Empire
- o "Art" in public places? from Air Alaska
- o "Airport Artpiece Causes Controversy" from Anch. Times

VI. Alaska Statutes on Public Art

Offered: 4/28/86
Referred: Finance

Original sponsors: Hanley, Adams,
Ringstad, et al

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 606 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to art in public places."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 35.27.020(c) is amended to read:

9 (c) Between one-half of [AT LEAST] one percent [OR, IN THE CASE
10 OF A RURAL SCHOOL FACILITY, AT LEAST] and [ONE-HALF OF] one percent of
11 the construction cost of a building or facility approved for construc-
12 tion by the legislature shall [AFTER SEPTEMBER 1, 1977, WILL] be
13 reserved for the following purposes: the design, construction, mount-
14 ing and administration of works of art in a school, office building,
15 court building, vessel of the marine highway system, or other building
16 or facility which is subject to substantial public use. The actual
17 amount shall be determined by the art selection committee created
18 under AS 35.27.021.

19 * Sec. 2. AS 35.27.020(g) is amended to read:

20 (g) Each selection committee established under AS 35.27.021 [THE
21 ARCHITECT, SUPERINTENDENT, DEPARTMENT, AND THE ALASKA STATE COUNCIL ON
22 THE ARTS] shall encourage the use of state cultural resources in these
23 art works and the selection of Alaska resident artists for the commis-
24 sion of these art works.

25 * Sec. 3. AS 35.27 is amended by adding a new section to read:

26 Sec. 35.27.021. SELECTION OF ART. (a) The artist who executes
27 a work of art for a public school shall be selected by a majority vote
28 of a committee, with the approval of the school board. The committee
29 shall be selected by the project manager from the department and shall

1 be composed of the architect, the project manager from the department,
2 representatives from the school district, and members of the public
3 who are knowledgeable in the arts and reside in the community where
4 the school is located.

5 (b) Except as provided in (a) of this section, an artist who
6 executes a work of art for public buildings and facilities shall be
7 selected by a majority vote of a committee convened by the project
8 manager from the department. The committee shall be composed of the
9 architect, the project manager from the department, a designee of the
10 Alaska State Council on the Arts, a designee of the principal user of
11 the public building or facility, and three members of the public who
12 are knowledgeable in the arts and reside in the community where the
13 building is located. The members of the public shall be selected by
14 the project manager from the department.

15 * Sec. 4. AS 44.27.060(b) is amended to read:

16 (b) The commissioner of a department responsible for the design
17 and construction of a building or facility shall deposit into the art
18 in public places fund one-half of one percent of the construction cost
19 of a building or facility if the building or facility is exempt from
20 the requirements of AS 35.27 and the exemption is because

21 (1) the estimated construction cost of the building or
22 facility is less than \$250,000; or

23 (2) the building or facility is not designed for substan-
24 tial public use.

25 * Sec. 5. AS 44.27.060 is amended by adding a new subsection to read:

26 (e) A work of art that is to be made a permanent part of a
27 building or facility owned or leased by the state shall be identified
28 by a permanent plaque installed on or near the work of art. The
29 plaque must contain the name or title of the work of art, the name of

1 the artist, and the year of completion.

2 * Sec. 6. AS 35.27.020(e) and (f) are repealed.

MEMORANDUM

TO: Representative Alyce Hanley
FROM: Scott Sutherland, Staff
DATE: April 28, 1986

RE: Sectional Analysis- CSHB 606(State Affairs), "An Act relating to Art in public places."

Pursuant to your request I have prepared this sectional analysis of CSHB 606 (State Affairs), referenced above.

SECTION 1

Section 1 amends AS 35.27.020(c):

Sec. 35.27.020(c) ART REQUIREMENTS FOR PUBLIC BUILDINGS AND FACILITIES-- Would bring all publicly funded art projects required by this section to a variable funding level of between one half percent and one percent of construction costs. Currently, construction of state buildings and facilities other than rural schools require expenditure of at least one percent and rural schools currently require the expenditure of one half percent. The percentage of funding would be determined by the artist selection committee.

SECTION 2

Section 2 amends AS 35.27.020(g):

Sec. 35.27.020(g) ART REQUIREMENTS FOR PUBLIC BUILDINGS AND FACILITIES-- Change is necessary to reflect artist selection by the committee created in section 3 rather than by the current method of selection by DOT and the State Art Council. Continues current language on the use of Alaskan artists now in effect.

SECTION 3

Section 3 adds a new section to AS 35.27:

Sec. 35.27.021. SELECTION OF ART.-- (a) Requires that artists for projects in public schools be chosen by committee selected by DOT project manager. Committee shall include the architect, the DOT project manager, representatives from school district and members of public knowledgeable in the arts who reside in local community. The art itself would not be chosen, the artist would.

(b) Except for (a), artists in other public buildings and facilities shall be chosen by committee convened by DOT project manager. Committee shall include the architect, DOT project manager, a designee of the principal user, a designee of the State Council on the Arts, and three members of the public knowledgeable in art who reside in local community. The public members are selected by DOT project manager. Again, the art itself would not be chosen, the artist would.

SECTION 4

Section 4 amends AS 44.27.060(b):

Sec. 44.27.060(b) ART IN PUBLIC PLACES FUND-- This change instructs deposit into the art in public places fund one half of one percent of the construction cost of a building or facility exempt from the requirements of the provisions of the Art Works in Public Buildings chapter (AS.35.27), because construction cost is less than \$250,000 or the facility is not designed for substantial public use. Currently one percent of construction cost is deposited in this account.

SECTION 5

Section 5 adds a new subsection to AS 44.27.060:

Sec. 44.27.060(e) Mandates addition of a plaque to all works of art executed under this chapter. Plaque includes name of art, name of artist, and year of completion.

SECTION 6

Section 6 repeals two current subsections of AS. 35.27.020:

Sec. 35.27.020 (e) and (f) are repealed.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB606 (State Affairs)
 Title : An Act Relating to Art in Public Places
(Committee Substitution)
 Sponsor : Hanley, Adams, Ringstad, et al
 Requestor : _____
 Date of Request : 4-28-86

FISCAL DETAIL

Agency Affected : DOT&PF & DOE
 BRU : Buildings Design & Construction and the Alaska State Council on the Arts
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		60.	61.8	63.6	65.6	67.5

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		60.	61.8	63.6	65.6	67.5
FEDERAL FUNDS						
OTHER						
TOTAL		60.	61.8	63.6	65.6	67.5

POSITIONS :

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Expenditures of \$60,000 per year are based on an assumed school construction cost of \$20,000.000 annually. If construction exceeds that amount figures should be increased proportionally.
 (Inflation assumed at 1.03/yr.)

Prepared by : *Foster P. Simpson, Director* Phone : 465-2951
 Division : Engineering and Operations Standards Date : _____

Approved by Commissioner : *[Signature]* Date : 5/1/86
 Agency : Department of Transportation and Public Facilities

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATEMENT OF ANALYSIS
An Act Relating to
Art in Public Places

FISCAL NOTE PREPARATION FOR
House Bill 606 (State Affairs)
Committee Substitution

Specific Departmental tasks or language modifications presented in the committee substitution that were not envisioned in the earlier drafts of HB 606 and HB 607, or contained in existing legislation include:

- (1) establishment of the actual artwork budget (between 1/2 and 1 percent) by the selection committee,
- (2) extensive involvement of DOT&PF's personnel in the artwork selection process for public school facilities,
- (3) DOT&PF's selection of three individuals "knowledgeable in the arts and residing in the community" to serve on the selection committee,
- (4) elimination of the public hearing aspect as introduced in HB 607.

Anticipated Costs:

Items 1 and 3 above will place an increased burden on the administrative contingency presently provided from within the C.I.P. funds. Ultimately this will result in less available construction dollars, even though a visible impact to the overall project budget would not be noticed. Elimination of item 4 above would do little to offset this funding impact due to its rather insignificant cost.

Item 2 would cause substantial fiscal impact to the Department's budget since DOT&PF's expenses would not normally be reimbursed from the school's C.I.P. funds. Anticipated costs could run as high as \$60,000 annually and require the addition of 1 full time staff member for each 20 million dollars of construction costs. $[(\$20,000,000) \times (.01) \text{ percent for art} \times (.3) \text{ admin costs} = \$60,000]$

Additional Comments:

The language within AS 35.27.020(c) that suggests a funding range from which the actual artwork amount would be determined by the selection committee will create some impact on the project schedule and ultimate costs. As presently proposed it is quite likely that funding (and the ensuing artwork design) would not occur until the facility design is well into its design stages. This would likely result in re-design costs (and delays) to the

project itself often negating any savings realized by a reduced artwork budget. The Department and the Arts Council both realize the importance of establishing and providing the artwork funds at the conceptual stage of the facility design. The Department urges that a fixed amount (percentage) be established to facilitate this concept.

As presented in AS 35.27.021 the language would indicate that DOT&PF would act as project manager with respect to artwork selection within schools. Presently very little, if any, involvement on the part of DOT&PF is evident on school projects. Further more the individual school districts often employ their own project manager who could in most cases act on behalf of DOT&PF personnel as their activities under this bill would require. It appears that the major thrust of this section would be the inclusion of public members and not the infusion of DOT&PF into this phase of the program. It is suggested that the phrase "project manager from the department" as it appears in this section be modified to read "project manager administering the school facility." Such change would eliminate the costs associated with this section as defined on page one of this statement and represented on the Fiscal Note document.

Both AS 35.27.020(a) and (d) refer to public members "knowledgeable in the arts". Such ambiguous language will certainly lead to considerable discussion between the Department and the Arts Council. It is urged that a more explicit definition be provided to this term.

In conclusion, the importance of the recommendations associated with the previous House Bill 607 -- specifically language changes allowing a "contingency" of the committee and Departmental review and approval of the Artwork contract (form) -- are not diminished by this committee substitution. The Department supports their inclusion into the legislation.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: HB 606 (State Affairs)
Committee Substitution
TITLE: An Act Relating to Art in
Public Places

APPROVED: R. J. Knapp
Commissioner
DATE: April 30, 1986

The Department supports the efforts of consolidating House Bills 606 and 607 into a single legislative document. However, in the process some "gray areas" have developed which may prove difficult to administer. The following topics are suggested as likely candidates for re-evaluation. [See the attached Statement of Analysis for additional comments concerning administrative and fiscal impacts.]

Lines 9 & 10, page 1. While no suggestion as to the "actual amount" of funding is suggested the Department strongly recommends a fixed percentage in lieu of a range [i.e. 1/2 to 1%] as presently proposed.

Lines 16, 17 & 18, page 1. Similar to above comment, an established fixed percentage is preferred to one that is determined after the construction budget has been set.

Line 29, page 1. The language as proposed would indicate that DOT&PF would become heavily involved in the artwork selection in schools. This is contrary to present Departmental involvement and cannot be supported as written. Also how many members of the public (three?) are envisioned within the committee makeup (see line 3, page 2). Suggest further consideration be given to Sec. 35.27.021(a).

Lines 3 & 12, page 2. The term "knowledgeable in the arts" is ambiguous. Since our project manager would convene the committee a more well defined set of guidelines is requested.

Comments pertaining to Fiscal Note on House Bill 607 (previous), dated 3/12/86 and attached. The comments pertaining to a contingency of the committee and the Departmental review and approval of artwork agreements are still valid, even if a public hearing phase is not reinstated.

Introduced: 2/14/86
Referred: State Affairs
and Finance

BY HANLEY, ADAMS, RINGSTAD,
PETTYJOHN, LARSON, PEARCE,
COLLINS, JENKINS, PHILLIPS,
MARROU AND TAYLOR

1 IN THE HOUSE

2 HOUSE BILL NO. 606

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to art in public places."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 35.27.020(c) is amended to read:

9 (c) At [LEAST ONE PERCENT OR, IN THE CASE OF A RURAL SCHOOL
10 FACILITY, AT] least one-half of one percent of the construction cost
11 of a building or facility approved for construction by the legislature
12 after September 1, 1977, will be reserved for the following purposes:
13 the design, construction, mounting and administration of works of art
14 in a school, office building, court building, vessel of the marine
15 highway system, or other building or facility which is subject to
16 substantial public use.

17 * Sec. 2. AS 35.27.020(g) is amended to read:

18 (g) The architect, superintendent, department, and the Alaska
19 State Council on the Arts shall encourage the use of state cultural
20 resources in [THESE ART] works of art under this section and shall
21 select [THE SELECTION OF] Alaska resident artists for the commission
22 of these art works.

23 * Sec. 3. AS 44.27.060(b) is amended to read:

24 (b) The commissioner of a department responsible for the design
25 and construction of a building or facility shall deposit into the art
26 in public places fund one-half of one percent of the construction cost
27 of a building or facility if the building or facility is exempt from
28 the requirements of AS 35.27 and the exemption is because

29 (1) the estimated construction cost of the building or

- 1 facility is less than \$250,000; or
- 2 (2) the building or facility is not designed for substan-
- 3 tial public use.

MEMORANDUM

TO: Representative Alyce Hanley
FROM: Scott Sutherland, Staff
DATE: February 12, 1986

RE: Sectional Analysis- HB 606, "An Act relating to Art in public places."

Pursuant to your request I have prepared this sectional analysis of HB 606, referenced above.

SECTION 1

Section 1 of this bill amends AS 35.27.020(c):

Sec. 35.27.020(c) ART REQUIREMENTS FOR PUBLIC BUILDINGS AND FACILITIES-- This change brings all publicly funded art projects required by this section to the funding level now required in the case of a rural school facility, at least one half of one percent of the construction cost. Currently, construction of state buildings and facilities other than rural schools are required to spend at least one percent of total construction cost on public art projects.

SECTION 2

Section 2 of the bill amends AS 35.27.020(g):

Sec. 35.27.020(g) ART REQUIREMENTS FOR PUBLIC BUILDINGS AND FACILITIES-- This change would require the selection of Alaskan resident artists for commission of art works covered in the Alaska % for Art program. Currently the selection of Alaskan artists is only encouraged in statute.

SECTION 3

Section 3 of the bill amends AS 44.27.060(b):

Sec. 44.27.060(b) ART IN PUBLIC PLACES FUND-- This change instructs deposit into the art in public places fund one half of one percent of the construction cost of a building or facility exempt from the requirements of the provisions of the Art Works in Public Buildings chapter (AS.35.27), because construction cost is less than \$250,000 or the facility is not designed for substantial public use. Currently one percent of construction cost is deposited in this account.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : House Bill 606
 Title : An Act Relating to Art
in Public Places

 Sponsor : Hanley
 Requestor : Hanley
 Date of Request : 3-11-86

FISCAL DETAIL

Agency Affected : DOT&PF and D.O.E.
 BRU : Design and Construction
and the Alaska State Council
on the Arts
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The passage of this bill would provide additional funds to the construction budget. See further comments on the attached Statement of Analysis.

Prepared by : Rod Wilson Phone : 465-2960
 Division : Engineering & Operations Date : 3-17-86
 Approved by Commissioner : [Signature] Date : 3/25
 Agency : DOT&PF

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

D.O.T./P.F.

STATEMENT OF ANALYSIS RE:
An Act Relating to Art in
Public Places

FISCAL NOTE PREPARATION FOR:
House Bill 606

3/25/86

Specific monetary impacts associated with this bill:

Based on an assumption that eligible facility construction within the Department was to remain at its present \$35 million level the bill would shift \$175,000 from the Artworks program back to the facility construction funds. Similarly, if eligible construction funding was to drop to say \$20 million dollars the shift would be reduced to \$100,000.

On a statewide basis, and assuming that all other eligible construction costs (including "non-rural" school construction) total \$150 million; the anticipated shift from Artwork funding to construction funding would yield \$750,000.

The bill will not reduce administrative costs as associated with the program. These costs are fixed costs (representing media advertising, accounting, inspection, selection costs, management, etc.) and remain fairly constant irregardless of the value of the Artwork. As a percentage of the value of the artwork, administrative costs will actually increase.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 606
 Title: ...art in public places...

 Sponsor: Hanley, et.al.
 Requestor: State Affairs
 Date of Request: April 7, 1986

FISCAL DETAIL

Agency Affected: Department of Education
 BRU: Boards and Commissions

 Components: State Council on the Arts

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This bill has no fiscal impact on this department.

Prepared by: Steve Hole Phone: 465-2800
 Division: Commissioner's Office Date: April 7, 1986
 Approved by Commissioner Marshall L. Linde Date: April 7, 1986
 Agency: Department of Education

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: House Bill 606

APPROVED: *[Signature]*
R. J. Knapp
Commissioner

TITLE: An Act Relating to Art in Public Places

DATE: 3/24/86

The reduction of artwork funds would provide additional funds to be expended on upgrading other elements within buildings or facilities. The provision stating "shall select Alaska resident artists" would substantially benefit Alaska artists.

Introduced: 4/3/86
Referred: State Affairs,
Health, Education & Social
Services and Finance

BY HANLEY, ADAMS, RINGSTAD,
PETTYJOHN, LARSON, PEARCE,
COLLINS, JENKINS, PHILLIPS,
MARROU, TAYLOR, FURNACE,
GRUENBERG, FRANK, NAVARRE
AND BOUCHER

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 607

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selecting and identifying art in
7 public places."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 35.27 is amended by adding a new section to read:

10 Sec. 35.27.021. SELECTION OF ART. (a) The artist who executes
11 a work of art for a public school shall be selected by the superin-
12 tendent of the school district in which the public school is to be
13 built, with the approval of the school board. If the department finds
14 in the best interest of the state that the selection by the superin-
15 tendent of the artist to execute the work of art may result in a cost
16 overrun to the state or delay of construction, the department shall
17 make the selection of the artist in consultation with the superinten-
18 dent.

19 (b) Except as provided in (a) of this section, art projects for
20 public buildings and facilities shall be selected by a majority vote
21 of a committee convened by the project manager from the department.
22 The committee shall be composed of the architect, the project manager
23 from the department, a designee of the Alaska State Council on the
24 Arts, a designee of the principal user of the public building or
25 facility, and three lay members of the public. The department shall
26 solicit volunteers in a local project area by public notice, and
27 choose the lay members of the committee by lottery from the volun-
28 teers. Before consideration of specific art projects, the committee
29 shall, after public notice, hold a hearing to receive public opinion

1 about potential art projects. The committee shall consider public
2 opinion as expressed at the public hearing, but is not bound by it.

3 * Sec. 2. AS 44.27.060 is amended by adding a new subsection to read:

4 (e) A work of art that is to be made a permanent part of a
5 building or facility owned or leased by the state shall be identified
6 by a permanent plaque installed on or near the work of art. The
7 plaque must contain the name or title of the work of art, the name of
8 the artist, the year of completion, and the names of the members of
9 the selection committee.

10 * Sec. 3. AS 35.27.020(e) and (f) are repealed.

MEMORANDUM

TO: Representative Alyce Hanley
FROM: Scott Sutherland, Staff
DATE: April 3, 1986

RE: Sectional Analysis- SSHB 607, "An Act relating to selecting and identifying art in public places."

Pursuant to your request I have prepared this sectional analysis of SSHB 607, referenced above.

SECTION 1

Section 1 of this bill creates a new section, 35.27.21:

Sec. 35.27.021 SELECTION OF ART -- This section requires art executed in public schools to be selected by the superintendent with approval of the school board. This is already in the statutes. It has been modified slightly at the request of Legislative Legal Services for clarification and grammar purposes only. The last section of the bill would repeal the current statute, AS 35.27.020(f).

This section also requires that except for the art projects in schools covered above, art projects in public buildings and facilities shall be selected by the majority vote of a seven member committee consisting of a DOT/PF project manager, the architect, a designee of the Alaska State Arts Council, a designee of the principal user, and three lay members of the public. Public members would be selected at random from a list of volunteers from the locality where art project is to be placed. The art project selection committee shall hold a public hearing to receive testimony on a potential art project. The art project selection committee is not bound by opinions expressed at the hearing .

SECTION 2

Section 2 of the bill amends AS 44.27.060:

Sec. 44.27.060 ART IN PUBLIC PLACES FUND-- This change would require the placement of a permanent plaque works of art installed under this program. The plaque must contain the name or title of the artwork, the artist's name, the year of completion, and the names of the committee members that selected the work. Currently the statute directs that the artist (not the work) is selected by the DOT/PF architect after consulting with the Alaska State Council on the Arts and the principal user. The last section of this bill repeals the current statute, AS 35.27.060(e).

SECTION 3

Section 3 of the bill repeals the current AS 35.27.020(e) and (f)

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 607
 Title : ...selecting and identifying
art in public places.
 Sponsor : Hanley, et.al.
 Requestor : State Affairs
 Date of Request : April 7, 1986

FISCAL DETAIL

Agency Affected : Department of Education
 BRU : Boards and Commissions
 Components : State Council on the Arts

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This bill has no fiscal impact on this department.

Prepared by : Steve Hole Phone : 465-2800
 Division : Commissioner's Office Date : April 7, 1986
 Approved by Commissioner : Marshall L. Lind Date : April 7, 1986
 Agency : Department of Education

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No. : House Bill 607
 Title : An Act Relating to Selecting
 and Identifying Art in Public
 Places
 Sponsor : Hanley, Adams, Ringstad, etc.
 Requestor : Hanley
 Date of Request : 3-11-86

FISCAL DETAIL

Agency Affected : DOT&PF and DOE
 BRU : Design and Construction
 Alaska State Council
 on the Arts
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

SEE ATTACHED STATEMENT OF ANALYSIS

Prepared by : Rod Wilson Phone : 465-2960
 Division : Engineering & Operations Date : 3-17-86

Approved by Commissioner : [Signature] Date : 3/25/86
 Agency : DOT&PF

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DOT/PF

STATEMENT OF ANALYSIS RE:
An Act Relating to Selecting
and Identifying Art in Public
Places

FISCAL NOTE PREPARATION FOR:
House Bill 607

3/25/86

Specific tasks required by the bill which are not presently carried out by the Department or the Alaska State Council on the Arts include:

- (1) The solicitation and random selection of three lay members of the public at large.
- (2) The holding of a public hearing to receive input and opinion about potential art projects.
- (3) Identification of selection committee (through the use of a plaque) on all permanently mounted Artwork.

Anticipated Costs:

The predominant cost associated with items 1 and 2 above is that of media advertisement. The costs are expected to be minimal and should be funded from the administrative contingency presently provided to the Council. Costs for a public hearing should also be insignificant since many of the committee members are volunteers and Departmental costs could be borne by CIP funds. The plaque should be considered a support amenity and ancillary to the cost of the Artwork.

Language Changes:

A modification is needed at line 28, page 1, so as to enable the Department and the Council to better control administrative costs. In cases of projects which have relatively small Artwork budgets (say \$2500 to \$5000) and are also at very remote locations, the administrative costs can often greatly exceed the price of the Artwork. For such instances the public hearing portion of the bill should be modified to read "the committee or a selected contingency thereof". This would permit a smaller group, most likely the local community members and perhaps a Council representative, to hear the public testimony. Such evidence could then be summarized (or tape recorded) for review by the entire committee prior to making the Artwork selection. Substantial travel savings would result.

Additional language (following line 3, page 2) requiring Departmental review and approval of all Artwork agreements is needed to replace similar language within AS 35.27.020(e) which this bill would delete. The Letter of Understanding between the Department and the Council relies heavily on the Department's approval of the Artwork agreement as a method of "checks and balances". Dropping such approval requirements would result in extensive negotiations and a rewrite of a new agreement.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: House Bill 607
TITLE: An Act Relating to Selecting and Identifying Art in Public Places

APPROVED: *[Signature]*
R. W. Knapp
Commissioner

DATE: 3/12/86

The Department supports this bill as it provides for more local input into both the selection of the Artist and the resulting Artwork.

The Department suggests the following language changes so as to more closely align this modification to a recently negotiated Letter of Understanding between the Department and the Alaska State Council on the Arts. Justification for these changes are presented in the attached Analysis Statement.

Line 28, Page 1. Change to read: "teers. Before consideration of specific art projects, the committee or a selected contingent thereof."

Following Line 3, Page 2 Add: "The Department shall review and approve all Artwork agreements." *the form of*

Associated Students University of Alaska



(907) 474-7355

UNIVERSITY OF ALASKA-FAIRBANKS
Fairbanks, Alaska 99775-0220

March 18, 1985

Representative Alyce Hanley
4007 Bentwood Circle
Anchorage, AK 99502

Dear Representative Hanley:

We applaud you and other co-sponsors in your attempt to provide for increased public involvement.

Attached is a copy of our ASJA Position statement that was passed by the Senate.

Thank you very much, we wholeheartedly support your efforts.

Sincerely,

A handwritten signature in black ink that reads "Karl E. Hoennes III". The signature is written in a cursive style with a long horizontal line extending to the right.

Karl Hoennes III
Student Association President

ph

Enclosure



UNIVERSITY OF ALASKA-FAIRBANKS

Fairbanks, Alaska 99775-0220

POSITION STATEMENT - 1% for Art Amendments

State Representative Alyce Hanley has sponsored two bills (H.B. 606, 607) in the State Legislature which would amend the "1% for Art" program in the following ways:

1. Art selection would be restricted to works done by Alaskan Artists.
2. "1% for Art" would become "0.5% for Art" - in other words, the appropriations would be reduced from 1% of the total construction budget to 0.5%.
3. Public hearings to review items selected by the selection committees would be required before the art is paid for or installed.
4. Plaques indicating who selected the art shall be installed on or near the work.

WHEREAS, a great deal of concern has been expressed among students regarding the lack of public input in the selection of major art installation on campus,

AND WHEREAS, expenditures of over one hundred thousand dollars are made with comparatively little public involvement,

AND WHEREAS, Representative Hanley's bills would provide for extensive public input and review of proposed art purchases,

AND Representative Hanley's bill would give preference to Alaskan artists in the selection process,

THHEREFORE BE IT RESOLVED that the student association on the University of Alaska-Fairbanks campus strongly supports H.B. 606 and 607 as legislation long past due, and applauds Representative Hanley and the other co-sponsors in their attempt to provide for increased public involvement.

Karl Thoennes III
Student Association President
March 4, 1986

ROBERT F. WILLIAMS

4-4-86
APR 1986
RECEIVED

DEAR ALYCE,

I WAS PLEASSED TO SEE THE ACTIONS
YOU ARE PROPOSING WITH YOUR BILL
ON THE ONE % FOR ARTS.

SINCE I GOT ON THE BOARD OF
REGENTS IT HAS BEEN AN ISSUE WITH
ME TO SEE THAT THE ART FUNDS IF
THEY MUST BE SPENT BE DONE IN A
WAY THAT ADDS VALUE TO OUR STATE.
MUCH OF WHAT HAS BEEN DONE SEEMS TO
HAVE MISSED THAT MARK.

I HAVE ENCLOSED A FEW THINGS
I HAVE WRITTEN ON THIS SUBJECT. THE
ARTISTS HAVE ALL BEEN AFTER MY IDEAS ON
THIS - I'M SURE YOU HAVE GOTTEN SOME
INPUT AS WELL.

HANG IN THERE AND LET ME
KNOW IF I CAN HELP.

Bob Williams