

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 16 cont.

199

Kay Brown

Alaska State Legislature House of Representatives

MEMORANDUM

TO: Representative Mike Navarre

FROM: Representative Kay Brown

DATE: February 23, 1987 *Kay*

SUBJ: HB 16 - Park User Fees and Concessions
and Current Statutory Authority

During the discussions on House Bill 16 there has been some confusion regarding *current* statutory authority for DNR to charge fees and contract out concessions and whether this bill would have the effect of adding concession contracting to present authorities.

In order to clarify current law and better understand the implications of House Bill 16, I have asked for an Attorney General's Opinion on this issue. As indicated by the opinion, DNR already has statutory authority to concession contract. The authority to simply collect fees is also provided under current laws but conditioned by certain provisions.

Please find a copy of the opinion attached.

attachment

cc: House Finance Committee members
Representative Koponen
Representative Cotten

MEMORANDUM

State of Alaska

TO: House Finance Committee
Attn: Eric Meyers

DATE: February 23, 1987

FILE NO:

TELEPHONE NO: 276-3550

THRU: Grace Berg Schaible
Attorney General

SUBJECT: CSHB No. 16



FROM: Michael J. Frank
Assistant Attorney General

This memorandum responds to your request for an outline of the existing authority the Department of Natural Resources, through the Division of Parks and Outdoor Recreation, ^{1/} has to charge fees for use of park facilities and to contract for "concessions and rentals".

I. CONTRACTS FOR THE OPERATION OF "CONCESSIONS AND RENTALS".

Under AS 41.21.020 DNR "shall"

- (4) control, develop and maintain state parks and recreational areas;
- (5) provide for the care, control, supervision, development, . . . and maintenance of public recreational land, and make necessary arrangements, contracts or commitments for the improvement and development of land acquired under AS 41.21.010 - 41.21.040. (Emphasis supplied.)

The foregoing statute was passed in 1959 (ch. 158 SLA 1959), as was AS 41.21.030. The latter statute reads in full:

All money received from the operation of parks and recreational facilities, including money from concessions, rentals, or donations shall be deposited in the general fund of the state. (Emphasis supplied.)

1/ AS 41.21.040, passed as part of ch. 158 SLA 1959, gave the DNR commissioner authority to create a separate division in DNR to "perform functions relative to parks and recreational facilities specified in AS 41.21.010 - 41.21.040. . . ."

AS 41.21.020 and 41.21.030 have provided the legal authority to DNR to adopt the existing concession contract regulations (see attached) at 11 AAC 14.200 et seq. While the two statutes are certainly are not as clear in granting contracting authority as they might be, it seems obvious from them that the 1959 Legislature anticipated that there might be contractors operating concessions or rentals ^{2/} in State parks.

For your information I am also enclosing existing National Park Service "concession" contracting laws, 16 U.S.C. §§ 20 et seq., and regulations, 36 C.F.R. Part 51.

II. FEES.

Currently DNR only has express statutory authority to "establish and collect fees for guided tours through historical sites". AS 41.35.045 (1986 Michie Suppl.).

Prior to 1978, DNR did charge fees for entry into and use of a state park or campground. DNR did so via 11 AAC 12.310, a regulation which allowed the division of parks' director to set fees for use of a state park facility and which established an annual \$10.00 vehicle entrance fee to state parks.

In 1978, however, the Legislature nullified this regulation, in effect, by passing AS 28.10.411, governing motor vehicle registration (license tag) fees. Subsection (e) of AS 28.10.411 reads:

Notwithstanding any other provision of law, fees paid for registering a vehicle . . . shall include all fees required for entry and use of a state park or campground.

Since the "nullification" was in a motor vehicle registration statute, it's not exactly clear how broad the 1978 Legislature

2/ Neither the word "concessions" nor "rentals" is defined in AS 41.21. At common law "concession" was a term "ordinarily applied to the grant of specific privileges by a government". Black's Law Dictionary 361 (4th Ed. 1968). In the context of especially protected lands -- like parks -- the use of the word "concession" is very apt in that it implies that being allowed to operate a commercial venture on such lands is an extraordinary privilege to grant someone.

House Finance Committee
Attn: Eric Meyers

February 23, 1987
Page 3

intended AS 28.10.411(e) to be. If, for example, a backpacker had no vehicle registered in Alaska and walked into and used a state park campground, could the backpacker legally be charged a campground user fee?

In any event, the 1986 Legislature resolved any ambiguities, perhaps unintentionally, with the passage of AS 37.10.050(a). That statute prohibits a state agency from charging "for the provision of state services unless the charge is authorized by statute". Although it's not exactly clear what "state services" includes, it seems apparent that entrance fees at campgrounds and other comparable direct levies on park visitors are prohibited. A concessioner's sale of natural history books might, however, not be.

III. CONCLUSION

From an attorney-to-client standpoint, the existing statutes are in a sufficient muddle to make it difficult for our office to give unambiguous legal advice to DNR when contracting and fee questions arise. Thus, if the Committee should desire further help with the drafting of CSHB 16, our office would be eager to assist it.

MJF:amh

cc: Ron Lorensen, Esq.
Art Peterson, Esq.

of any default on the part of the contractor in observance or performance of any of the conditions or covenants of the contract is not a waiver of the forfeiture provision or any other provision of the contract. (Eff. 1/13/73, Reg. 44)

Authority: AS 41.21.020
AS 41.21.040

ARTICLE 2. CONCESSION CONTRACTS

Section

- 200. Concession contracts
- 210. Concession rental
- 220. Cancellation by the state
- 230. Improvements by concessionaire
- 240. Chattels and personal property
- 250. Removal of personal property
- 260. Renewal of concession contracts

11 AAC 14.200. CONCESSION CONTRACTS.

A concession contract may be obtained under the procedure, and is subject to the conditions, in 11 AAC 14.010 through 11 AAC 14.130. The director may enter into a contract with a qualified person to construct, maintain, or operate a concession in a state park. A fee schedule established in a concession contract may be subject to annual review and approval by the director. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020
AS 41.21.040

11 AAC 14.210. CONCESSION RENTAL. The rental charged by the division shall be one of the following:

- (1) percentage of the annual gross receipts;
- (2) guaranteed annual minimum or percentage of the gross, whichever may be the greater;
- (3) annual rental; or
- (4) a combination of the above. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.220. CANCELLATION BY THE STATE. If the concession is terminated or forfeited during its term, the state shall pay the concessionaire the value of his interest in fixed improvements unless the termination is due to

concessionaire default or request. The value of the interest is calculated by the straight-line depreciation method less any amount due the state at the time of contract termination. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.230. IMPROVEMENTS BY CONCESSIONAIRE. The concession contract may provide for the construction of fixed improvements or additions to real property. Each improvement or addition to real property shall become the property of the state without cost upon expiration of the contract. The cost of an improvement shall be the principal determinant of the length of the concession contract in order to insure the concessionaire a reasonable return on the original investment in the improvement during the term of the contract. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.240. CHATTELS AND PERSONAL PROPERTY. The concessionaire shall remove chattels and personal property within 30 days of the notification to vacate. If the personal property is not removed within the 30 days the director may forfeit the property. (Eff. 1/13/73, Reg. 44)

Authority: AS 41.21.020
AS 41.21.040

11 AAC 14.250. REMOVAL OF PERSONAL PROPERTY Nothing in these regulations may be construed to deny the concessionaire the right to sell, remove, or otherwise dispose of any personal property used in the conduct of the concession granted under these regulations. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.260. RENEWAL OF CONCESSION CONTRACTS. A concession contract for a term of less than 10 years may contain a clause granting the concessionaire the option to renew the contract for a period of time, not to exceed the original term of the contract. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

ARTICLE 3. GENERAL PROVISIONS

Section 300. Definitions

11 AAC 14.300. DEFINITIONS. In this chapter

(1) "director" means the director of the division of parks, Department of Natural Resources or his authorized agent;

(2) "division" means the division of parks within the Department of Natural Resources;

(3) "state park land or water facilities" means all lands and waters dedicated as public recreation lands and waters or facilities constructed or operated in conjunction with state parks and waters for the purpose of augmenting recreational opportunities. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

CHAPTER 15. TRAILS AND FOOTPATHS GRANT PROGRAM

Article

- 1. Jurisdiction and Procedure
- 2. General Provisions

ARTICLE 1. JURISDICTION AND PROCEDURE

Section

- 10. Jurisdiction
- 20. Qualification
- 30. Application
- 40. Allocation of funds
- 50. Project agreement

11 AAC 15.010. JURISDICTION. The division of parks will administer the trails and footpaths grant program established by AS 41.20.355. (Eff. 3/12/76, Reg. 57)

Authority: AS 41.21.020
AS 41.21.040
AS 41.21.864

11 AAC 15.020. QUALIFICATION. Applicants eligible under AS 41.21.864 may establish qualification for grants under this program by adopting a comprehensive trail plan that includes

(1) evidence of the applicant's legal authority to participate in the grant program and to operate and maintain recreation facilities;

(2) a summary of all trails needed during the coming five-year period, a forecast of all funding needs, and a ranking of projects described in the order of the applicant's priorities;

(3) a five-year schedule of trail acquisition, development, and maintenance, which reflects priorities based on need and considers the extent of funding available under other federal, state, and local aid programs and donations of rights-of-way, easements, and volunteer labor;

(4) evidence of citizen input in the preparation of the applicant's comprehensive trail plan;

(5) evidence of coordination between this plan and the long-range program for local service

Cross References

Administration of real estate acquired by United States in payment of debts arising under internal revenue laws, see section 7506 of Title 26, Internal Revenue Code.
Disfranchisement on real estate, see section 6331 et seq. of Title 26.
Purchase of lands sold on execution by United States, see section 3715 of Title 31, Money and Finance.

Notes of Decisions

Property transferred for payment of debts
Sale and disposal of transferred property 2

1. Property transferred for payment of debts

There can be no doubt that this section regulating the duties of former Solicitor had a reference to existing laws in some of the states, which authorize the debtor to set off his real estate on execution, and in other cases where he surrenders all his property to the United States on which he is released, but all the provisions are not limited to these cases and some of them are general and apply to cases of "trusts created for the benefit of the United States in payment of debts due them". U.S. v. Lane, C.C.Ind.1844, 3 McLean, 365, Fed.Cas. No. 15,559.

2. Sale and disposal of transferred property

The General Counsel [formerly the Solicitor of the Treasury] by virtue of this section and former section 302 of this title, had charge of, and, with the approval of the Secretary of the Treasury, power to rent or sell, lands acquired in satisfaction of judgments on bonds of internal revenue collectors. 1878, 16 Op.Atty.Gen. 144.

There is no imaginable reason why a trustee having power to sell lands should not have power to sell movables and incorporeal rights, and the policy of this section demands it; at any rate, the General Counsel [formerly the Solicitor of the Treasury] is charged with the administration of said trusts and he may do, therefore, under this section, whatever any other trustee would be allowed to do in a court of chancery. 1842, 4 Op.Atty.Gen. 135.

§ 302. Repealed. Oct. 31, 1951, c. 654, § 1(95), 65 Stat. 705

Historical Note

Section, R.S. § 3749, related to the renting or selling of unproductive lands, or other property of the United States acquired under judicial process or otherwise in the collection of debts. See sections 483 and 484 of this title.

§ 303. Repealed. Aug. 5, 1947, c. 493, § 2, 61 Stat. 774

Historical Note

Section, Acts July 28, 1892, c. 316, 27 Stat. 321; May 29, 1928, c. 901, § 1(29), 45 Stat. 988, related to lease of property not required for public use by Secretary of Army. See section 2667 of Title 10, Armed Forces.

§ 303a. Repealed. Oct. 31, 1951, c. 654, § 1(96), 65 Stat. 705

Historical Note

Section, Act Mar. 3, 1879, c. 182, § 1, 20 Stat. 183, related to leasing, by the Secretary of the Treasury, of unoccupied and unproductive property of the United States, under his control, and annual reports to the President.

§ 303b. Lease of buildings by Government; money consideration

On and after June 30, 1932, except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for

a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts.

(Pub. L. 30, 1932, c. 314, § 321, 47 Stat. 412.)

Cross References

Application of this section to—
Lease housing and veterans' housing leases by Secretary of Housing and Urban Development, see section 1544 of Title 42, The Public Health and Welfare.
Lands and improvements administered by National Park Service, privileges, leases, etc., for visitor facilities, see section 20f of Title 16, Conservation.
Lease of real or personal property by secretaries of military departments, see section 2667 of Title 10, Armed Forces.
Leases for maintenance and repairs by grantees notwithstanding this section—
Park visitors' accommodations, see section 303c of this title.
Veterans' Administration leases for assistance to medical schools, see section 5070 of Title 38, Veterans' Benefits.
Veterans' Administration leases in general, see section 5022 of Title 38.
Union Station Building leases for model intermodal transportation terminal, see section 1653 of Title 49, Transportation.

Library References

United States 58(1).
U.S. United States §§ 75 to 79.

Notes of Decisions

Collection of sums for alteration, repair, or improvements
Concession contract between General Services Administration and Guest Services, Inc., included clause requiring that percentage of Guest Services, Inc. gross profits be credited to reserve used for replacement of government property, did not violate this section, in light of historically unique nature of agreement. 1985, 64 Op.Comp.Gen. 217.

§ 303c. Maintenance and repair of Government Improvements under concession contracts

Privileges, leases, and permits granted by the Secretary of the Interior for use of land for the accommodation of park visitors, pursuant to section of Title 16, may provide for the maintenance and repair of Government improvements by the grantee notwithstanding the provisions of section of this title, or any other provision of law.

(Pub. L. 87-608, Aug. 24, 1962, 76 Stat. 405.)

Library References

United States 56, 57.
U.S. United States §§ 72, 74.

§ 304. Disposal of lands acquired by devise

The General Services Administration is authorized to take custody, for disposal as excess property under the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C.A. § 471 et seq.], of such lands as have been or may hereafter be acquired by the United States by devise.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2350.

§ 19l. Tax exemptions; contributions toward costs of local government; contributions, gifts, or transfers to or for use of United States

The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of its directors, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of the foregoing or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and to income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

Pub.L. 90-209, § 8, Dec. 18, 1967, 81 Stat. 657.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2356.

§ 19m. Liability of United States

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

Pub.L. 90-209, § 9, Dec. 18, 1967, 81 Stat. 657.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2356.

§ 19n. Annual reports to Congress

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

Pub.L. 90-209, § 10, Dec. 18, 1967, 81 Stat. 657.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2356.

CONCESSIONS FOR ACCOMMODATIONS, FACILITIES, AND SERVICES IN AREAS ADMINISTERED BY NATIONAL PARK SERVICE

§ 20. Congressional findings and statement of purpose

In furtherance of sections 1 and 2 to 4 of this title, as amended, which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

Pub.L. 89-249, § 1, Oct. 9, 1965, 79 Stat. 969.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3489.

Cross References

Uniform application of sections 20 to 20g of this title to all areas of national park system when not in conflict with specific provisions applicable to an area, see section 1(c)(4) of this title.

Library References

Woods and Forests  8.

U.S. Woods and Forests 11, 12.

§ 20a. Authority of Secretary of Interior to encourage concessioners

Subject to the findings and policy stated in section 20 of this title, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as "concessioners") to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service.

Pub.L. 89-249, § 2, Oct. 9, 1965, 79 Stat. 969.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

Notes of Decisions**Bus tours or sightseeing services**

Generally 3

Certificate of convenience and necessity 4

Monopoly 5

Engaging in or soliciting business without permit 6

Exclusiveness of Secretary's authority 2
Responsibility for providing facilities and services 1

1. Responsibility for providing facilities and services

The Secretary is responsible for maintaining national parks and for providing facilities and services for their public enjoyment through concessionaires or otherwise. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission*, Dist.Col.1968, 89 S. Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

2. Exclusiveness of Secretary's authority

Congress, in creating Washington Metropolitan Area Transit Commission, did not disturb exclusivity of control by Secretary over Capitol Mall either by extinguishing entirely his power to contract for transportation services or by burdening his concessionaire with two separate agencies engaged in regulating precisely same aspects of its conduct. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission*, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

3. Bus tours or sightseeing services—Generally

Secretary was free to enter contract with concessionaire to conduct bus tours on Capitol Mall, and is free to exclude traffic from Mall altogether or to exclude any carrier licensed or instructed by Washington Metropolitan Area Transit Commission. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission*, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

five Shuttle Corp. v. Washington Metropolitan Area Transit Commission, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

4. — Certificate of convenience and necessity

Concessionaire under contract with Secretary to conduct bus tours of Capitol Mall could operate without certificate of convenience and necessity from Washington Metropolitan Area Transit Commission. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission*, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

5. — Monopoly

Even if transit system's franchise would protect mass transportation on Capitol Mall from uncertified competition, and even if provision giving exclusive transportation rights protected charter or sightseeing services, it did not follow that system had monopoly over sightseeing on Capitol Mall. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission*, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

Transit system's franchise did not give it absolute monopoly of sightseeing service on Capitol Mall and did not protect system against competition from concessionaire acting under contract with Secretary. *Id.*

6. Engaging in or soliciting business without permit

Secretary in promulgating regulation prohibiting engaging in or soliciting business in park areas except in accordance with permit or contract with United States does not exceed statutory authority granted to him. *U. S. v. Carter*, D.C.Ariz.1972, 329 F.Supp. 1391.

§ 20b. Protection of concessioner's investment—Contract terms; compensation for loss of investment

(a) Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner

of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

Profit commensurate with capital invested and obligations assumed

(b) The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

Reasonableness of concessioner's rates and charges

(c) The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

Determination of franchise fees; reconsideration every five years or oftener

(d) Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

Pub.L. 89-249, § 3, Oct. 9, 1965, 79 Stat. 969.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20c. New or additional services; preferential rights; operations by single concessioner

The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

Pub.L. 89-249, § 4, Oct. 9, 1965, 79 Stat. 970.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20d. Renewal preference for satisfactory performance; extensions; new contracts; public notice

The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 20c of this title, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

Pub.L. 89-249, § 5, Oct. 9, 1965, 79 Stat. 970.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20e. Concessioner's possessory interest in concession property; limitations; compensation for taking; determination of just compensation

A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the

approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory interest, unless in a particular case the Secretary determines that equitable considerations warrant recognition of such interest.

Pub.L. 89-249, § 6, Oct. 9, 1965, 79 Stat. 970.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20f. Use of non-monetary consideration in leases of government property

The provisions of section 303b of Title 40, relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in areas administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to sections 1 and 2 to 4 of this title, as amended, or sections 461 to 467 of this title, as amended.

Pub.L. 89-249, § 7, Oct. 9, 1965, 79 Stat. 971.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20g. Record keeping; audit and examination; access to books and records

Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or sub-concessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved.

Pub.L. 89-249, § 9, Oct. 9, 1965, 79 Stat. 971.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3481.

YELLOWSTONE NATIONAL PARK

§ 21. Establishment

The tract of land in the States of Montana and Wyoming, lying near the headwaters of the Yellowstone River and described as follows, to wit, commencing at the junction of Gardiner's River with the Yellowstone River, and running east to the meridian passing ten miles to the eastward of the most eastern point of Yellowstone Lake; thence south along said meridian to the parallel of latitude passing ten miles south of the most southern point of Yellowstone Lake; thence west along said parallel to the meridian passing fifteen miles west of the most western point of Madison Lake; thence north along said meridian to the latitude of the junction of the Yellowstone and Gardiner's Rivers; thence east to the place of beginning, is reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people; and all persons who locate, or settle upon, or occupy any part of the land thus set apart as a public park, except as provided in section 22 of this title, shall be considered trespassers and removed therefrom.

R.S. § 2474.

Historical Note

Derivation. Act Mar. 1, 1872, c. 24, § 1, 17 Stat. 32.

Cross References

Change of boundaries see section 21a of this title.
Limitation on further extension or establishment of national parks in Wyoming, see section 45a of this title.

Library References

Woods and Forests 

C.J.S. Woods and Forests 1571, 12.

§ 21a. Revision of boundaries; contiguous national forests; jurisdiction of forests

The boundary of the Yellowstone National Park is changed so as to read as follows:

Beginning on the present north boundary line of Yellowstone National Park at its intersection with the hydrographic divide immediately north of Pebble Creek, approximately at park boundary monument 29 east; thence following said divide around the head of the drainage of Pebble Creek to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 54 north; thence southerly along said boundary line to its intersection with the hydrographic divide between Soda Butte and Cache Creeks, at a point near park boundary monument 51 north; thence easterly along said hydrographic divide to its intersection with the crest of the Absaroka Range; thence southerly along said crest to its intersection with the main hydrographic divide between Little Lamar River and the North Fork of Shoshone River, passing over Republic and Hoodoo Peaks; thence westerly along said divide passing over Notch Mountain to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 26 north; thence continuing westerly along said divide, now between the headwaters of Lamar River and Jones Creek; headwaters of Sedge, Bear, Cub, and Clear Creeks, and the headwaters of Jones and Crow Creeks, and between Crow Creek and Middle Creek, to its intersection with the present east boundary line of Yellowstone National Park, approximately at park boundary monument 18 north, passing over Pyramid and Cathedral Peaks, Mount Chittenden, and Avalanche Peak, thence southerly along said boundary line to its intersection with the hydrographic divide immediately south of Middle Creek, approximately at park boundary monument 15 north; thence westerly along said divide, now between a southern tributary of Middle Creek, headwaters of Beaverdam, Trappers, and Mountain Creeks, and the headwaters of Canfield and Eagle Creeks, to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 5 north, passing over Reservation and Atkins Peaks, Mount Schurz, Mount Humphreys, and Eagle Peak; and

Beginning on the present west boundary line of Yellowstone National Park at its intersection with the left bank of Gallatin River be-

...a map, which shall be available for inspection in the Office of the Site Manager, the locations within these park areas that are available for the sale or distribution of printed matter. Locations may be designated as not available only if the sale or distribution of printed matter would:

(i) Cause injury or damage to park resources; or

(ii) Unreasonably impair the atmosphere of peace and tranquility maintained in commemorative areas; or

(iii) Unreasonably interfere with interpretive, living history, visitor services, or other program activities or with the administrative functions of the National Park Service; or

(iv) Substantially impair the operation of public use facilities or services of concessioners or contractors.

(4) The permit may contain such conditions as are reasonably consistent with protection and use of the park area.

(5) No permit shall be issued for a period in excess of 14 consecutive days: *Provided*, That permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(6) Persons engaged in the sale or distribution of printed matter under this section shall not conduct activities from other than a stand in the locations designated, or hawk or call out from the stand. Each stand shall bear a sign identifying the sponsor, in a form approved by the Unit Manager.

(7) The sale or distribution of printed matter without a permit, or in violation of the terms or conditions of a permit, is prohibited.

(8) Any permit may be revoked under any of those conditions, as listed in paragraph (b)(2) of this section, which constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation.

Persons engaged in the sale or distribution of printed matter under this section shall not obstruct or impede pedestrians or vehicles, harass park visitors with physical contact misrepresent the purposes or affiliations of those engaged in the sale or distribution, or whether the printed matter is available without cost or donation.

(Sec. 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); 8 DC Code 108 and 245 DM (34 FR 13879), as amended)

[44 FR 88936, Oct. 3, 1979, as amended at 45 FR 39882, Oct. 10, 1980]

PART 51—CONCESSION CONTRACTS AND PERMITS

Sec.

51.1 Authority.

51.2 Policy.

51.3 Definitions.

51.4 Solicitation and award of concession contracts and permits where no right of preference exists.

51.5 Solicitation and award of concession contracts and permits or extensions or renewal of concession contracts and permits, where a right of preference exists.

51.6 Preferential right for additional services where a right to additional services and facilities exists by specific contract provisions.

51.7 Sale, assignment, or encumbrance of concession contracts, permits, and assets.

AUTHORITY: The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 3 *et seq.*, particularly, the Concessions Policy Act of 1965, 16 U.S.C. 20 *et seq.*

Source: 44 FR 82895, Nov. 1, 1979, unless otherwise noted.

§ 51.1 Authority.

Concession contracts and permits are awarded by the Director on behalf of the Secretary pursuant to the authority of the Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 3 *et seq.*, particularly, the Concessions Policies Act of 1965, 16 U.S.C. 20 *et seq.* All concession contracts and permits are subject to the requirements of this Part 51.

§ 51.2 Policy.

It is the policy of the Secretary, as mandated by law, to permit conces-

sions in park areas only under carefully controlled safeguards against unregulated and indiscriminate use so that heavy visitation will not unduly impair park values and resources. Concession activities in park areas shall be limited to those that are necessary and appropriate for public use and enjoyment of the park areas in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the park areas.

§ 51.3 Definitions.

The following definitions shall apply to this Part 51:

(a) "Concession Contracts" and "Concession Permits" (or "contracts" and "permits") are agreements between the Director and a concessioner whereby the concessioner agrees to provide certain public accommodations, facilities or services within a park area under the administration of the Director. Concession Permits are generally utilized where the authorized concession operations are not expected to gross more than \$100,000 annually, where the term of the permit is less than five (5) years, where no possessory interest is to be granted to the concessioner, and where no preferential rights to additional services are authorized. In other instances, Concession Contracts are utilized.

(b) "Right of Preference" refers to the right of existing satisfactory concessioners to a preference in the renewal or negotiation of a new contract or permit covering substantially the same accommodations, facilities and services as provided by the concessioner under the terms of its existing contract or permit. Prior to the expiration or termination of a contract or permit a determination shall be made based on annual evaluations, as to whether or not the concessioner is entitled to a preference in the renewal of its contract or permit. An unsatisfactory rating, results in the loss of the right of preference.

(c) "Preferential Right" refers to the right to provide new or additional services and facilities which may be granted to a concessioner by Concession Contract as the Director may con-

sider necessary for the accommodation and convenience of the public.

(d) The term "Director" refers to the Director of the National Park Service or his authorized representatives.

(e) The term "Secretary" refers to the Secretary of the Interior or his authorized representatives.

§ 51.4 Solicitation and award of concession contracts and permits where no right of preference exists.

(a) Where no right of preference exists, the Director shall issue a prospectus soliciting proposals describing the concession operation to be authorized, the material terms and conditions of the proposed Concession Contract or Permit, and the principal factors considered in selection. Public notice of the availability of the concession opportunity shall be published in the FEDERAL REGISTER and/or at least once in local or national newspapers or trade magazines, as appropriate, and will be distributed to interested parties and organizations. The prospectus will be made available upon request to all interested parties and will allow a minimum of sixty days for proposals to be submitted unless a written determination is made that a shorter period is necessary because of exceptional circumstances. All proposals received shall be evaluated by the Director, and the proposal considered best by the Director on an overall basis shall be selected as the basis for negotiation of the Concession Contract or Permit.

(b) The principal factors to be considered in selection of the best proposal shall be (1) the experience and related background of offerors, (2) the offeror's financial capability, and (3) conformance to the terms and conditions of the prospectus in relation to quality of service to the visitor. Secondary factors shall include franchise fee offered and other factors as may be specified.

(c) The Director may solicit from any applicant additional information, or written or verbal clarification of a proposal, and may extend the solicitation period in his discretion. The Director may choose to reject all proposals received at any time and resolicit

or cancel the solicitation altogether in his discretion when in the best interest of the Government. Any material information made available to any applicant by the Director must be made available to all applicants, and will be available to the public upon request.

(d) Negotiation of a final contract and permit with the selected applicant shall commence promptly. Material amendments to the proposed terms and conditions of the Concession Contract or Permit, as described in the prospectus, may be negotiated only after resolicitation of the concession opportunity for an appropriate period of time by amendment to the prospectus and readvertising. After negotiation of Concession Contracts with anticipated gross receipts in excess of \$100,000 or five (5) years or more in duration, such contracts shall be forwarded to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs for a 60-day waiting period prior to award. The Director may, in his discretion, terminate negotiation of a Concession Contract or Permit at any time prior to execution by the Government and rescind or cancel the solicitation when in the best interest of the Government.

(e) The terms and conditions of the solicitation must represent the requirements of the National Park Service and not be developed to accommodate the capabilities or limitations of any particular party.

(f) Upon a written determination that exceptional circumstances warrant waiver of the procedures described in this subsection and that it is in the public interest to protect visitor or park resources or otherwise, the Director may negotiate a Concession Contract or Permit with any qualified party without public notice or advertising.

§ 51.5 Solicitation and award of concession contracts and permits or extensions or renewal of concession contracts and permits, where a right of preference exists.

The procedures described in § 51.4 shall apply to the solicitation, negotiation and award of extensions, renewals, or replacement of contracts or per-

mits by a new contract or permit where an existing concessioner has a right of preference except as follows:

(a) A fact sheet rather than a prospectus will be developed by the Director and will describe the existing concessioner's right of preference as well as the material terms and conditions under which the National Park Service proposes to negotiate a new concession contract or permit with the existing satisfactory concessioner.

(b) The concessioner with the right of preference shall be required to submit a proposal in response to the fact sheet. If, after evaluation of all proposals received, a proposal other than that of the existing concessioner is determined to be the best proposal, the existing concessioner shall be given an opportunity to meet the terms and conditions of the best proposal. If the existing concessioner does so and its proposal, as amended, is in the judgment of the Director, at least substantially equal to the best proposal, the existing concessioner shall be selected for negotiation of the contract or permit. If not, the contract or permit will be negotiated with the party that submitted the best proposal.

(c) The requirement for public notice and evaluation of proposals received may not be waived.

§ 51.6 Preferential right for additional services where a right to additional services and facilities exists by specific contract provisions.

Where the Director seeks to authorize new or additional accommodations, facilities and services of generally the same character as provided by an existing satisfactory concessioner in a park area, and such concessioner by Concession Contract has a right to provide such additional services, the Director shall develop a description of the new or additional services and the terms and conditions upon which they are to be provided without reference to any private party and give the existing concessioner a reasonable opportunity to review such description to determine if it wishes to provide the services. If so, the Director shall authorize the additional services by

amendment to the concessioner's contract. If the existing concessioner does not agree to provide the additional services upon the terms and conditions described, the Director shall authorize additional services to be provided by a new concessioner under substantially the same terms and conditions and pursuant to the procedures of § 51.4 hereof.

§ 51.7 Sale, assignment, or encumbrance of concession contracts, permits, and assets.

(a) Concession Contracts and Permits or operations authorized thereby or controlling interests therein may not be transferred, sold, or assigned, or assets thereof encumbered in any manner, including stock purchases, mergers, consolidations or reorganizations, except with the written approval of the Director. Transfers, sales, assignments, or encumbrances consummated in violation of this requirement shall be considered null and void by the Director and a material breach of the contract or permit.

(b) The term "controlling interest," as used herein means, in the case of corporate concessioners, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner or election of a majority of the Board of Directors of the concessioner, and, in the instance of a partnership, limited partnership, joint venture or individual entrepreneurship, beneficial ownership of the capital assets of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner.

(c) Prior to consummating any transfer, sale, assignment or encumbrance of a controlling interest, the concessioner will request approval of the Director in writing and provide the following information:

(1) All instruments proposed to implement the transaction;

(2) An opinion of counsel from the buyer to the effect that the proposed transaction is lawful under all applicable Federal and State laws;

(3) A narrative description of the proposed transaction and the operational plans for conducting the operation;

(4) Statement as to the existence of any litigation questioning the validity of the proposed transaction;

(5) Description of the management qualifications and financial background of the proposed transferee and

(6) A statement as to whether the proposed sale constitutes a controlling interest and the particulars thereof as described in paragraph (b) of this section; and

(7) Such other information as the Director may require.

(d) Prior to the sale, transfer, assignment or encumbrance of anything other than a controlling interest, the concessioner must have notified the Director in writing and must have received acknowledgement from the Director. Information as to why it is not a controlling interest and identification of the transferee must be submitted with the required notification. Failure to comply with this provision shall make the subject sale or transfer null and void and constitute a material breach of the Contract or Permit.

(e) The Director may choose not to approve a proposed sale, transfer, assignment or encumbrance in his discretion or may place appropriate conditions on any approval as are necessary to protect the public interest. Concession Contracts and certain Concession Permits contain provisions which limit the purposes for which they may be encumbered. Such limitations are incorporated by reference herein as an element of the Director's review of such transactions.

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

Sec.

60.1 Authorization and expansion of the National Register.

60.2 Effects of listing under Federal law

60.3 Definitions.

60.4 Criteria for evaluation.

60.5 Nomination forms and information collection.

SUMMARY OF PARK FEES AND CONCESSIONS BILL
CS HB 16 (Fin)

I) User Fees

Prohibits DNR from collecting fees for ordinary park uses including use of a restroom.

Prohibits DNR from from collecting fees (directly or through a contractor) except for:

- *rental of a public use cabin or other overnight lodging
- *use of a developed campsite
- *special park use permits
- *commercial use permits
- *use of a holding tank dump station
- *guided tours of a historic site

Provides criteria for the state to consider when adopting fees through the regulation process.

II) Contracting for Fee Collection

Authorizes DNR to contract for fee collection and routine park maintenance activities.

III) Park Concessions

Prohibits DNR from entering into concession contracts unless the contract will:

- *implement the purposes of a park and is authorized in a management plan, if any
- *enhance public use and enjoyment of a park and maintains a high quality environment and recreational opportunities
- *be for services or facilities that are not feasible or affordable for DNR to provide directly
- *not create substantial adverse environmental effects
- *be based on a clear need or desire of the public
- *recognize and accommodate, at no cost, ordinary uses in a park unit
- *require the contractor to hire residents of the state, to the extent qualified and available
- *provide the state with a fair and equitable portion of the contractor's receipts
- *provide that DNR retains control over fees and the design of facilities
- *require contractors to accommodate special visitors such as handicapped persons, senior citizens and school children
- *provide for regular inspections by DNR of the facilities and services
- *provide that the contract will be terminated if the contractor fails to protect park values and resources or fails to maintain a high quality environment and recreational opportunities

Before bids or proposals are sought or a contract negotiated DNR must:

- *inquire with local residents to identify community concerns

If DNR decides to proceed further, DNR shall make a preliminary decision that includes the findings required above and:

- *assesses existing visitor use in the park area
- *assesses potential conflicts with wildlife, water, scenic values and other resources
- *identifies the kinds of services to be provided
- *establishes general contract terms and conditions
- *determines if the activity would be more appropriately located outside the park or on private lands within the park
- *views and comments of the park advisory board, if any

After making the preliminary decision, DNR shall:

- *seek public comment on the preliminary decision and, if facilities are to be built, hold public hearings

After considering public comment, issue a final decision on whether or not DNR will enter into a concession contract award process.

DNR must allow public review and comment prior to renewal or extension of a contract.

DNR must report every two years to the Legislature on the status of park concessions.

DNR may adopt regulations for concessions.

DNR may not enter into a concession contract in the Alaska-Chilkat Bald Eagle Preserve.

Ordinary uses are defined as those uses not generally associated developed facilities including fishing, hunting, walking, swimming, picnicking, or automobile parking associated with another ordinary use.

The law applies only to units of the state park system.

The state shall separately account for funds collected through user fees and other moneys collected under the provisions of the bill and separately account for them. The annual estimated balance may be used by the legislature to fund park programs.

AS 28.10.411(e) and AS 41.35.045 are repealed.

The Act takes effect July 1, 1987.

prepared by DNR/Parks 3/4/87

Original sponsors: Navarre, Koponen,
Swackhammer, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 16 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the levy and collection of fees
7 for the use of state park system facilities; relating
8 to contracts for services and facilities in the state
9 park system; and providing for an effective date."

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

11 * Section 1. AS 41.21 is amended by adding new sections to read:

12 Sec. 41.21.026. FEES FOR THE USE OF STATE PARK SYSTEM FACILI-
13 TIES. (a) The department may not, either directly or through another
14 person, charge or collect a fee for an ordinary use of a park unit or
15 the use of a restroom in a park unit.

16 (b) In addition to the prohibition in (a) of this section, the
17 department may not establish and collect fees for the use of a park
18 unit, except for

- 19 (1) rental of public use cabins or other overnight lodg-
- 20 ings;
- 21 (2) overnight use of a developed campsite;
- 22 (3) special park use permits;
- 23 (4) noncompetitive and nonexclusive commercial use permits;
- 24 (5) use of a sewage holding tank dump station; and
- 25 (6) guided tours of historic sites.

26 (c) The department shall establish the fees for uses under (b)
27 of this section by regulation. Before setting the fees, the depart-
28 ment shall consider at public hearings

- 29 (1) the cost to the state of operating the facility or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

managing the activity;

(2) the normal fees charged for similar facilities or activities by governmental and nongovernmental entities;

(3) the cost of administering a fee collection program for the facility or activity; and

(4) the public interest.

(d) In this section, "developed campsite" means a campsite having access to the following public facilities:

(1) restrooms;

(2) a picnic table;

(3) an outdoor cooking facility; and

(4) an approved water source.

Sec. 41.21.027. MAINTENANCE AND COLLECTION CONTRACTS IN THE STATE PARK SYSTEM. (a) The state may contract under AS 36.30 (State Procurement Code) for

(1) the collection of fees charged for uses under AS 41.-21.026(b); and

(2) park unit maintenance activities; "park unit maintenance activities" means

(A) refuse collection;

(B) janitorial maintenance of facilities;

(C) litter pickup;

(D) painting;

(E) fireplace cleaning;

(F) sewage pumping;

(G) minor repair and replacement of facilities;

(H) snowplowing and road maintenance;

(I) brushing trails, picnic areas, and campsites;

(J) other normal park unit maintenance activities.

1 (b) The state may combine in a single contract the services
2 listed in (a)(1) and (2) of this section.

3 (c) A contract under this section is not subject to AS 41.21.-
4 028.

5 Sec. 41.21.028. CONCESSION CONTRACTS IN THE STATE PARK SYSTEM.

6 (a) The state may not enter into a concession contract under AS 36 to
7 provide services or to operate or construct facilities in a park unit
8 unless the commissioner finds that the proposed concession contract

9 (1) will implement the purposes of the park unit and is
10 authorized by the park management plan, if any, that applies to the
11 park unit;

12 (2) will enhance public use and enjoyment of the park unit
13 while maintaining a high quality environment and the opportunity for
14 high quality recreational experiences;

15 (3) will provide services or facilities that are not feasi-
16 ble or affordable for the state to provide directly;

17 (4) will not create substantial adverse environmental
18 effects;

19 (5) is based on a need or desire of the public;

20 (6) recognizes and accommodates, at no cost, ordinary uses
21 in a park unit;

22 (7) requires the contractor to hire residents of the state,
23 to the extent available and qualified, when hiring persons to work in
24 the park under the contract;

25 (8) provides the state with a fair and equitable portion,
26 in money or services, of the contractor's receipts from the provision
27 of the service or the operation of the facility;

28 (9) provides that the department retains control over the
29 level of fees and the design and appearance of any facility to be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

constructed;

(10) requires the contractor to accommodate visitors with special circumstances, including handicapped persons, senior citizens, and school children;

(11) provides that during the term of the contract the commissioner shall regularly review and inspect the

(A) operation of the facility; and

(B) contractor's provision of service to the public;

and

(12) provides that the contract shall be terminated if the contractor fails to protect park values and resources or fails to maintain a high-quality environment and recreation experience.

(b) Before bids or proposals are sought or contract negotiations begun under AS 36.30 for a concession contract under (a) of this section, the commissioner shall

(1) make a preliminary inquiry at the local level to identify community concerns;

(2) if it is appropriate to proceed further, make a preliminary decision that includes the findings required by (a) of this section and

(A) an assessment of existing visitor uses that may be affected by the activities of the contractor;

(B) an assessment of the potential conflicts or significant effects on park wildlife, water, scenic values, or other resources;

(C) an identification of the types of services or goods that the contractor is to provide;

(D) the terms and conditions of the contract;

(E) a determination of whether the contract activity

1 would be more appropriately located on land outside of the park
2 or on private land within the park; and

3 (F) the views and comments of the park advisory board
4 when one exists, for the park unit in which the activity is being
5 considered;

6 (3) after making a preliminary decision under (2) of this
7 subsection,

8 (A) seek public comment on the preliminary decision
9 through reasonable public notice and, if facilities may be built
10 under the concession contract, conduct public hearings;

11 (B) after considering the public comment obtained
12 under this subsection, issue a final decision on whether or not
13 the state will proceed into a concession contract award process.

14 (c) The commissioner shall provide for public review and comment
15 before a concession contract under this section is renewed or ex-
16 tended.

17 (d) By the 15th day of each first regular session of the legis-
18 lature, the commissioner shall make available to the legislature
19 report on the provision of services or operation of facilities under
20 concession contracts under this section during the previous two fiscal
21 years, including

22 (1) contract activities;

23 (2) new or expanded contracts whose estimated or actual
24 gross receipts exceed \$25,000; and

25 (3) violations of contract standards.

26 (e) The commissioner may adopt regulations to implement this
27 section.

28 (f) The commissioner may not enter into a concession contract
29 for the Alaska Chilkat Bald Eagle Preserve.

1 (g) In this section

2 (1) "concession contract" does not include a contract under
3 AS 41.21.027;

4 (2) "facilities" includes campgrounds, boat launches
5 lodges, food service operations, and gift shops.

6 Sec. 41.21.029. DEFINITIONS. (a) In AS 41.21.026 - 41.21.029

7 (1) "ordinary use" means a use that is not generally asso-
8 ciated with developed facilities, including fishing, hunting, walking,
9 swimming in a natural body of water, picnicking, or automobile parking
10 associated with another ordinary use;

11 (2) "park unit" means a unit of the state park system.

12 * Sec. 2. AS 41.21.030 is amended by adding a new subsection to read:

13 (b) The commissioner of administration shall separately account
14 for fees and other money collected under AS 41.21.026 - 41.21.029 and
15 deposited under (a) of this section. The annual estimated balance in
16 the account may be used by the legislature to make appropriations to
17 the department to carry out the purposes of this chapter.

18 * Sec. 3. AS 28.10.411(e) and AS 41.35.045 are repealed.

19 * Sec. 4. This Act takes effect July 1, 1987.
20
21
22
23
24
25
26
27
28
29

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
Revision Date: March 4, 1987
Title: Fees for use of state park facilities
Sponsor: House Resources
Requestor: House Finance

Bill Version: CSHB 16 (Finance)
Publish Date: _____

Agency Affected: Natural Resources
BRU: Park Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		28	30	34	34	34
TRAVEL		18	8	3	3	3
CONTRACTUAL		20	15	10	10	10
SUPPLIES		3	2	2	2	2
EQUIPMENT		27	20	10	10	10
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		96	75	59	59	59
CAPITAL						
REVENUE		30	170	334	490	550

FUNDING: (Thousands of Dollars)

GENERAL FUND		96	75	59	59	59
FEDERAL FUNDS						
OTHER						
TOTAL		96	75	59	59	59

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		1	2	1	1	1

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Neil Johannsen
Division: Parks and Outdoor Recreation
Approved by Commissioner: C. Johnson for JMB
Agency: Natural Resources

Phone: 465-2400
Date: 2-3-87
Date: 3/1/87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

Fiscal Note Information
for CSHB 16 (Finance)

Costs
FY88

personnel services \$28.0

- *increase existing Natural Res. Manager I position in charge of concessions and fees from 6 months to 12 months \$25.8
- *hire one seasonal Alaska Conservation Corps staff person or support a volunteer college intern through a \$15/day stipend cost is \$2.2

Travel \$18.0

- *statewide regulations hearings to adopt fee structure \$8.0
- *meetings & hearings on proposed concessions \$5.0
- *field inspections of concessions \$5.0

Contractual \$20.0

- *establish campground fee registration and payment systems at 20 campgrounds. \$1,000 per campground as follows:
 - signs \$200
 - Iron Ranger fee device \$350
 - lock device \$ 50
 - labor to install \$400

Supplies and Materials \$3.0

- *purchase of printed payment envelopes \$2.5
- *accounting and reporting forms \$0.5

Equipment \$27.0

- *install fee box device in park ranger vehicles to transport fees to park offices. Prevents tampering with funds
225 vehicles at \$680 per vehicle \$17.0
- *Safes and lock boxes for 10 area offices. Estimated cost is \$1.0 per office. \$10.0

Revenues
FY88

Fees:

Commercial Use Permits \$6.0 (120 at \$50 each)
Public Cabins \$5.0 (1986 level of revenues)

Concessions (Franchise Fee Payments)

Potter Section House \$10.5 (3% of \$350.0 gross receipts)
Rika's Roadhouse \$8.5 (3% of \$280.0 gross receipts)

estimated total revenue for FY88 is \$30.0

Future Revenues (campground fees are added and additional concessions and commercial use permits are established)

FY 89	\$170	FY 91	\$490
FY 90	\$334	FY 92	\$550

MEMORANDUM

TO: Rep. Sam Cotten, Co-Chair
Rep. Adelheid Herrmann, Co-Chair
Members of the Resources Committee

FROM: Ned Farquhar, Staff *Ned*

SUBJECT: Campground fee bills (HB 16, HB 19)

DATE: January 23, 1987

Rep. Navarre's HB 16 and Rep. Larson's HB 19 on state park campground fees will be heard in Committee on Monday, January 26. Natural Resources Commissioner Sredy will be at the meeting and Neil Johannsen, Director of Parks, should be on the telephone from Anchorage.

Background

There has been a lot of discussion of state park campground fees in recent years. During the Fourteenth Legislature, the House Resources Committee introduced a bill (HB 267) to institute the fees; the bill moved promptly through the House but was still in the Senate Finance Committee (CSHB 267 Fee am) at the end of the session. When the issue came up during the Thirteenth Legislature, the only new authority to collect fees in state parks was provided for tours of historic sites (AS 41.35.045, attached).

Issues

Alaska is the only state without a campground fee program, even though much of the use of our campgrounds is by out-of-state visitors. Supporters of the fees believe that fees increase public responsibility for the parks and campgrounds, return revenues to the State, and can be instituted at a relatively low cost with low administrative overhead. Opponents believe that state park campgrounds should be turned over to private operators or owners who will then have to compete in the tourism market.

The bills

Both bills allow the Department of Natural Resources to establish campground fees. The slight differences in language describing penalties are not material.

HB 16 would establish a more flexible fee program, without a limit on the amount of the fee. However, in determining the fees, the Department would be required to justify them and

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

MEMORANDUM

TO: Rep. Sam Cotten, Co-Chair
Rep. Adelheid Herrmann, Co-Chair
Members of the Resources Committee

FROM: Ned Farquhar, Staff *Ned*

SUBJECT: Campground fee bills (HB 16, HB 19)

DATE: January 23, 1987

Rep. Navarre's HB 16 and Rep. Larson's HB 19 on state park campground fees will be heard in Committee on Monday, January 26. Natural Resources Commissioner Brady will be at the meeting and Neil Johannsen, Director of Parks, should be on the telephone from Anchorage.

Background

There has been a lot of discussion of state park campground fees in recent years. During the Fourteenth Legislature, the House Resources Committee introduced a bill (HB 267) to institute the fees; the bill moved promptly through the House but was still in the Senate Finance Committee (CSHB 267 Res am) at the end of the session. When the issue came up during the Thirteenth Legislature, the only new authority to collect fees in state parks was provided for tours of historic sites (AS 41.35.045, attached).

Issues

Alaska is the only state without a campground fee program, even though much of the use of our campgrounds is by out-of-state visitors. Supporters of the fees believe that fees increase public responsibility for the parks and campgrounds, return revenues to the State, and can be instituted at a relatively low cost with low administrative overhead. Opponents believe that state park campgrounds should be turned over to private operators or owners who will then have to compete in the tourism market.

The bills

Both bills allow the Department of Natural Resources to establish campground fees. The slight differences in language describing penalties are not essential.

HB 16 would establish a more flexible fee program, without a limit on the amount of the fee. However, in determining the fees, the Department would be required to justify them and

subject them to public scrutiny. It would be effective immediately. The bill contains repealers of existing statutory language (copies attached) prohibiting the collection of fees in state park campgrounds (AS 29.10.411(e) and associated language (AS 41.35.045(b)).

HB 17 is a simpler bill, leaving unstated any considerations that would be required of the Department in establishing the fees. The effective date would coincide with the beginning of the new fiscal year. The bill does not include the repeal of AS 29.10.411(e), exempting cars with Alaska license plates from fees.

Fiscal impacts

The costs of the bills are to comply with the administrative requirements for promulgation of regulations, to install fee collection devices, and to administer the collection process. There would be no personal services costs.

Agency concerns

1. In the past, the Department has proposed that the fee program be included in the state's program receipts authorization. This would allow better maintenance of campgrounds and would assure a direct relationship between the collection of fees and campground conditions. Because there are conditions and other fee-collection language in statute, the development of program receipt language could be complicated.

2. The Department is interested in expanding beyond campground fees into concessions and other revenue-raising measures (boat launches, picnic and parking areas, food and lodging, gifts and other goods and services). If this is discussed and advanced, it would be a good idea to assure that there are public-interest and park protections explicitly stated in the statute (i.e., hearings/notice, market-value and assured revenue to the State, park value protections, implementing regulations, and public preliminary and final best-interest findings).

Attachments

Rep. Navarre has provided a letter from Chugach Park Advisory Board members who believe that user fees will benefit the park and users (b.1). Rep. Larson's staff has prepared a comparative analysis of the bills.

December 8, 1986

Representative Mike Navarre
312 Tyee Street
Soldotna, Alaska 99669

Re: Economic importance of Chugach State Park
Harmful effects of Chugach State Park budget cuts
Support for Chugach State Park funding

Dear Representative Navarre:

As members of the Chugach State Park Citizen's Advisory Board, we have become increasingly concerned about the effects of State budget cuts on the Park. Enclosed is a copy of a report documenting these effects. Also enclosed is a copy of an article by Bill Sherwonit of the Anchorage Times, providing further information about the problems caused by budget cuts.

Chugach State Park is very heavily used both by Alaska residents and by visitors to Alaska. Use of the Park has been rising steadily. The Park has enormous potential for aiding the development of tourism in Alaska.

Although the task of managing and protecting Chugach State Park has grown as the number of visitors has increased, the Park operating budget has been cut by 29 percent over the past two years. Due to these budget cuts, essential maintenance is not being performed; law enforcement, search and rescue, and interpretation have all but ended; and facilities are being closed. The newly completed Potter Section House--the single most visible facility in the Park--was closed two days after it was dedicated, since there are no new funds to operate it. Without ranger patrols, damage due to vandalism and illegal ATV use is increasing. In addition, capital projects necessary to prevent severe environmental degradation are not being undertaken. The results of this degradation will be with us and our children for decades.

In response to this situation, the Chugach State Park Citizen's Advisory Board passed a unanimous resolution at its October meeting that "No more cuts should be made to the operating budget of Chugach State Park."



CHUGACH STATE PARK CITIZENS' ADVISORY BOARD

We are well aware that the State of Alaska is facing severe reductions in revenues, that cuts have been made throughout state government, and that further significant cuts will be necessary. Nevertheless, we feel that it is essential that the State continue to fund the Chugach State Park budget at a level necessary to prevent degradation of the environment, to protect public safety, and to encourage continued growth of the tourism industry.

Parks have the potential to provide revenues for the state through user fees such as campground fees. Alaska is the only state in the union which does not currently collect campground fees. We urge you to support legislation which would permit the collection of campground fees. || ↘

Most importantly, we urge you to work for the protection of funding for the Chugach State Park operating budget.

Sharon McCisna, Chair Sincerely,

Murray Knapp

Kim L. Erickson

Mark Shoh

James C. Beile

Mark Hickok

Tom Meschan

Barbara Stenquist

Members, Chugach State Park
Citizens' Advisory Board

Enclosures



CHUGACH STATE PARK CITIZENS' ADVISORY BOARD

§ 41.23.130

§ 41.30.020

PUBLIC RESOURCES

§ 41.35.180

1/4 NW1/4, W1/2

1/4 NW1/4, SE1/4
SW1/4SE1/4
1/4 NE1/4SE1/4

Chapter 30. Area Redevelopment.

AS 41.35.045 (a-b)

HISTORIC SITES
GUIDED TOUR FEE
(1984)

Meridian

1/4 SW1/4NW1/4,
1/4 NE1/4SE1/4,

Meridian
1/4 SE1/4NE1/4
1/4 NW1/4, E1/2
1/4 NW1/4NE1/4,

1/4
1/4 SW1/4SW1/4,
1/4 SE1/4, NE1/4
1/4, NW1/4SE1/4
1/4 NE1/4NW1/4
1/4 SW1/4, NW1/4

1/4 SE1/4, S1/2
1/4, S1/2NE1/4

1/4
1/4 NW1/4NW1/4



Sec. 41.35.045. Fees for guided tours through historical sites.
a) The department may establish and collect fees for guided tours through historical sites.
b) The exemption from fees in AS 28.10.411(e) is not applicable to this section. (§ 1 ch 84 SLA 1984)

Revisor's notes. — Enacted as AS 41.35.021. Renumbered in 1984.

Sec. 41.35.180. Duties of committee. The committee shall
1) develop criteria for the evaluation of state monuments and historic sites and all real and personal property which may be considered to be of historic, prehistoric or archeological significance as would justify their acquisition and ownership by the state;
2) cooperate with the department in formulating and administering a statewide historic sites survey under 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966):

supplement 159

THE STATE OF ALASKA
PUBLIC LANDS

STATE OF ALASKA
DEPARTMENT OF PUBLIC LANDS
OFFICE OF THE ASSISTANT ATTORNEY GENERAL
1000 W. BRIDGE STREET
ANCHORAGE, ALASKA 99501
TELEPHONE 263-1111

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under AS 28.10.421(b)(1), (2), (5), (6) or (d) shall include all fees required for entry into and use of a state park or campground. (§ 7 ch 178 SLA 1978; am § 85 ch 6 SLA 1984)



AS 28.10.420(e)
EXEMPTION FROM
PARK FEES FOR
ALASKA VEHICLES

§) a two- or four-wheeled trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer or house trailer \$ 5.

c) The annual registration fees under this subsection are imposed and are based upon the actual unladen weight as established by the manufacturer's advertised weight or upon the actual weight which the owner shall furnish, subject to the approval of the commissioner or the commissioner's representative, for a vehicle, including a motor vehicle pulling a trailer or semi-trailer, used or maintained for the transportation of passengers for hire, excepting taxicabs and buses under (b) of this section, or for the transportation of property for hire or for other commercial use, including a commercial vehicle such as a trailer, semi-trailer, truck, wrecker, tow car, hearse, ambulance, and tractor, as follows:

(1) up to and including 5,000 pounds \$45;

7/28/81

8/14/81

8/14/81

7/28/81

title fee required under § 441 of this chapter, the department shall issue a new certificate of title. (§ 7 ch 178 SLA 1978)

Article 5. Fees and Charges.

Section
41L. Registration fees levied
42L. Registration fee rates

Section
43L. Annual motor vehicle registration tax
44L. Schedule of other fees and charges

Sec. 29.10.411. Registration fees levied. (a) For every year during any part of which a vehicle is subject to registration under this chapter, a registration fee shall be paid to the department at the time of original registration and at each annual renewal of registration after that time.

(b) Motor carrier and bus transportation fees paid on vehicles subject to the Alaska Motor Freight Carrier Act (AS 42.10) and the Alaska Bus Act (AS 42.15) shall be paid to the department at the same time the registration fee is paid.

(c) A resident 65 years of age or older is entitled to an exemption from tax under this section for one motor vehicle subject to registration. No exemption may be granted except upon written application for the exemption on a form prescribed by the department.

(d) The Department of Community and Regional Affairs shall pay to the borough and to the city in which a person who is granted an exemption under (c) of this section resides an amount equal to the tax levied under § 431(b) of this chapter regardless of whether the borough or city is eligible for the tax levied under that section.

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under § 421(b)(1), (2), (5), (6) or (d) of this chapter shall include all fees required for entry into and use of a state park or campground. (§ 7 ch 178 SLA 1978)

Sec. 29.10.421. Registration fee rates. (a) Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under §§ 101—111 of this chapter.

(b) The annual registration fees under this subsection are imposed within the following classifications for:

- (1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use \$30;
- (2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use \$35;
- (3) a taxicab \$65;
- (4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors or tourists \$80;
- (5) a motorcycle or a motor-driven cycle \$15;

Statute which prohibits the charging Alaska residents for entering or using a state park or campground

DATE: January 20, 1986

TO: Representative Ron Larson

FROM: Larry Bussone

SUBJ: Comparison of House Bills 16 and 19 (park user fees)

Following is a comparison of House Bill No. 16 ("their bill"), sponsored by Representatives Navarre, Koponne, Swackhammer, Brown, and Goll, and House Bill No. 19 ("your bill"), sponsored by Representatives Ellis, Menard, and Larson.

(1) Both bills propose amending AS 41.21 to provide for park user fees.

(2) The placement of the proposed amendments varies. Both place the amendment within "Chapter 21. Parks and Recreational Facilities." and "Article 1. Administration." Their bill proposes the amendment at AS 41.21.023, which would be between "AS 41.21.020. Duties of Department of Natural Resources." and "AS 41.21.025. Zoning of private land within state parks." Your bill places the amendment at AS 41.21.050, which is at the end of Article 1.

(3) Their bill proposes that "The department . . . establish and collect fees for the overnight use of state park developed campsites." Your bill proposes that "The commissioner may, by regulation, establish a fee for the use of an improved campsite within a state park or recreation area" and later provides for developing procedures for collecting fees. I assume that the "department" and the "commissioner" are essentially the same. Both provide for the collection of fees. Their bill establishes fees for "the overnight use of state park developed campsites"; yours establishes fees for "an improved campsite within a state park or recreation area." I don't know if there is an important difference between the two, or if one is preferential to the other.

(4) Both bills call for the establishment of fees through regulations. The major difference between the bills is that their bill calls for considering four factors when setting fees: (a) the cost to the state of operating the facility; (b) the fees charged for the use of a similar facility by a nongovernmental entity; (c) the cost of

administering a fee collection program for the facility; and (d) the public interest. Your bill simply says that the fee may not exceed \$5 per vehicle per day.

(5) Their bill defines "developed campsite" and "state park"; yours does not.

(6) Their bill calls for the repeal of AS 28.10.411(e) ("Notwithstanding any other provision of law, the fees paid for registering a vehicle under AS 28.10.421(b)(1), (2), (5), (6) or (d) shall include all fees required for entry into and use of a state park or campground.") and AS 41.35.045(b) ("The exemption from fees in AS 28.10.411(e) is not applicable to this section." [The section establishes fees for guided tours through historical sites.]). Yours does not.

(7) Their bill calls for an immediate effective date under AS 01.10.070(c). Your bill calls for an effective date of July 1, 1987.

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS AND OUTDOOR RECREATION

1001 DEWEET
ANCHORAGE ALASKA 99501
PHONE 507-5511000

MAILING ADDRESS
PO BOX 7001
ANCHORAGE ALASKA 99510

January 27, 1987

The Honorable Sam Cotten, Co-Chairman
The Honorable Adelheid Herrman, Co-Chairwoman
House Resources Committee
Alaska State Legislature
PO Box V
Juneau, Alaska 99811

Dear Representatives Cotten and Herrman:

Subject: Responses to questions raised on 1/26 regarding HB 16,
which authorizes user fees in state park areas

Several questions were raised in the morning teleconference held January 26 regarding the bills that would allow fees for use of state park facilities. The information below should answer most of the concerns voiced in that meeting.

1. Why would the division use concessioners or private operators to manage certain sites?

The primary reason for the fee system and or concession management of some park units is the radical reduction in the Alaska State Park budget and a corresponding reduction in field staff. Concessioners can help to bridge the gap by providing maintenance and other park services that the state cannot provide. Research shows that concession-operated parks have much less vandalism and the visitor's experience is enhanced by the on-site concession manager or operator.

Concession management has been successfully used in many federal and state parks in Alaska. In Chugach State Park a concession operation has been successfully negotiated at the Potter Section House site, and the division is currently negotiating a concession contract for the Big Delta State Historic Park. Contracts at both of these sites will include full concessioner maintenance and operation of park facilities which will greatly reduce the projected operating expenses of those parks.

2. What campgrounds or other sites would be considered for concession management instead of complete state management?

Alaska State Parks intends to enter into the fee collection and concession management process slowly so that we can learn about potential pitfalls and avoid problems. The division has no plans at this time for a massive concession program, and intends to assess each area and site before launching into the concession process.

A preliminary analysis shows that the Bird Creek and Eagle River campgrounds in Chugach State Park might be operated by a concessioner. The Chena River Recreation Site in Fairbanks is another campground with potential for concession management.

Before deciding to concession a park unit campground, the division would assess the potential of the concession operation, determine whether the operation is in keeping with the site's purposes, and invite public review through the various state park Citizens Advisory Boards or through public meetings.

3. Should the bill retain a degree of flexibility regarding concessions?

In many sites that could be operated by concessioners, campground fees may not produce enough revenues to make an economically viable operation. Fees for boat rentals, picnic areas and boat launches may be acceptable, and other operations like camp stores, tackle and firewood sales may also be desired. The bill must remain flexible to allow these concession management options.

very important

In all concession operations the division retains control over rates charged for services, advertising, and operations to be allowed. In most cases the park visitor would probably notice very little difference between the concession operated fee system and one operated by the state.

4. If a park unit does not generate much revenue will that unit receive less attention from Alaska State Parks?

The division intends to recover only a portion of the operating cost of the Alaska State Park System. It does not intend to take a "Cash Register Approach" to state park management. Other purposes specified in the park system enabling legislation include: provision of recreational opportunities; preservation of natural, cultural, and historic resources; and other purposes specific to certain park units. These purposes and goals determine the allocation of state resources to certain park units.



January 27, 1987

The division also intends to continue its efforts to be sensitive at all times to the needs of "special populations" such as the handicapped, senior citizens, school and community groups. We also plan an annual pass similar to the federal "Golden Eagle" pass.

5. Why should the revenues collected be spent on managing the Alaska State Park System?

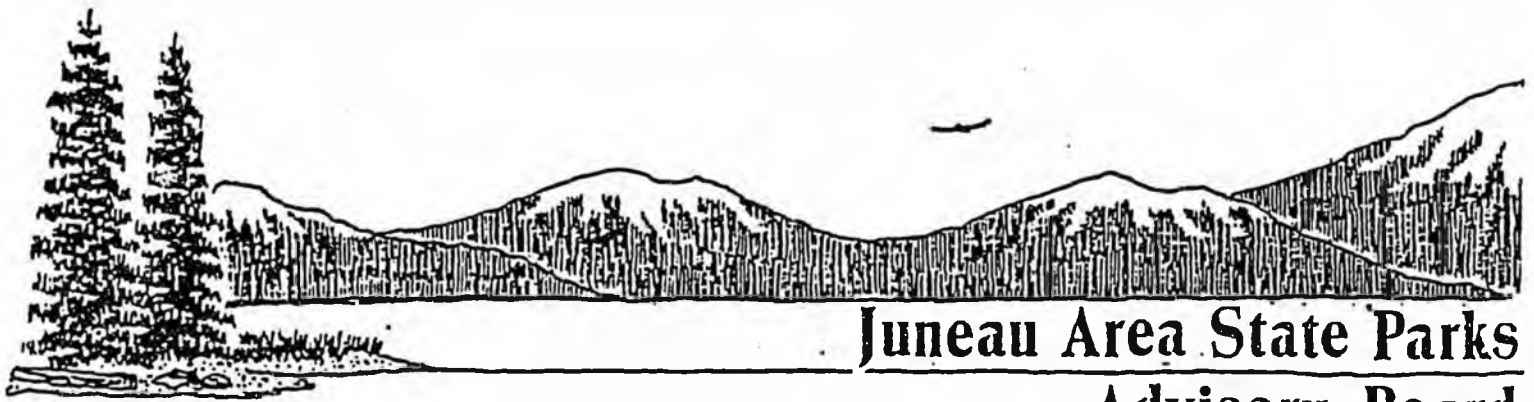
Visitors to park units are more willing to pay fees when they know that the revenues will be spent on maintaining and operating the parks. It does "cost money to make money" and the division expects to incur additional expenses in initiating, operating, and maintaining the fee collection systems. These costs should be more than offset by the revenues collected. Park staff, volunteers, and other cooperating groups also have more incentive to create an effective fee collection system when the revenues collected are directly related to improvements in their park units.

Thank you for your interest in and support of Alaska State Parks. If you have any further questions, please feel free to contact me.

A handwritten signature in black ink, appearing to read "Neil C. Johannsen". The signature is written in a cursive style with a long horizontal line extending to the right.

Neil C. Johannsen
Director

CC: Sponsors
Committee Members
Commissioner's Office
Mike Bradner



Juneau Area State Parks Advisory Board

400 Willoughby Avenue
Juneau, Alaska 99801

Dear Representative Cotten,

The Juneau Area State Parks Citizen Advisory Board would like to express its support for HB 16 in its present form. We have followed its progress thus far and feel that the additions made to it in the House Resources Committee concerning protecting park values and resources, a state's best interest determination, and the inclusion of a public hearing process are excellent.

We would like to suggest that a provision also be included to the effect that all other possibilities for siting of concessionaire activities on private or public non park lands be exhausted before allowing them within a State Park.

Thank you for your consideration.

Sincerely,

Cristi Herren
Chairperson
Juneau State Parks Advisory Board

Norlite Campground
1660 Peger Road
Fairbanks, Alaska 99709

January 27, 1987

Re: Fees for State Operated Campgrounds

To Whom it May Concern:

We are an independent, privately owned campground. We opened our gates to the public the same year that you opened the Chena River Wayside facility. That has been 20 years ago. We have been trying to encourage you to charge a fee for 10 these many years and to no avail. It truly hurts our business to have the Chena River Wayside Campground, FREE. We feel the competition is just a wee bit unfair. As you can imagine it's pretty hard to try and sell a product when it's being given away just down the road.

The Fairbanks Area Citizen's Advisory Board has recommended in the past that you charge a fee. There have been several bills before the legislature to in act a fee but because of poor wording they have always been rejected.

It seems that in times like this with the economy in such awful shape that if you were to charge a reasonable fee that you may just be able to recoup some of the approx. \$41,000 operating costs. The touring public does not expect to have their vacations subsidized and let's face it we as the State can't afford to do it any longer.

William J. ...

INVENTORY OF EXISTING & POTENTIAL COMMERCIAL ACTIVITIES,
USER FEES AND CONCESSIONS.

Park Unit or Subunit	SR e	NR a	TOX Area	Camp- in n	BL a to a: b a i t of fee c:Camp- hi ground	Potential: t of fee c:Camp- hi ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Birch Lake	SRS	NR	TOX		Y	Y			CAMPGRSUND AND PARKING AREA (EST 1989)	NONE	Pairbanks Area	
Clearwater	SRS	NR	TOX	10	Y	Y				Current Site Plan	None	
Deadman Lake	SRS	NR	TOX	16	Y	Y	1 Tour Bus Company			Current Site Plan	None	
Delta	SRS	NR	TOX	22	Y	Y				Current Site Plan	None	
Donnelly Creek	SRS	NR	TOX	12	Y	Y				Current Site Plan	None	
Eagle Trail	SRS	NR	TOX	40	Y	Y				Current Site Plan	None	

Park Unit or Subunit	Site Name	Area	Camp- sites	Boat Launch	Potential Fee Camp- ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Fielding Lake	SRS	NR	7		Y				Current Site Plan	None	
Lakeview	SRS	NR	8		Y			Campground Operation	Current Site Plan	None	
Moon Lake	SRS	NR	15		Y			Campground Operation	Current Site Plan	None	
Tok River	SRS	NR	10		Y	Y		Campground Operation	Current Site Plan	None	
Quartz Lake	SRA	NR	16		Y	Y	1 Boat Rentals	Boat Rentals	Current Site Plan	None	
Big Delta	SBP	NR		M/A			1 Operation of Park Roadhouse, Tavern, Restaurant, sales	Community Theatre	Draft Master Plan Current Site Plan	Big Delta SMP Advisory Board	

123

Park Unit or Subunit	Y g i p e	H e i o n	Area	Camp- sites	to a b i c h	Potential fee ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Barding Lake	SRA	NH	PBX	09	Y	Y			BOAT RENTALS FIELD SPORTS EQUIP.	Current Site Plan	Fairbanks Area Advisory Board	
Chena River	SRS	NH	PBX	59	Y	Y			Camp Operation Youth Hostel	Current Site Plan	Fairbanks Area Board	
Salcha River	SRS	NH	PBX		Y					Current Site Plan	Fairbanks Area Board	
Upper Chatanika River	SRS	NH	PBX	25		Y				Current Site Plan	Fairbanks Area Board	
Chena River Boonip Campground Red Squirrel Picnic Area Lower Chena Dome Trlhd Upper Chena Dome Trlhd Torn Trail	SRA SRA SRA SRA SRA	NH NH NH NH NH	PBX PXB PXB PXB PXB	4 30 18	Y Y Y Y Y		CAMP SCHOOL	Outdoor Education Facility at Twin Bears Camp	CAMP RENTALS	Current 1984 Management Plan	Fairbanks Area Board	

124

Work Unit or Subunit	Map No.	Area	Notes	Potential Commercial Use	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Lower Chatanika River	SRA	NR	FBX					CURRENT SITE PLANS	Fairbanks Area Board	
Chatanika Picnic Area	SBA	NR	FBX							
Chatanika Pond	SBA	NR	FBX							

125

Park Unit or Subunit	SP	SC	CHU	Area	Camp- sites	In- ten- sive	Potential Camp- sites	Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Wood-Tahcheik	SP	SC	CHU					Existing Commercial Use			1987 Mgmt. Plan	WOOD TAHEIK TRAIL BOARD COUNCIL	
Chugach	SP	SC	CHU					BRECKENRHY CHIPS			1980 Mgmt. Plan is approved		
Eklutna Campground	SP	SC	CHU	50			Y	RIVER FLOAT TRIPS (EAGLE RIV.)	SWIMBKS & PUBLIC AT E.R. VISITOR CENTER	HELICOPTER FLIGHT SEEING			
Thunderbird Falls Tribd	SP	SC	CHU										
Eagle River Campground	SP	SC	CHU	50			Y	TOWNS BUSES		TOWN BUSES CPD. OPERATIONS			
Eagle River Visitor Ctr	SP	SC	CHU										
McHugh Creek Picnic Area	SP	SC	CHU										
Bird Creek Campground	SP	SC	CHU	25			Y			CPD. OPERATIONS			
Old Johnson Trail	SP	SC	CHU										
Prospect Heights Tribd	SP	SC	CHU										
Upper Huffman Tribd	SP	SC	CHU										
Green Alps Tribd	SP	SC	CHU										
Letter Section House	SP	SC	CHU						SITE OPERATION (TANK / FOOD / GIFTS / PROMOTIONS)	TOWN BUSES	CURRENT SITE PLAN	CHUGACH PK. CIT. ADVISORY BOARD	

Park Unit or Subunit	Area	Camp- sites	Boat launch	Potential fee ground	Existing Commercial Use	Concession Contract	Potential Concerns	Park Plans	Advisory Board	Notes
Bettles Bay	SMP : SC : CHU							None	None	
Hornshoe Bay	SMP : SC : CHU									
S. Esther Island	SMP : SC : CHU									
Sawmill Bay	SMP : SC : CHU									
Shoup Bay	SMP : SC : CHU									
Surprise Cove	SMP : SC : CHU									
Zeigler Cove	SMP : SC : CHU									
Caines Head	SBA : SC : RBN				TOUR BOATS SPORT FISH GUIDES			1986 Mgmt. Plan (60. camp 1985)	None	
Kenai River										
Kenai Keys	SBA : SC : RNS				SPORT FISH GUIDES NATURAL HISTORY GUIDES			1986 Mgmt. Plan } ALL SAID PLANS ARE CURRENT	Kenai River NOV. 1984	
Bings Landing	SRS : SC : RNS			Y		Y				
Isaac Walton	SRS : SC : RNS	51		Y		Y				
Morgan Landing	SBA : SC : RNS	10				T				
Scout Lake	SBS : SC : RNS	9								
Funny River	SBS : SC : RNS									
Wainunga	SRS : SC : RNS									
Kenai River Islands	SRS : SC : RNS									
Big Eddy	SBS : SC : RNS									
Ciechanke	SRS : SC : RNS									
Kenai River Flats	SBS : SC : RNS									

127

Park Unit or Subunit	SP	SC	REN	Area in miles ²	Camp- in miles ²	H.I. to ad- u: Potential fee Camp- ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Deep Creek	SPA	SC	REN			Y	SPORT FISH GUIDES ICE/FISHING SALES		AREA OPERATION	CURRENT SITE PLAN	NG-2	
Starbuck	SPB	SC	REN	11		Y				CURRENT SITE PLAN	NG-2	
Anchor River	SPA	SC	REN	10		Y	SPORT FISH GUIDES			CURRENT SITE PLAN	NG-2	
Anchor River	SPB	SC	REN	4						CURRENT SITE PLAN	NG-2	
Kachewak Bay	SP	SC	REN	8			FISH GUIDE, MARCHING, BAGGENTRY GUIDES, FOX TONKS, HELI SKI, ICE-AND TRIPS, WATER TAXI			DRAFT PLAN (FINAL 01) 1988	ADVISORY BOARD 2011 (2011) 2011 2011	
Marine Lake	SPS	SC	REN	11		Y				CURRENT SITE PLAN	NG-2	

Park Unit or Subunit	Category	Area (miles ²)	Camp- in miles	h ground	Potential fee ground	Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Denali	SP SC NAT										
Little Coal Creek Tribd	SP ^a SC NAT										
Ak Veterans Memorial	SP ^a SC NAT										
Byers Lake Campground	SP ^a SC NAT	66			Y						
Troublesome Creek Tribd	SP ^a SC NAT										
Troublesome Creek Picnic	SP ^a SC NAT										
Denali Viewpoint	SP ^a SC NAT										
Wancy Lake	SRA SC NAT		4								
Winter Tribd	SRA SC NAT										
Tulik Nature Trail	SRA SC NAT										
Canoe System Tribd	SRA SC NAT	15									
South Holly Campground	SRA SC NAT	98			Y						
Big Lake North	SBS SC NAT	6			T F						
Big Lake South	SBS SC NAT	11			T F						

Park Unit or Subunit	Y e p e	S e i n	S i n	Area	Camp- sites	11	12	Potential Use	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Bonnie Lake		SRS	SC	MAT	11		Y						NONE	
Casper Lake		SRS	SC	MAT	11		Y	Y				CURRENT SITE PLAN	NONE	
East Mountain		SRS	SC	MAT	22			Y				NONE	NONE	
Long Lake		SRS	SC	MAT	9		Y					NONE	NONE	
Mt. Mansfield		SRS	SC	MAT	12			Y				CURRENT SITE PLAN	NONE	
Montana Creek		SRS	SC	MAT							AREA OPERATION	CURRENT SITE PLAN	NONE	

131

Park Dist or Subunit	Site Type	Area	Cap-in sites	Cap- ground	Potential fee	Existing Commercial Use	Concession Contract	Potential Concessions	Park Plans	Advisory Board	Notes
Mouse Creek	SRS	SC	MAY	12		Y			CURRENT SITE PLAN	NONE	
Nancy Lake	SBS	SC	MAY	10	Y	Y		CANOE RENTALS	DRAFT MASTER PLAN	NONE	
Rocky Lake	SBS	SC	MAY	10	Y	Y			CURRENT SITE PLAN	NONE	
W/low Creek	SBS	SC	MAY	7		Y			CURRENT SITE PLAN	NONE	
W-11 Lake	SBS	SC	MAY	1					DRAFT SITE PLAN	NONE	
Repton-Hadley Lakes	SHA	SC	MAY					CANOE RENTALS	DRAFT MASTER PLAN	NONE	

132

Park Unit or Subunit	Area	Camp- sites	Potential Camp- ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Independence Mine	SUP	SC	NAT			LOADING/FUEL/ CONFERENCE CTR	DRAFT TRAIL PLAN	INTERSTATE TRIP STOP ADVISORY BRD.	FRIENDS OF INDEPENDENCE TRIP STOP
Blueberry Lake	SBS	SC	SCUP	15			CURRENT SITE PLAN	NONE	
Dry Creek	SBS	SC	SCUP	50	Y	CAMPERS TRAIL	CURRENT SITE PLAN	NONE	
Liberty Falls	SBS	SC	SCUP	8				NONE	
Little Melchior	SBS	SC	SCUP	11				NONE	
Little Tonsina	SBS	SC	SCUP	8	Y	CAMPERS TRAIL		NONE	

133

Park Unit or Subunit	SR Type	SC In	CUP Area	12 Sites	10 a Potential 11 Camp- ground	11 a Potential 12 Camp- ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Deerpine Creek	SRS	SC	CUP	12					CAMPGROUND OPERATION		NONE	
Squirrel Creek	SRS	SC	CUP	14							NONE	
Osage Creek	SRS	SC	CUP	10	Y				CAMPGROUND OPERATION		NONE	
Washington Glacier	SRS	SC	CUP			42				CURRENT SITE PLAN		
Lake Louise	SRA	SC	CUP	16	Y	Y		CABIN RENTALS		CURRENT SITE PLAN	NONE	

134

Park Unit or Subunit	Site	Area	Cap- inten	Cap- ground	Potential fee	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Bushin River	SRB	SC	RUB	10	Y	Y	RAFT RACE SHORT FISH GUIDES		CURRENT SITE PLAN	KODIAK AREA SP AD BOARD	
Panagohak	SRB	SC	RUB				SHORT FISH GUIDES		CURRENT SITE PLAN	" " " "	
Shuyak Island	SP	SC	RUB	4					DRAFT MANAGEMENT PLAN	KODIAK AREA SP AD BOARD	
Fort Abercrombie	SRB	SC	RUB	14			TOUR BUSES	MUSEUM OPERATIONS	CURRENT MANAGEMENT PLAN	KODIAK AREA SP AD BOARD	

135

State Unit (or Subunit)	SP	SE	HNS	Area (miles ²)	Potential Camp- ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Chilkat	SP	SE	HNS	32	Y	TOUR BUSES			CURRENT SITE PLANS	NONE	
Chilkat Bald Eagle	SPR	SE	HNS			TOUR BUSES, RIVER TRIPS, NATURAL HISTORY TOURS			CURRENT MANAGEMENT PLAN	ALASKA CHILKAT BALD EAGLE PRESERVE AD BOARD	
Mosquito Lake	SRS	SE	HNS	11	Y	Y			NONE	NONE	
Chilkoot Trail	SP	SE	HNS						NONE	NONE	
Oliver Inlet	SMP	SE	JNU						NONE	NONE	
Shelter Island	SMP	SE	JNU								
Saint James Bay	SMP	SE	JNU								
Sullivan Island	SMP	SE	JNU								
Chilkat Islands	SMP	SE	JNU						↓	↓	

Park Unit or Subunit	SR Type	SR Location	SR Area	U a	H a	L a	Commercial Use	Concession Contracts	Potential Concerns	Park Plans	Advisory Board	Notes
Old Saha	SHP	SE	STR				Existing Commercial Use			CURRENT SITE PLAN	SITHA AREA SP ADVISORY BOARD	
Juneau Trail System	SPT	SE	JNO								JUNEAU AREA SP ADVISORY BOARD	
Johnson Creek	SRS	SE	JNO								NONE	
Markers	SMS	SE	JNO				HISTORICAL TOURS		OPERATION OF HISTORIC HOME		NONE	
Millwood Lake	SRS	SE	JNS	12	Y	Y					NONE	
Portage Pass	SRS	SE	JNS	4							NONE	

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

January 23, 1987

The Honorable Adelheid Herrmann, Co-Chairwoman
The Honorable Sam Cotten, Co-Chairman
House Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representatives Herrmann and Cotten:

Subject: HB 16 which relates to the levy and collection of fees for the use of state park facilities.

Response: The Department of Natural Resources strongly supports the concept of charging a fee for the use of developed state park or recreation area campsites.

Background: The Alaska State Park System is the only one in the nation that does not levy user fees for its facilities. Within Alaska, the U.S. Forest Service, National Park Service, Fish and Wildlife Service, Bureau of Land Management, and several municipalities all charge fees for campground use.

While the department currently charges fees for overnight use of cabins and for special or commercial use permits for parks and recreation areas, a motor vehicle statute AS 28.10.411(e) (copy enclosed) effectively prevents us from charging campsite fees for any vehicle registered in Alaska.

Recommendations: We recommend several additions to this bill to accommodate the realities of operating park and recreation areas with a reduced budget. Our proposed amendments would also allow continuation of existing park fee programs that may otherwise "sunset" this year as a result of last year's procurement bill (HB 696).

1. Expand the list of facilities for which fees can be charged to include public use cabins or other overnight lodging rentals, special park use permits, and non-competitive and non-exclusive commercial use permits. We currently charge fees for these uses but will be prevented from doing so on July 1, 1987, unless

these charges are specifically authorized by statute. We would prefer that a limitation on the dollar amount of fees not be included in the bill. Fees could be established by regulation, in consideration of the public interest.

2. Add a new section to allow concessionaires who contract with the department for operation of park or recreation areas to charge fees for day-uses as well as camping. There are some park campground facilities that could be successfully operated by the private sector if fees for boat launching, parking for access to boat launching facilities, lodging, food and other goods and services could be charged. The following language would achieve that purpose:

Notwithstanding the provisions of subsection (a) above, concessionaires operating park facilities under contract with the state may levy fees for activities including but not limited to: use of boat launch facilities, picnic areas, parking for access to water-based recreation opportunities, overnight lodging, food, gifts and other goods or services.

3. Add a new section to allow collected park fees to be appropriated to the department to help fund park and recreation area operations. The following language would establish this park "program receipts" authority for the department:

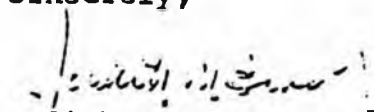
Revenues collected by the state under this subsection shall be deposited in the general fund. The commissioner of administration shall separately account for revenues collected and deposited by the commissioner under this subsection. The annual estimated balance in the account may be appropriated by the Legislature to the Department of Natural Resources to carry out the purposes of AS 41.21.020.

Conclusion: Enacting a park fee bill will allow those who use costly park facilities to help pay for their maintenance and development. In addition, allowing the state to charge camping or recreational use fees will eliminate the unfair competition that now exists with private campground owners who must charge fees to stay in business.

January 23, 1987

I have enclosed a draft park fee bill which incorporates the ideas contained within HB 19 and the department's recommendations into one. I have also provided a briefing paper related to this draft bill. Please let me know if I may provide additional information about park user fees.

Sincerely,


Judith M. Brady
Commissioner

Enclosures

cc: Sponsors
Committee Members
Neil Jhannsen
Mike Bradner

SENATE COMMITTEE REPORT

FURTHER: FINANCE

4/24/87

DATE TURNED INTO OFFICE 5/13/87

Mr. President:

RESOURCES Committee considered CSHB 16(Fin) am

levy and collection of fees for the use of state park system facilities; relating to contracts for services and facilities in the state park system;efd.

and recommended:

[] replace with 5 CS FOR CSHB 16 (res)) [] same title
[] or adopt _____ CS FOR _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [] fiscal impact

Senate Resources fiscal impact attach
MEMBERS SIGNING DO PASS OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]
Chairman signature and recommendation DO PASS

[] Committee Backup Attached

SENATE COMMITTEE REPORT

FURTHER:

RESOURCES
FINANCE

3/12/87

DATE TURNED INTO OFFICE

4/24/87

Mr. President:

C&RA

Committee considered

CSHB 16(Fin) am

levy and collection of fees for the use of state park system facilities; relating to contracts for services and facilities in the state park system; efd.

and recommended:

replace with Senate CS FOR HB 16 (C+RA)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

Rich Hatford
Mike Synn

OTHER RECOMMENDATIONS

Frank J. Zawacki No Rec

Artis Stungulowski, D. Pass
Chairman signature and recommendation

Committee Backup Attached