

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2814

## ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public-need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

### *The extent to which the board, commission, or program has operated in the public interest.*

The board through its administration of architects, engineers, land surveyors, and landscape architects licensure, has endeavored to present competent professionals to the public. There is a public need for this board because of the professional expertise required to practice the various professions within its purview. The licensing of applicants who meet necessary qualifications is necessary to protect the public's safety, health, and welfare.

The board is responsible for adopting regulations to ensure only persons with the proper qualifications are admitted into the profession. The board disciplines, suspends, or revokes licenses of practitioners who have committed acts listed as violations under state law. Licensees are required to stamp final drawings, specifications, surveys, plats, plates, reports, or similar documents with a seal bearing the registrant's name, registration number, and the profession for which they are registered. By affixing this seal and signing the documents, the registrant certifies that these documents were prepared by or under the registrant's direct supervision, and the registrant has met the minimum standards set to protect public safety, health, and welfare.

The board has established regulations governing its duties and licensure requirements, enforces the laws for issuing licenses in a uniform and consistent manner, holds meetings, and administers examinations in accordance with statutory requirements.

### *The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.*

Alaska Statute 08.01.065(c) states, "... the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." Further, AS 08.01.065(f) requires, "... the total amount of fees collected by the State Board of Registration for Architects, Engineers, and Land Surveyors approximately equals the total regulatory costs of the department and the board for all occupations regulated by the board."

The revenues for the Board of Registration for Architects, Engineers, and Land Surveyors come from licensing and renewal fees. Renewals are conducted on a biennial basis and are due by December 31<sup>st</sup> of odd-numbered years. This creates a two-year cycle in board

revenues, with BRAELS receiving most of its revenues during the renewal period. We reviewed the internal records maintained by the Division of Occupational Licensing (OccLic) for revenues and expenditures associated with BRAELS. The schedule in Exhibit 1 reflects financial information of the board for FY 02, FY 03, and FY 04. We did not audit this information, but present it for general information purposes.

Exhibit 1

<b>State of Alaska</b> <b>State Board of Registration for</b> <b>Architects, Engineers, and Land Surveyors</b> <b>Schedule of License Revenues and Board Expenditures</b> <b>FY 02 - FY 04</b> <b>(Unaudited)</b>			
	<u>FY 04</u>	<u>FY 03</u>	<u>FY 02</u>
Revenue	\$ <u>1,174,500</u>	\$ <u>166,600</u>	\$ <u>1,143,600</u>
Direct Expenditures			
Personal Services	254,400	215,000	212,200
Travel	50,800	51,700	49,500
Contractual	168,200	84,200	106,700
Supplies	1,000	1,800	2,100
Equipment	-0-	700	-0-
Total Direct Expenditures	<u>474,400</u>	<u>353,400</u>	<u>370,500</u>
Indirect Expenditures	<u>314,600</u>	<u>298,100</u>	<u>264,500</u>
Total Expenditures	<u>789,000</u>	<u>651,500</u>	<u>635,000</u>
Net Income (Loss)	<u>385,500</u>	<u>(484,900)</u>	<u>508,600</u>
Beginning Cumulative Surplus (Deficit)	84,100	569,000	60,400
Ending Cumulative Surplus (Deficit)	\$ <u>469,600</u>	\$ <u>84,100</u>	\$ <u>569,000</u>

During the period covered by the sunset review, it appears licensing fees were adequately set. The board ended FY 01 with a net balance of just over \$60,000 and has managed to maintain sufficient surplus to carry them through the lower revenue nonrenewal years without incurring a deficit. Given the number of professions and the total number of licensees the board regulates, the cumulative surplus of \$469,600 at the FY 04 year-end is not unreasonable given expected lower revenues in FY 05.

*The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.*

Several changes were made to the board's statutes during the period under review. The board supported these changes, with the more significant issues being:

- (1) the addition of Limited Liability Companies and Limited Liability Partnerships to the organizations authorized to practice under the jurisdiction of BRAELS (Chapter 38, SLA 2000); and,
- (2) the authority for BRAELS to establish continuing education requirements for individuals regulated by the board (Chapter 66, SLA 2004).

*The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.*

Regulatory changes made by the board included:

- (1) acceptance of NCEES "model law engineer" council record as meeting minimum standards for engineer registration by comity (12 AAC 36.105(f));<sup>8</sup>
- (2) a requirement that a minimum of two years of course work in an ABET (Accreditation Board for Engineering and Technology) accredited engineering curriculum be completed by applicants prior to taking the fundamentals and professional engineering examinations (12 AAC 36.062);
- (3) allowing disciplinary sanctions against an Alaskan registrant, if another jurisdiction has disciplined the individual (12 AAC 36.320); and,
- (4) revision of the expired license regulation so retesting is no longer required. An applicant previously registered in Alaska, whose license has expired needs only to prove they have taken one of the examinations listed in 12 AAC 36.100.

The location, date, and time of upcoming board meetings, examination dates, and notices of proposed regulatory changes are published in the *Anchorage Daily News*, the board's internet website and the State's online public notice internet website. The State also offers a subscription service whereby the State will email public notices to the subscriber.

<sup>8</sup> There is an exception, which involves an applicant that has taken a principles and practices examination in a branch of engineering outside the six core disciplines that Alaska licenses. In such cases, the applicant would be required to provide additional work experience in one of the six branches, or sit for the examination in one of the Alaska-recognized six core disciplines.

*The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.*

Public notices of proposed regulations are published in major newspapers. Meetings are adequately advertised, and time is set aside for public testimony. The board reviews all public correspondence at their meetings.

The board's meeting agenda sets aside adequate time for the board to take public comment. Minutes from the meetings of the board reflect public participation throughout the meeting. Proposed regulations are often circulated to those affected by the proposed regulations through professional trade journals, public notice advertisement, or direct mail correspondence from OccLic.

*The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.*

For the period July 2001 through May 2004, OccLic opened 92 investigative cases related to individuals either seeking licensure or licensed by the BRAELS. Of those cases, approximately 40% were initiated by OccLic staff. Another 16% came from complaints of individuals holding a BRAELS or other related license. Other government agencies generated approximately 20% of the complaints while the general public generated 15%. The remaining 9% came from various sources such as clients, inquiries from other states, or other law enforcement agencies.

As of June 2004, 33 of the 92 complaints remained open. We reviewed nine complaints that had been open for longer than 120 days; the average length of time these cases had been opened exceeded a year (397 days). Four of the nine complaints involved allegations of unlicensed practice; three alleged incompetence; one was a complaint about a possible professional ethics violation; and, one involved fraud or misrepresentation.

Seven of the nine cases reviewed had periods of inactivity exceeding 90 days. Three of the cases that had been significantly delayed involved consultation with "expert witnesses." There was no apparent rationale for the delays in the remaining six complaints. Based on evidence reviewed, we conclude BRAELS complaints are not consistently being resolved efficiently. Efficiency issues related to investigations are being evaluated in another audit report. This report addresses the history, and evaluates the effectiveness, of the State's overall sunset process.

No complaints or investigations specifically involving the actions and activities of the Board of Registration for Architects, Engineers, and Land Surveyors were received, or undertaken

by, either the Office of the Ombudsman or the Office of Victim's Rights within the past three fiscal years.

*The extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.*

The board is statutorily responsible for the issuance of all licenses. A person may apply for licensure by examination or by using past performance records. Licensure using past performance records is more commonly referred to as licensure by comity. The application process for licensing appears reasonable and appropriate.

Overall, the application process for licensing appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax. Each applicant is required to satisfy requirements for licensing. When reviewing licensure procedures, we found no instances of unqualified applicants being awarded a license.

Exhibit 2 summarizes licensing activity for the past three fiscal years, listing the number of new licenses issued per year and the number of current license holders regulated by the board at the end of FY 04.

Exhibit 2

New Licenses Issued (Exclusive of Renewals)	FY 01	FY 02	FY 03	FY 04	Active as of June 30, 2004
Engineers - Chemical	7	10	6	8	97
Engineers - Civil	91	139	111	113	2,610
Engineers - Electrical	23	32	25	30	548
Engineers - Mechanical	34	30	36	35	622
Engineers - Mining	0	1	1	2	31
Engineers - Petroleum	5	1	8	5	105
<b>Total Engineers</b>	<b>160</b>	<b>213</b>	<b>187</b>	<b>193</b>	<b>4,013</b>
Architects	23	12	20	13	502
Land Surveyors	14	33	14	7	585
Landscape Architects	6	5	8	5	30
Corporate Authorization	36	36	41	33	342
<b>Total licenses issued</b>	<b>239</b>	<b>299</b>	<b>270</b>	<b>251</b>	<b>5,472</b>

*The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.*

The Ombudsman received no complaints regarding the Division of Occupational Licensing. We did not find any evidence that the board was not complying with State personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

*The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interest of the public and to comply with the factors enumerated in AS 44.66.050.*

Annually, the board prepares a report for the Department of Commerce, Community, and Economic Development, Division of Occupational Licensing. This report includes information on the prior year activities of the board including their goals and objectives, legislative recommendations, budget report, and a statistical overview of licensing activity. Minor errors in statistical information and omission of several sections of the reports were consistently found from year to year. Due care and attention should be paid to the preparation of all schedules and reports included in the annual report, so as not to bring into question the overall integrity of the report.

As discussed in Prior Year Recommendation No. 1, the board has obtained statutory authority to write regulations requiring continuing education (CE) as a condition for registration renewal. There appears to be some willingness on the part of the board to develop regulations that would require mandatory CE for the renewal of land surveyor licenses. However, for architects and engineers, the board believes many registrants are voluntarily complying with continuing education requirements of their respective professional organizations. Requiring CE for all licensees would safeguard the public interest by ensuring registrants maintain a minimal level of competence consistent with current standards and information related to the regulated profession.

As discussed in Recommendation No. 2, we recommend that BRAELS conduct a study to assess the costs and benefits involved with possibly expanding the number of licensed engineering disciplines that would be recognized by the board.



OFFICE OF THE COMMISSIONER

*Frank H. Murkowski, Governor*

December 30, 2004

Pat Davidson  
Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

RECEIVED  
DEC 30 2004  
LEGISLATIVE AUDIT

RE: Board of Registration for Architects, Engineers and Land Surveyors

Dear Ms. Davidson:

Thank you for the opportunity to review the Board of Registration for Architects, Engineers, and Land Surveyors (BRAELS) Preliminary Audit Report.

Comments on the recommendations are noted below:

**Recommendation No. 1:**

The legislature should consider changes to the statutes mandating that BRAELS require continuing professional education of its licensees:

It is our understanding the board is not opposed to adopting a continuing education (c e) program. The board is considering implementing a voluntary or mandatory CE program since statutory authority was granted effective September 14, 2004. The board assigned a subgroup to study CE and make recommendations to the board. The subgroup is reviewing issues surrounding adoption of a mandatory program including: perceived administrative burden to registrants, concern of availability of courses, costs to registrants to comply, staff time to implement and oversee a regulatory CE program, expected drop off in registrants deciding not to renew, and no demonstrated correlation between design professional's performance with mandatory CE and those not submitting to a mandatory CE program.

**Recommendation No. 2:**

BRAELS should arrange for a comprehensive study regarding the public benefits and related off-setting costs that may be involved with recognizing additional engineering specialties in the state's licensing structure.

The board currently has assigned a subgroup to study engineering disciplines. The board believes specialties can be practiced as sub-sets of the core disciplines, although the board is currently studying

adding additional branches. So far, the small number of requests for licensure in sub-disciplines of civil, electrical, and mechanical engineering less than 25 in 5 years have not, in the opinion of the board, warranted specific specialty licensure (sub-disciplines) because applicants can currently get licensed in a core discipline, and then can specialize their practice.

For example, environmental engineering applicants are not excluded from registration but the licensure path is via core disciplines. Environmental engineers by examination can take the civil professional engineering examination and can select "environmental" as the afternoon depth segment of the examination.

One concern the board has is due to the unique size of Alaska and cost to ensure compliance with its statutes and regulations. Alaska is unique because it is a large state geographically, with limited site inspections by investigators. Investigators are responsible for having many small communities without building officials to oversee the construction. Site inspections help provide assurances for health, safety, and welfare. With a limited investigative staff (1.5 investigators are assigned to BRAELS), considerations of how enforcement staff may be affected by changes in disciplines will need to be considered.

Alaska, like California and seven other states, limits the number of disciplines licensed.

Per the 2003 NCEES Survey, Alaska, and 11 other jurisdictions license by discipline (CA, AZ, NV, WV, NE, HE, WY, VT, RI, GU, NMI), about roughly 22 percent of registered engineers in the U.S. The largest of these, California, does *not* offer the newest professional engineering exams such as environmental, Structural I or Naval Architectural and Marine engineering but, does offer *most* disciplines or branches of engineering.

Another concern the board has is how licensure of sub-disciplines would affect current registrants of the six core disciplines. For example, civil engineers may no longer be able to continue to offer specialized services such as environmental engineering, or they may be subject to additional examination or licensure in order to work as "environmental engineers."

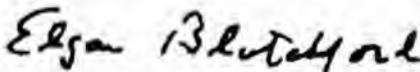
**Recommendation No. 3:**

**The legislature should consider making the landscape architect representative to BRAELS a full, voting member.**

The board agrees the matter of board member representation should be considered. Extending the landscape architect board representative was recommended in the FY 04 Annual report as a Legislative recommendation, although not all board members concur whether the landscape architect board representative should be "voting" or remain a "non-voting" member. The board is also considering whether the mining engineer representative should be broadened to include petroleum engineer (or possibly geological engineer if geological engineering branch is eventually added as a discipline). The legislature may want to address this aspect of the board make-up in addition to the landscape architect matter.

Again, thank you for the opportunity to comment.

Sincerely,

  
Edgar Blatchford  
Commissioner

cc: Rick Urion, Director  
Division of Occupational Licensing

RECEIVED  
DEC 20 2004  
LEGISLATIVE AUDIT



**DIVISION OF OCCUPATIONAL LICENSING**  
Board of Registration for Architects, Engineers, and Land Surveyors (AELS)

*Frank H. Murkowski, Governor*

December 16, 2004

Pat Davidson, Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

Dear Pat:

In response to the recommendations by the Division of Legislative Audit (Audit Control Number 08-20028005), as current AELS Board Chair, I am happy to respond on behalf of the Board to the three Legislative Audit recommendations:

**1. Continuing Education:**

Prior Audit Recommendation No. 1 and current recommendation that the board either develop appropriate mandatory CE requirements for its professional registrants or the legislature considers making such requirements mandatory by statute.

The Board is currently considering if it should require a mandatory CE program and will consider the requirements for its licensees with respect to health, safety, and welfare of the public.

Background and Board Actions:

In 2000, the Legislative Budget and Audit Committee recommended the Legislature should consider revising statutes requiring continuing education for architects, engineers, and land surveyors, and the board regulations requiring that some level of continuing education (CE) be mandated. Recommendation for CE was also included in the 1996 audit.

Board Actions/Meetings

At numerous meetings in 2001 and 2002, the Board has discussed if it should proceed with CE. It did not feel there was uniform support for mandatory CE. Consequently, the Board did not implement a mandatory program as a condition of renewal. At the urging of the Alaska Professional Society of Land Surveyors (ASPLS) for mandatory CE for land surveyors, in its annual report to the Legislature, asked the Legislature to grant statutory authority. Through the efforts of the Alaska Professional Design Council (APDC), and its member ASPLS, HB 252 was introduced in April 2003, providing the

statutory framework for CE. The bill passed the Legislature in May 2004, granting the statutory authority to develop regulations as a condition of license renewal, not to exceed national norms.

At its June 2004 meeting, since the Board has 7 new Board members since 2002, the Chair requested a new Subgroup be formed to assess the current trends and support for a mandatory or voluntary program for CE. In the past, some registrants have expressed concern for costs involved to administer CE; costs for courses; concern about governmental oversight; and effectiveness of mandatory CE for architects, engineers, land surveyors, and landscape architects.

The CE subgroup, under the leadership of Board member Boyd Brownfeld, is working first, to decide if the Board will embrace CE as a matter of state policy. Since there are costs involved to registrants, the subgroup is proceeding carefully. Next, it will review current requirements for U.S. jurisdictions by profession, and to assess support for mandatory continuing education by profession.

Many AELS Board members, some registrants and professional societies strongly support CE to maximize their professional skills, the real question is if the requirements will ensure public health and safety are met. There are many approaches to address CE. A mandatory education program will be an administrative burden to registrants, through the cost of the program, and may provide little tangible proof the ones who could benefit most will acquire skills. There is no question that participating in many courses and seminars is beneficial, but some may seek ways to meet the requirements without really improving their professional skills. Crafting a mandatory program, administered by state government, is a serious matter, with the potential for disciplinary action on licensees. Creating a successful volunteer program would require effective incentives. Some professional organizations, such as the American Institute of Architects (AIA), require its members to meet CE to be in good standing, and offer countless courses and will track CE for members. One option the Board can consider would be to recommend professional societies develop and model CE programs, using the effective AIA model.

Status reports have been given at the August and November 2004 AELS Board meetings, and it is anticipated the subgroup will report its recommendations at the February 2005 AELS Board meeting.

## **2. Expand Engineering Disciplines Offered**

### **Recommendation No. 2**

**That AELS should arrange for a comprehensive study regarding the public benefits and related off-setting costs that may be involved with recognizing additional engineering specialties in the State's licensing structure.**

The AELS Board agrees it would be useful to have a comprehensive study and will explore the option to partner with professional societies and the University of Alaska. A comprehensive study may prove cost prohibitive and it may be possible to move forward with expansion of disciplines if its own subgroup recommends expansion based on public protection and public need for services.

### **Background and Board Actions on Engineering Disciplines:**

In the past five years, the AELS Board has considered adding to the six engineering disciplines its licenses. The Board has concluded the specialty practice can be performed as a sub-set of the core disciplines of civil, electrical, mechanical, chemical, mining, and petroleum, and did not find necessity to add expand the disciplines offered. So far, the small number of requests from sub-disciplines of civil, electrical, and mechanical engineering (less than 25 in 5 years) have not, in the opinion of the Board, warranted specific specialty licensure (sub-disciplines) because applicants can get licensed in a core discipline, and then can specialize their practice. For example, environmental engineering applicants are not excluded from registration but the licensure path is via core disciplines. Environmental engineers by examination can take the civil engineering examination and can select "environmental" as the afternoon depth segment of the examination.

With recent requests by control system engineers, and geological engineers seeking specialty licensure, the Board is revisiting the issue of adding additional engineering branches. The AELS Board has formed a subgroup, under the leadership of Robert Gilfilian, assigned to study engineering disciplines, in particular, control systems, environmental engineering, fire protection, and geological engineering branches.

One concern the Board has is how licensure of sub-disciplines, such as environmental engineering, would affect current registrants. Some registered civil engineers have built an environmental engineering practice (a subset of civil engineering). It is possible that requests for proposals (RFPs) would specify registration as an "environmental engineer" in order to provide environmental engineering services on projects. If that happened it may be necessary for civil engineers practicing environmental engineering to take the environmental examination in order to continue to offer special services. Or it may be necessary to require dual licensure with biennial fees for "civil engineering" and "environmental engineering" practices in order to provide a full scope of services.

Another concern the Board has is the impact additional branches of engineering and overlap between professions that requires investigative action to ensure public protection is met. The AELS Board supports increased site inspections and travel for its investigators to ensure adequate oversight of projects.

The Board anticipates the subgroup will make recommendations to the full AELS Board at its February 2005 AELS Board meeting.

### **3. Consider adding a permanent voting Landscape Architect Board member**

Recommendation # 3: The legislature should consider making the landscape architect representative to BRAELS a full, voting member.

Composition of the Board has been a consideration of the Board, and the Board agrees the matter should be considered. Extending the landscape architect board member was recommended in the FY 04 Annual report as a Legislative recommendation, although not all board members concur if the landscape architect board member should be "voting" or remain "non-voting" since only 31 landscape architects are licensed in Alaska. The Board has faced a similar issue with respect to the "mining engineer" Board member, with only 33 mining engineers registered in Alaska. The Board recognizes the difficulty has been to find licensees willing to serve from such a small pool of eligible registrants.

Also being considered and studied is if the Board should ask the Legislature to address the issue to expand the "mining engineer" Board member position to include related fields of petroleum and geological engineering.

#### 4. Other Comments

The Board recognizes the importance of efficient investigators and agrees cases should be handled timely and efficiently. The Board requested and was granted an additional half-time investigator to provide better coverage for investigations statewide. The Board works closely with its full-time and part-time investigator and would like to note that the quantity and quality of the work of its current investigative staff is very much appreciated by the Board. The Board has also asked the Division of Occupational Licensing for additional site investigations to ensure the appropriate professionals are involved in the design of large residential, commercial, and public projects.

I appreciate the opportunity to make comments on behalf of the AELS Board.

Sincerely,



Donald J. Iverson, Chair  
Board of Registration for Architects, Engineers,  
and Land Surveyors (AELS)

Adopted  
3/1/05

AMENDMENT 1

OFFERED IN THE HOUSE

TO: HB 35

1 Page 1, line 2, following "Surveyors;":

2 Insert "relating to the membership of the State Board of Registration for  
3 Architects, Engineers, and Land Surveyors;"

4

5 Page 1, following line 6:

6 Insert new bill sections to read:

7 \*\* Sec. 2. AS 08.48.011(b) is amended to read:

8 (b) The board consists of 11 [10] members appointed by the governor having  
9 the qualifications as set out in AS 08.48.031. The board consists of

10 (1) two civil engineers;

11 (2) [,] two land surveyors;

12 (3) [,] one mining engineer;

13 (4) [,] one electrical or mechanical engineer;

14 (5) [,] one engineer from another branch of the profession of  
15 engineering;

16 (6) [,] two architects;

17 (7) one landscape architect; [,] and

18 (8) one public member.

19 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 APPOINTMENT OF NEW BOARD MEMBER. (a) On or before September 1,  
22 2005, the governor shall appoint a new member to the State Board of Registration for  
23 Architects, Engineers, and Land Surveyors to satisfy the requirement of AS 08.48.011(b), as

1 amended by sec. 2 of this Act. The member shall be an individual who is registered under  
2 AS 08.48 to engage in the practice of landscape architecture and who is otherwise qualified  
3 under AS 08.48.031 to be a member of the State Board of Registration for Architects,  
4 Engineers, and Land Surveyors.

5 (b) The term of the member appointed under (a) of this section is four years from the  
6 date of appointment."

7

8 Renumber the following bill section accordingly.

HOUSE FINANCE COMMITTEE  
AGENDA

March 1, 2005 - Tuesday

**HB 35-EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS**

Representative Kohring/ Charisse Millett, Staff

Sam Kito III, Alaska Profession Design Council  
(Will speak to the amendment)

Questions:

Pat Davidson, Legislative Auditor, Audit Division

~~Rick Urion, Director Occupational Licensing, DCCED~~

**Overview: Amerada Hess/Alaska Capital Corporation**

**(The intent is to hold questions until after the public testimony)**

**Presenting together:**

**Cheryl Frasca, Director, OMB**

**Devon Mitchell, Exc. Dir., AK Municipal Bond Bank Authority**

**Michael Burns, Executive Director, APFC**

**Tom Boutin, Deputy Commissioner, Department of Revenue**

**John MacKinnon, Deputy Director, DOT**

**Via Teleconference:**

**Murphy O'Brien, Matsu Borough**

**Jane Dale, Palmer**

**Mark Begich, Mayor, City of Anchorage.**

**Gary Davis, Kenai Peninsula Borough**

~~**John Combs, Mayor, Palmer**~~



# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 35  
(H) Publish Date: 2/2/05

Revision Date/Time (Note if correction):  
Title Extend Board: Dept. Affected Commerce  
Architects/Engineers/Surveyors RDU Occupational Licensing (117)  
Sponsor Kohring Component Occupational Licensing  
Requester House Labor & Commerce Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services		254.4	254.4	254.4	254.4	
Travel		50.8	50.8	50.8	50.8	
Contractual		168.2	168.2	168.2	168.2	
Supplies		1.0	1.0	1.0	1.0	
Equipment		0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1156 )</b>	<b>0.0</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.0	474.4	474.4	474.4	474.4	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 474.4  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	1	1	1	1	0
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the State Board of Registration for Architects, Engineers, and Land Surveyors to June 30, 2009. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2006 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2006 budget. The Board supports an Executive Administrator position exclusively assigned to the licensing program. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone: (907) 465-2144  
Division: Occupational Licensing Date/Time: 1/25/05 6:09 PM  
Approved by: Edgar Blatchford Date: 1/25/2005  
Agency: Commerce, Community, and Economic Development

# ALASKA STATE LEGISLATURE

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REPRESENTATIVE VIC KOHRING  
DISTRICT 14

## House Bill 35 Sponsor Statement

### Extension of the termination date for the Board of Registration for Architects, Engineers and Land Surveyors

House Bill 35 extends the termination date for the Board of Registration for Architects, Engineers and Land Surveyors for an additional five years. The current termination date is set for June 30, 2005. If the Legislature takes no action to extend the board, it will go into a one-year phase out to allow the board to conclude its administrative operations, followed by termination.

The board consists of 11 members appointed by the governor. It consists of two civil engineers, two land surveyors, one mining engineer, one electrical or mechanical engineer, one engineer from another branch of the profession of engineering, two architects, one landscape architect, and one public member. The purpose of the board is to adopt regulations, oversee examinations, suspend, revoke or refuse the issuance of new licenses, and issue licenses to practice to architects, engineers, and land surveyors who meet standards of education and training determined to be necessary by the board.

The Legislative Audit Division performed an audit of the board dated November 1, 2004 as required by statute, and recommends that it be extended to June 30, 2009. The Division found the board to be operating in the public interest by effectively regulating the individuals who hold themselves out to the public as registered architects, engineers, land surveyors, and landscape architects. Further, the Division found the board has demonstrated an ability to conduct its business in a satisfactory manner, has been effective in developing regulations, and has ensured that licensees are competent and consistently practice within the requirements and ethical standards of the respective professions.

HB 35



DIVISION OF OCCUPATIONAL LICENSING

Frank H. Murkowski, Governor

February 25, 2005

Senator Gene Therriault, Chair  
 Representative Ralph Samuels, Vice-Chair  
 Legislative Budget and Audit Committee  
 P.O. Box 113300  
 Juneau, AK 99811-3300

The Honorable Senator Therriault and Representative Samuels,

I would like to submit a follow-up letter to the Legislative Budget and Audit #08-20028-05, regarding the sunset audit report of the Alaska Board of Registration for Architects, Engineers, and Land Surveyors (AELS). The AELS Board reviewed the sunset audit at its Quarterly AELS Board meeting on February 17-18, 2005.

The former AELS Board Chair, Donald J. Iverson, previously responded to the preliminary audit on December 16, 2004. The AELS Board reviewed and confirmed support for the letter of response from Iverson. (a copy of the letter is contained within the sunset audit report). The AELS Board discussed the sunset audit report and has the following additional comments and actions taken:

**Prior Audit Recommendation No. 1**

The legislature should consider changes to the statutes mandating that BRAELS require continuing professional education of its licensees. We continue to recommend the board either develop appropriate mandatory CE requirements for its professional registrants or the legislature considers making such requirements mandatory by statute.

The AELS Board adopted a draft proposal for mandatory continuing education for land surveyors only. Draft proposed regulations will be public noticed to interested parties and should be available, along with public comment, for the AELS Board to consider adopting at the June 2-3, 2005 Quarterly AELS Board meeting.

At this time, the AELS Board decided to postpone any decision for a mandatory continuing education program for the remaining professions it oversees (architects, engineers, and landscape architects). The AELS Chair assigned a Subgroup, chaired by Boyd Brownfield, P.E. to review the benefits of CE and make recommendations for the AELS Board, and to report back at its June 2005 meeting. The Subgroup has asked for feedback from professional societies to determine support for a regulatory program.

Several organizations have asked the AELS Board to allow them more time to assess support within their membership for mandatory CE program as a requirement for renewal of professional licenses. Among them are the Alaska Section of the Institute of Transportation Engineers (ITE), Mr. Anthony Strupulis, PE, Alaska Section President, and the Institute of Electrical and Electronics Engineers, Inc. (IEEE), Bogdan Hoanca, Vice Chair.

**Audit Recommendation No. 2**

BRAELS should arrange for a comprehensive study regarding the public benefits and related off-setting costs that may be involved with recognizing additional engineering specialties in the State's licensing structure.

At this time, the AELS Board has not taken action to arrange for a comprehensive study with the UA and professional societies. The AELS Board has been reviewing for several years the possibility of the addition of additional engineering disciplines (specialties) including Environmental, Control Systems, Fire Protection, and Geological Engineering. Contact has recently been made to the University of Alaska, Fairbanks to obtain input from the University of Alaska.

The Subgroup chaired by Robert Gilfilian, P.E. will continue to work with professional societies, including the Alaska Professional Design Council, to determine the public benefits of recognizing additional engineering specialties in Alaska.

**Audit Recommendation No. 3**

The legislature should consider making the landscape architect representative to BRAELS a full, voting member.

The AELS Board discussed this recommendation at its February 17-18, 2005 meeting. The majority of the AELS Board voted to support the recommendation to make the landscape architect representative a permanent, voting member.

**Other Issues****Mining Engineer Board member**

The AELS Board recommends the "mining engineer" Board member position be expanded to include "geological" and "petroleum" engineer. The current number of licensed mining engineers is very small (33) and it would benefit the Board to include petroleum engineers. At this time the Board is considering expanding disciplines to include "geological" engineering and would like the flexibility in statute to allow the related engineering field to be represented.

**Staggered Terms**

The AELS Board remains concerned that its member terms are no longer staggered. This changed when two Board members' terms expired in July 2003, and they were not replaced until 2004 (after the legislative session had reconvened).

Those two AELS Board member term dates were not updated to comport with the 1997 statutory changes for board member terms. Currently, 3 board member terms will expire March 2005, 2 terms will expire March 2006, zero terms expire March 2007, and 5 board member terms are scheduled to end in 2008.

The AELS Board believes this will create a burden to the Board to have nearly half of its board members replaced at one time. The overall AELS Board no longer has uniform staggered terms, as it had in the past. The AELS Board respectfully asks the AELC Board member terms be adjusted so 5 board member terms do not expire in 2008.

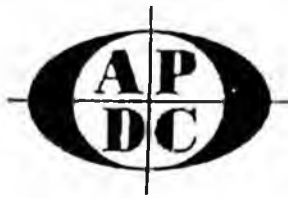
The AELS Board respectfully requests you consider and share its comments with your committees as you deliberate on HB 35, "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

Sincerely,



Kenneth D. Maynard, FAIA, Chair

cc: House Finance Co-Chairs: Rep. Mike Chenault, Rep. Kevin Meyer  
Rep. Vic Kohring



Alaska Professional Design Council • PO Box 100515 • Anchorage AK 99501-0515

MEMBER SOCIETIES

21 January, 2005

Alaska Society of Professional Engineers

Representative Vic Kohring  
State Capital via fax 465-3818  
Juneau Alaska 99801

Alaska Society of Professional Land Surveyors

Dear Representative Kohring:

American Congress on Surveying & Mapping Alaska Section

The Alaska Professional Design Council thanks you for introducing House Bill 35 extending the Board of Architects Engineers and Land Surveyors (AELS) until June 30 2009.

American Institute of Architects Alaska Chapter

The AELS Board performs a valuable function in protecting public safety through licensure and disciplinary action for the design professions. The board membership includes Architects, Engineers, Land Surveyors and a non-voting Landscape Architect who contribute their time to insure that the design professions provide a positive contribution to public safety in Alaska.


American Society of Civil Engineers Alaska Section

Please contact either myself or our Lobbyist, Amy Daugherty if you have any questions or comments.

American Society of Landscape Architects Alaska Chapter

Sincerely,

Architectural Engineering Marketing Association of Alaska

  
Sam S. Kito III, PE  
907-723-6486

American Council of Engineering Companies of Alaska

Chair, Legislative Liaison Committee  
Alaska Professional Design Council

Professional Engineers in Private Practice Alaska Chapter

American Society of Interior Designers

**HB**

**35**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/25/05

FURTHER:

DATE TURNED  
IN TO OFFICE:

REPORTED OUT

MAY 2 2005

SENATE FINANCE  
COMMITTEE

3 May 2005

Finance Committee considered

HOUSE BILL NO. 35

## HB 35 EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

and recommends:

- be replaced with S CS HB 35 (FIN)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # 10

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
Commerce	1/25/05	F407		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
Olson			✓	
Stedman	✓			
Hoffman			✓	
Wilken COCHAIR:	✓			
Green COCHAIR:	✓			

# FISCAL NOTE

REPORTED OUT

MAY 2 2005

SENATE FINANCE  
COMMITTEE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: HB 35  
 (H) Publish Date: 2/2/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Extend Board: RDU Occupational Licensing (117)  
Architects/Engineers/Surveyors Component Occupational Licensing  
 Sponsor Kohring  
 Requester House Labor & Commerce Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services		254.4	254.4	254.4	254.4	
Travel		50.8	50.8	50.8	50.8	
Contractual		168.2	168.2	168.2	168.2	
Supplies		1.0	1.0	1.0	1.0	
Equipment		0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( 1156 )</b>	<b>0.0</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>0.0</b>
------------------------------------	------------	--------------	--------------	--------------	--------------	------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.0	474.4	474.4	474.4	474.4	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>474.4</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 474.4

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	1	1	1	1	0
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the State Board of Registration for Architects, Engineers, and Land Surveyors to June 30, 2009. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2006 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2006 budget. The Board supports an Executive Administrator position exclusively assigned to the licensing program. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division Occupational Licensing Date/Time 1/25/05 6:09 PM  
 Approved by: Edgar Blatchford Date 1/25/2005  
 Agency Commerce, Community, and Economic Development

\*Sec. 2. The uncodified law of the State of Alaska enacted in sec. 31, ch. 47, SLA 1998, is amended to read:

adopted 5/2/05

Sec. 31. TEMPORARY BOARD MEMBER. After considering recommendations made by the Alaska chapter of the American Society of Landscape Architects, the governor shall appoint a landscape architect to the Board of Registration for Architects, Engineers, and Land Surveyors. The person appointed under this section

- (1) must have been a resident in the state for three consecutive years immediately preceding appointment;
- (2) serves in an advisory, nonvoting capacity on the board;
- (3) is entitled to receive state money for per diem or travel expenses for work as a board member;
- (4) serves a term that expires June 30, 2009 [2005]; and
- (5) must be registered as a landscape architect under AS 08.48.

\*Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: TEMPORARY BOARD MEMBER. The term of office of a person holding a temporary position on the Board of Registration for Architects, Engineers, and Land Surveyors before July 1, 2005, expires June 30, 2005. The person is eligible for reappointment under sec. 2 of this Act to a term beginning July 1, 2005, so long as the member continues to meet the qualifications set out in sec. 2 of this Act. The temporary member may remain in the position until the governor names a new appointee or reappoints the temporary member.

\*Sec. 4. Section 3 of this Act takes effect immediately under AS 01.10.070(c).

\*Sec. 5. Sections 1 and 2 of this Act take effect July 1, 2005.

circled portion only



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 2 May 2005 TIME: 3:40 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: Final Please

SCS HB 35 24 LS0273 \ 4

Plus 1 amendment - attached

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# ALASKA STATE LEGISLATURE

*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 373-1842  
Fax (907) 373-4729



*Session:*

State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-2186  
Fax (907) 465-3818

## REPRESENTATIVE VIC KOHRING DISTRICT 14

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# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 22, 2005

**SUBJECT:** SCS HB 35(L&C) relating to the State Board of Registration for Architects, Engineers, and Land Surveyors (Work Order No. 24-LS0273F)

**TO:** Senator Con Bunde  
Chair of the Senate Labor and Commerce Committee  
Attn: Jane

**FROM:**  Theresa Bannister  
Legislative Counsel

This memo accompanies a final of the bill described above.

This version went out without the transitional uncodified law provision that was intended to be included as bill sec. 3. Section 3 read as follows:

**TRANSITION: TEMPORARY BOARD MEMBER.** The term of office of a person holding a temporary position on the Board of Registration for Architects, Engineers, and Land Surveyors before July 1, 2005, expires June 30, 2005. The person is eligible for reappointment under sec. 2 of this Act to a term beginning July 1, 2005, if the member continues to meet the qualifications set out in sec. 2 of this Act. The temporary member may remain in the position until the governor names a new appointee or reappoints the temporary member.

This missing bill sec. 3 is necessary for the smooth operation of the transition to the new extended term of the temporary board member. Without it, there will be a lapse of one day between the extension under bill sec. 2 (the term presently expires June 30, 2005) and the effective date of sec. 2 (July 1, 2005). In addition, bill sec. 3 allows the governor to take action on the appointment before July 1, 2005, as well as allowing the current temporary member to remain in or be reappointed to the position. Since this bill has passed out of your committee, it would be appreciated if you would pass this memo on to the next committee of record.

If I may be of further assistance, please advise.

TLB:lmb  
05-139.lmb

Enclosure

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



DIVISION OF OCCUPATIONAL LICENSING

Frank H. Murkowski, Governor

February 25, 2005

Senator Gene Therriault, Chair  
Representative Ralph Samuels, Vice-Chair  
Legislative Budget and Audit Committee  
P.O. Box 113300  
Juneau, AK 99811-3300

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The AELS Board respectfully requests you consider and share its comments with your committees as you deliberate on HB 35, "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

Sincerely,



Kenneth D. Maynard, FAIA, Chair

cc: House Finance Co-Chairs: Rep. Mike Chenault; Rep. Kevin Meyer  
Rep. Vic Kohring



Alaska Professional Design Council • PO Box 100515 • Anchorage AK 99501-0515

MEMBER SOCIETIES

21 January, 2005

Alaska Society of Professional Engineers

Representative Vic Kohring  
State Capital via fax 465-3818  
Juneau Alaska 99801

Alaska Society of Professional Land Surveyors

Dear Representative Kohring:

American Congress on Surveying & Mapping Alaska Section

The Alaska Professional Design Council thanks you for introducing House Bill 35 extending the Board of Architects Engineers and Land Surveyors (AELS) until June 30 2009.

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American Society of Civil Engineers Alaska Section

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American Society of Landscape Architects Alaska Chapter

Sincerely

Architecture/Engineering Marketing Association of Alaska

Sam S. Kito III, PE  
907-723-6486

American Council of Engineering Companies of Alaska

Chair, Legislative Liaison Committee  
Alaska Professional Design Council

Professional Engineers in Private Practice Alaska Chapter

American Society of Interior Designers

# SENATE COMMITTEE REPORT

DATE: 4/11/05

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/22

Labor and Commerce Committee considered HOUSE BILL NO. 35

## HB 35 EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

and recommends:

- be replaced with S CS HB 35 (Lee)
- adopt previous CS (        )
- attached amendment(s)
- adopt Letter of Intent by          Committee
- further referral to          Committee

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # 10

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DCCD	1/2/05	✓			1

APPROPRIATION - no fiscal note

**SIGNATURES AND RECOMMENDATIONS:**

	DO PASS	DO NOT PASS	NO REC	AMEND
Davis <i>Betty Davis</i>	✓			
Seekins <i>Ralph Seekins</i>	✓			
B. Skeens <i>Ben Skeens</i>	✓			
CHAIR: <i>A. Burch</i>	✓			

**HB**

**37**

**HFIN**

**FILE**

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 25, 2005

FURTHER REFERRALS:

Date of Committee Action: 5/7/05

The FINANCE Committee considered:

HB 37

HOUSE BILL NO. 37

PUBLIC ACCESS TO FISHING STREAMS

"An Act relating to public access to fishing streams."

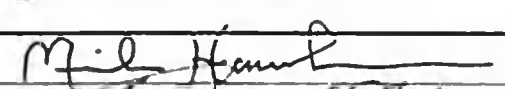
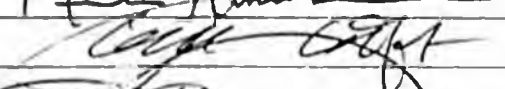
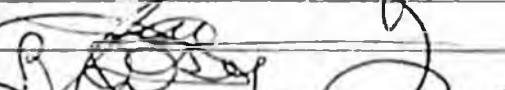
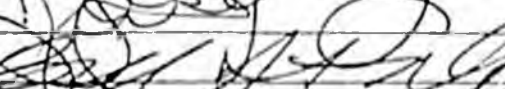
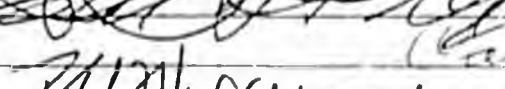
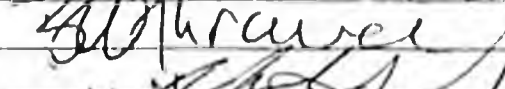

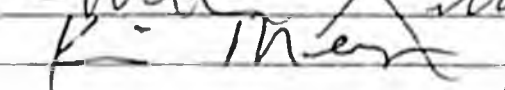


Recommends it be replaced with [ ] HCS or [✓] CS for HB 37 (FIN)  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_ [ ] Same Title [✓] New Title

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LEG  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	•FN#	Fiscal	Indet.	Zero
HFC   DNR				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DFG	#1			✓

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Hamel			✗	
	CROFT	✓			
	Holm			✗	
	FOSTER	✗			
	STORRE			✓	
	MCGEE	✗			
	Wehrhuth			✗	
	Kelly			✗	✗
Chair: 	Thier			✗	
Chair: 	Thier			✗	

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 37 (FIN)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DNR  
 Title Public Access to Fishing Streams RDU Resource Development  
 Component Title Acquisition & Defense  
 Sponsor Gara  
 Requester House Finance Committee Component No. 2459

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

Prepared by: House Finance Committee

Phone 465-4945

Approved by: Rep. Moyut, Co-Chair  
Rep. Chenault, Co-Chair

Date 05/07/05

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 37(FSH)  
(H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: An act relating to public access RDU: Sport Fisheries  
to fishing streams Component: Sport Fisheries  
Sponsor: Representative Gara  
Requester: House Special Committee on Fisheries Component No. 464

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill requires the Alaska Department of Fish and Game (ADF&G) to annually compile a list of land along fishing waterways where access to the waterways is impeded by private land ownership. In compiling this list, ADF&G is required to take public input and consider a number of conditions outlined in this bill. Once completed, ADF&G will submit this list to the Commissioner of the Department of Natural Resources for consideration. ADF&G is able to comply with the provisions in this legislation without additional funding and/or staff.

Prepared by: Sarah Gilbertson Phone: 465-6137  
Division: Legislative Liaison Date/Time: 1/28/05 8:35 a.m.  
Approved by: Acting Commissioner Wayne Regelin Date: 1/28/2005  
Agency: Alaska Department of Fish & Game

CS FIN

Delete Section 1

24-LS0284S



CS FOR HOUSE BILL NO. 37(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/25/05  
Referred: Finance

Sponsor(s): REPRESENTATIVES GARA, Elkins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to voluntary land trades and purchases to enhance public access to  
2 fishing streams."

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

4 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 FINDINGS AND INTENT. (a) The legislature finds that

7 (1) it is in the interest of private property owners to prevent the involuntary  
8 taking of private property and to sell or trade property rights only when the sale or trade is  
9 voluntary;

10 (2) the state has some of the most vibrant fishing streams in the world;

11 (3) the waters of the state are home to trophy salmon, trout, grayling, char, and  
12 other fish, and Alaskans greatly value this resource for nutritional, cultural, recreational, and  
13 other purposes;

14 (4) the state's streams are noted worldwide for the presence of wild trout, char,

1 and grayling that grow to sizes no longer achieved in many other areas of the world, and for  
2 the return of wild salmon and other anadromous fish in their natural numbers;

3 (5) it is in the interest of Alaskans to protect access to important recreational  
4 waters and to travel by water and land along these waters to fish, hike, boat, and camp;

5 (6) while the state has retained public access to and along important  
6 recreational waters when land has been transferred under current law, land sales and disposals  
7 under prior laws or by the federal government to private landowners resulted in hampered or  
8 no legal public access to important fishing waters in the state;

9 (7) in many places in the world, important recreational and fishing waters  
10 have been privatized; in those places, public access to fishing and recreational water is  
11 prohibited, and persons are prohibited from traveling, stopping, or camping along stream  
12 banks; in many other places, access is only permitted at high cost or by invitation; and

13 (8) it is in the interest of the state to try to negotiate land or easement  
14 purchases or trades for property along important fishing and recreational waters before

15 (A) it becomes too expensive to accomplish the goal of preserving and  
16 protecting public access to and along the state's important fishing waters; and

17 (B) the land has become developed and settled; if the state waits to  
18 negotiate trades and purchases until after land has been developed, the state will have  
19 to expend potentially excessive amounts of money to regain public access.

20 (b) It is the intent of the legislature

21 (1) that, in implementing this Act, the Department of Natural Resources and  
22 the Department of Fish and Game may not be placed under strictures or be subject to appeal  
23 rules that would add undue cost to this program;

24 (2) to protect the public's right to access the state's fishing streams; and

25 (3) to provide an efficient and effective way to regain public easements or  
26 ownership of land along important fishing streams that might be lost due to future private  
27 development.

28 \* Sec. 2. AS 16.05 is amended by adding a new section to read:

29 Sec. 16.05.096. Identification of privately held land along fishing  
30 waterways. (a) Before July 1 of each year, the commissioner shall submit to the  
31 commissioner of natural resources a list of land along fishing waterways where access

1 to the waterways is impeded by private land ownership.

2 (b) When identifying land for the list in (a) of this section, the commissioner  
3 shall solicit and review input from the public concerning land that may be included on  
4 the list.

5 (c) Factors to be considered by the commissioner when identifying land to be  
6 listed under (a) of this section include whether

7 (1) public access is needed to allow desirable access to and  
8 recreational or subsistence use of the fishery resources present in the waterway;

9 (2) private land ownership prevents public access to a section of the  
10 waterway that is highly desirable for its fishing or recreational attributes;

11 (3) public access to a section of the waterway would significantly  
12 enhance the public's enjoyment of that waterway;

13 (4) the waterway contains wild sport fish or fish of a species, physical  
14 size, and abundance that may support a commercial, personal use, sport, or subsistence  
15 fishery;

16 (5) the fish population on the waterway may support a catch and  
17 release sport fishing or other sport, commercial, personal use, or subsistence fishery.

18 (d) In reviewing land for identification under (a) of this section, the  
19 commissioner shall give priority to land leading to and along fishing waterways that

20 (1) is reasonably accessible by foot, including by backcountry hiking,  
21 from the state's road system;

22 (2) is undeveloped and may be acquired by the state through purchase  
23 or trade;

24 (3) has the greatest potential for public recreational or subsistence use  
25 and enjoyment based on the size and abundance of fish, even if the location may be in  
26 a remote part of the state.

27 (e) The decision by the commissioner to include or exclude land on the list in  
28 (a) of this section is within the discretion of the commissioner and is not subject to  
29 appeal. The commissioner shall, however, make the list proposed to be submitted to  
30 the commissioner of natural resources publicly available before submission of the list  
31 and may consider public comment before submission of the list.

1 (l) In this section, "fishing waterway" means a waterway that contains wild  
 2 sport fish or fish of a species, physical size, and abundance that may support a  
 3 commercial, personal use, or subsistence fishery.

4 \* Sec. 3. AS 38.50 is amended by adding a new section to read:

5 **Sec. 38.50.015. Access to fishing waterways.** (a) After receiving from the  
 6 commissioner of fish and game a list prepared under AS 16.05.096 that identifies land  
 7 along fishing waterways where access to the waterways is impeded by private land  
 8 ownership, the commissioner may proceed to acquire public access to waterways  
 9 across those lands. The right of eminent domain may not be exercised to acquire land  
 10 or interest in land under this section.

11 (b) Public access may be acquired by

- 12 (1) purchasing or leasing an easement for access across each parcel of  
 13 land;  
 14 (2) trading state land for private land; or  
 15 (3) purchasing or leasing private land.

16 (c) Before February 1 of each year, the commissioner and the commissioner of  
 17 fish and game shall submit a plan to acquire public access to fishing waterways  
 18 through trade or purchase for the following fiscal year. The plan must include a  
 19 minimum access to not less than a total of two meander miles along fishing  
 20 waterways. Within 60 days after receiving a written request from a landowner  
 21 requesting the removal of the landowner's land from the list to be acquired under the  
 22 plan, the commissioner shall remove the landowner's land from the list, even if the  
 23 removal leaves less than two meander miles along fishing waterways.

24 (d) In this section,

- 25 (1) "fishing waterway" has the meaning in AS 16.05.096;  
 26 (2) "meander mile" means a distance of one mile measured following  
 27 the course of a waterway.

28 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
 29 read:

30 **LAND TO BE CONSIDERED FOR FIRST LIST.** Notwithstanding the discretion of  
 31 the commissioner of fish and game under AS 16.05.096 as enacted in sec. 2 of this Act, the

1 initial list to be submitted to the commissioner of natural resources before July 1 following the  
2 effective date of this Act shall include land

3 (1) adjacent to or near Montana Creek and Willow Creek above the Parks  
4 Highway on waterways that are open to trout and grayling fishing;

5 (2) along Anchor River and Deep Creek on the Kenai Peninsula where the  
6 waterways are open to steelhead, salmon, Dolly Varden, or trout fishing; and

7 (3) along the Salcha River located off the Richardson Highway where the river  
8 is open to grayling fishing.

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 37(FSH)  
(H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: An act relating to public access RDU: Sport Fisheries  
to fishing streams Component: Sport Fisheries  
Sponsor: Representative Gara  
Requester: House Special Committee on Fisheries Component No. 464

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill requires the Alaska Department of Fish and Game (ADF&G) to annually compile a list of land along fishing waterways where access to the waterways is impeded by private land ownership. In compiling this list, ADF&G is required to take public input and consider a number of conditions outlined in this bill. Once completed, ADF&G will submit this list to the Commissioner of the Department of Natural Resources for consideration. ADF&G is able to comply with the provisions in this legislation without additional funding and/or staff.

Prepared by: Sarah Gilbertson  
Division: Legislative Liaison  
Approved by: Acting Commissioner Wayne Rugelin  
Agency: Alaska Department of Fish & Game

Phone: 465-6137  
Date/Time: 1/28/05 8:35 am  
Date: 1/28/2005

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 37(FSH)  
(H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title: Public Access to Fishing Streams RDU: Resource Development  
Component: Title Acquisition & Defense  
Sponsor: Rep. Gara  
Requester: (H) FS' Component No.: 2459

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	40.2	40.2	40.2	40.2	40.2	40.2
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	45.2	45.2	45.2	45.2	45.2	45.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill requires DNR, working with the Alaska Department of Fish and Game (ADF&G), to identify private lands that the state should acquire to provide public access to and along popular fishing streams, and then directs DNR to pursue acquisition through purchase of easements, land exchanges, and or fee simple purchase.

Section 2 of the bill requires ADF&G to identify undeveloped land along popular fishing streams for possible acquisition. The bill identifies three areas where this process will look at first, but envisions an ongoing, statewide process. ADF&G then submits the list of parcels to DNR to acquire the land. This fiscal note does not include the actual cost to negotiate and appraise individual acquisitions, and does not include funding to pay the purchase price for acquisitions.

Prepared by: Bob Loeffler, Director  
Division: Mining, Land & Water  
Approved by: Tom Irwin, Commissioner  
Agency: Natural Resources

Phone: 269-8625  
Date/Time: 3/18/2005  
Date: 3/18/2005

FISCAL NOTE #2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSHB 37(FSH)

ANALYSIS CONTINUATION

This fiscal note assumes that ADF&G will provide DNR with a list of parcels, maps of the parcels, names and addresses of property owners, and other information about the parcels. ADF&G will submit a separate fiscal note for these costs.

Section 3 of the bill directs DNR to acquire the lands identified by ADF&G. This fiscal note only includes DNR's costs to conduct initial land title work, field inspections of parcels to be acquired, and preliminary discussions with the owners of parcels that the state desires to acquire.

After these preliminary discussions, DNR would then request appropriations from the legislature to fund work on each parcel or group of parcels, including costs for negotiation, appraisals, surveys, complete land title reviews, and purchase of the land. If the specific acquisitions are not funded, DNR would not be able to pursue the acquisitions further.

DNR's initial costs that are included in this Fiscal Note are:

**PERSONAL SERVICES COST - \$40,200**

Natural Resource Specialist (NRS) III and Land Appraiser II (range 18s) - total 2 months @ \$6,000/month = \$12,000 - to discuss acquisitions with property owners and estimate costs associated with individual parcel acquisitions.

Natural Resource Specialist (NRS) I (range 14) - 6 months @ \$4,700/month = \$28,200 - to conduct initial land title, preliminary valuation, and other research for all parcels.

**TRAVEL, CONTRACTUAL, SUPPLIES - total \$5,000** - includes travel to sites (initial areas are all road accessible), research of municipal title records, office supplies, etc.

**LONG TERM COSTS ASSOCIATED WITH ACTUAL ACQUISITIONS - Not included in Fiscal Note**

This fiscal note does not include the cost associated with negotiating the land purchase or exchanges, land appraisals, preparing and recording title documents, any necessary survey costs, and other related costs. DNR's experience with recent land acquisitions indicates that one NRS III position can negotiate and coordinate about four acquisitions per year. Some support staff time is also needed for document preparation, record keeping, additional title research, etc. Based on this, the estimated cost for each purchase is \$40,000 (\$25,000 for personal services and \$15,000 for contractual services including appraisal and environmental audit). Land exchanges are significantly more labor intensive, based on recent experience the cost for land exchanges is \$50,000 to \$100,000 per parcel.

Actual acquisition costs will vary by area and size of parcels. DNR estimates that parcels that provide access to Montana and Willow Creeks along the Parks Highway will cost about \$7,500 per acre for 5-10 acre parcels (\$375 - \$750 per parcel). Recent ADF&G purchases of parcels for access along the Anchor River and Deep Creek on the Kenai Peninsula were higher, averaging about \$100,000 per parcel.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## **HB 37: State Land Trades/Purchases With Willing Landowners To Regain Fishing Stream Access** (Revised March 31, 2005)

Alaska's rivers are a treasured resource for fishermen, boaters, hunters, hikers, and people of all walks of life. We need to protect the public's access to them. House Bill 37 aims to ensure future public access to Alaska's fishing streams by putting in place a mechanism for voluntary land exchanges (or purchases) between the State and private owners along important recreational rivers. The program would be facilitated by the Department of Natural Resources and would be completely voluntary. The purchases or trades would only occur if a landowner is willing to engage in trade or sale voluntarily.

There are currently large stretches of private land on streams such as the Anchor River, Deep Creek, Parks Highway Streams, the Salcha River and others throughout the state. Today the public uses these streams, and has access to them. Once they're developed, we'll never be able to afford to get them back. HB 37 requires the state to identify private lands along certain high value recreational waters for possible easement or land purchases or trades.

To avoid costly litigation, it requires the state to use its expertise within the Departments of Fish and Game and Natural Resources to identify the most desirable lands for purchase or trade, after public input. But the bill does not allow legal challenges of those determination.

Other states have waited too long to take steps like the ones proposed by this bill. In Montana, for example, fishermen have to pay for public access to some rivers. One hundred eighty miles of the Missouri River have been lost to public access, and that state now budgets \$300,000 per year to buy back parcels of riverbank land.

HB 37 will help insure that unparalleled recreational opportunities in our vibrant river corridors remain accessible, for our own and for future generations. It provides that the state should keep a registry of lands for possible trade or purchase.

The bill does not mandate any funding for trades or purchases, and therefore will lapse, in effect, once the state determines there is no longer a need to trade for or purchase public access.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## **HB 37: Sectional Analysis State Land Trades/Purchases To Regain Fishing Stream Access From Willing Landowners**

The Bill's sections provide as follows:

### **Section 1: Findings.**

**Section 2.** This section gives the Commissioner of DNR the authority to prioritize lands that provide important public fishing stream access after public comment and consultation with the Department of Fish and Game. To prevent unneeded expense, the Commissioner's determinations are not appealable. The Commissioner is given the leeway to make these decisions, and is allowed to make the decisions upon available agency knowledge and public comment without engaging in expensive study.

**Section 3.** The state is encouraged to develop a registry of lands that are important for public fishing access, and to try to arrange a trade with willing landowners for other state lands, purchase the land outright, or purchase easements on it. The bill specifically requires that if landowners do not want to be listed, or approached with a trade or purchase offer, their land must be removed from the list. It further clarifies that eminent domain cannot be exercised under this section, as any purchases or trades will be purely voluntary under this bill.

**Section 4.** The Commissioner is encouraged to seek land purchases or exchanges on important fishing streams prior to private development on those streams, at which point such a transaction would become prohibitively expensive. Streams with undeveloped private lands that, if developed, would impede important public access, include the following prized trout/steelhead/salmon fisheries: Montana and Willow Creeks above the Parks Highway in Southcentral Alaska; the Anchor River and Deep Creek on the Kenai Peninsula; and the Salcha River south of North Pole. The Commissioner is encouraged to seek to obtain public access on these and other streams that provide important public fishing opportunities.

### **SECTIONAL ANALYSIS**

Sec. 38.05.127. Access to navigable or public water.

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the commissioner shall,

(1) determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or rights-of-way necessary to ensure free access to and along the body of water, unless the commissioner finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The department shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights or limits in any way the constitutional right of the public to use and have free access to the navigable or public waters of the state.

(d) Upon application by a municipality or an affected owner of land, the department may vacate, release, modify, or relocate an easement and right-of-way for public access to or along navigable or public waters reserved by the department in a patent issued under AS 29.65 or former AS 29.18, if the commissioner determines the action is consistent with the public interest.

(e) The establishment of easements or rights-of-way for oil and gas, gas only, and mineral leases under (a) of this section need not be made until the leases are ready to be developed.

(f) Rights-of-way or easements to waterways established under (a)(2) of this section shall be established approximately once each mile unless the commissioner makes a written finding that regulating or limiting access is necessary for other beneficial uses or public purposes.

(g) The commissioner may exchange land under AS 38.50 to create access to public water of the state.

REFERENCE STATUTES

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



**KENAI RIVER SPORTFISHING  
ASSOCIATION**

Representative Les Gara  
State Capitol  
Juneau, AK 99801

April 20, 2005

Re: HB37

Dear Representative Gara:

The Kenai River Sportfishing Association (KRSA) supports the legislative objective of House Bill 37, an act relating to voluntary land trades and purchases to enhance public access to fishing streams.

Alaska is home to some of the best sportfishing, personal use and subsistence opportunities in the world, and HB37 is an important piece of legislation that provides ADF&G and ADNR a mechanism to ensure broad public access to these important public resources. HB37 places into statute a process that mandates the Commissioner of ADF&G list land along fishing waterways where access is impeded by private land ownership and the Commissioner of ADNR responsible for proceeding to acquire public access across those lands.

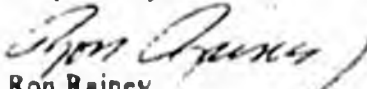
KRSA is a non-profit 501 ( c ) 3 conservation organization dedicated to ensuring the sustainability of the greatest sportfishing river in the world – the Kenai. Our goals are to conserve and rehabilitate fisheries habitat, promote predictable and meaningful sportfishing opportunity, encourage and foster fisheries research and provide public aquatic education. Over the past ten years we have raised and invested over \$5 million towards these goals.

While on the Kenai River (the primary focus of our organization) there is broad public access to its fishery resources, KRSA has been concerned with the privatization of public lands along other waterways in our state which reduces or eliminates public access to some of our prized sport fishing rivers and streams. On the Kenai Peninsula, we have public access concerns on the neighboring rivers of the Kenai, specifically the Anchor, Deep Creek and Kasilof. If public access is denied or severely restricted on these neighboring rivers, it will only serve to place more pressures on the Kenai itself, which is already the state's most popular sport and personal use fishery.

KRSA supports the public access mechanisms in place in the bill, such as using public easements and land trades as well as outright purchases of the land with voluntary private land owners, and we are also very encouraged that the right of eminent domain may not be exercised to acquire land or interest in land. The initial nominations, which include the Anchor and Deep Creek, could have a significant positive impact on public access to fishery resources in on the Kenai Peninsula as well as other areas of the state.

We appreciate your efforts and those of your colleagues in regards to HB37.

Respectfully,

  
Ron Rainey  
Board President

*Dedicated to preserving the greatest sportfishing river in the world, the Kenai.*

PO Box 1228 • 224 Kenai Ave., Suite 102 • Soldotna, Alaska 99669

Phone: (907) 262-8588 • Fax: (907) 262-8582 • [www.kenairiversportfishing.com](http://www.kenairiversportfishing.com) • E-mail: [info@kenairiversportfishing.com](mailto:info@kenairiversportfishing.com)



# ALASKA FLYFISHERS

Winners of the 1994 McKenzie Cup



March 9, 2005

Dear Representative Gara:

Based on our collective individual and organizational experience, the Alaska Fly Fishers strongly support the objective of House Bill 37.

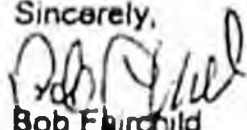
The Alaska Fly Fishers (AFF) was founded in 1973 at Anchorage with the objectives of "to preserve the sport of fly fishing, advance the principles of fair chase and fair catch, educate members and the public in the necessity of preserving our outdoor heritage, promote the ethical utilization of the resources of our woods and waters and to organize and unite the fly fishers of Alaska for mutual community benefit." AFF is one of the largest sport fishing organizations in Alaska. I feel we have consistently taken actions which support those objectives.

For nearly as long as AFF has existed, we have provided public education (at low or no cost), participated in conservations projects, and participated in organizations which contribute to Alaska's natural resources. Our public education includes annual seminars on fly fishing, fly tying, and donations of books to the public libraries. Conservation projects include an annual Kenai River Cleanup (for 11 consecutive years), bank stabilization of Campbell Creek, and bank stabilization at Jim's Landing on the Kenai River. The organizations our members have participated in include Fish & Game Advisory Committees and Regional Subsistence Advisory Councils.

An important element of maintaining our habitat and resources is public involvement and support. In order to do this, the public must have a vested interest. If they are denied access to these resources, we can't expect this broad support.

The AFF concludes that the objectives of HB 37 are mutually supportive of the objectives of AFF.

Sincerely,

  
Bob Fairchild  
President

SUPPORT

ALASKA FLYFISHERS • P.O. BOX 90011 • ANCHORAGE, ALASKA 99509

**Cindy Smith**

---

**From:** Phil Cutler [filcut@ak.net]  
**Sent:** Friday, March 18, 2005 9:40 PM  
**To:** Cindy Smith  
**Cc:** Jeff Parker  
**Subject:** HB 37 GARA

## Alaska Sportfishing Association

P. O. Box 243106 Anchorage, AK 99524

Representative Les Gara  
State Capitol  
Juneau, AK 99801

Re: HB37

Dear Representative Gara,

I have presented HB37 at the latest Board of Directors meeting and the latest public membership meeting of the Alaska Sportfishing Association. After thorough discussion at both venues, I am pleased to relate that we enthusiastically support this legislation.

The Alaska Sportfishing Association has prided itself in being an organization that works to promote access to areas where sport fishing can be done in concert with sustained yield of the fishery and proper environmental safeguards. One of our longstanding concerns has been the privatization of public lands which in turn reduces or eliminates public access to some of our prized sport fishing rivers and streams.

HB37 places into statute a process that mandates that the Commissioner of Fish and Game nominate privately owned lands that might be returned to public ownership. It also makes the Commissioner of Natural Resources responsible to effecting the acquisition of the lands nominated.

Much of our discussions were centered on the methods SB37 promotes to acquire the land. Our fiscally conservative members were pleased that the bill endorsed using public easements and land trades as well as outright purchase of the land. The members were excited that your initial nominations could have a significant positive impact on sport fishing access in South-central and Interior Alaska.

We appreciate your efforts in sponsoring HB37.

Phil Cutler, President

**Rep. Les Gara**

---

**From:** Brent Fenty [bfenty@earthlink.net]  
**Sent:** Sunday, February 27, 2005 5:42 PM  
**To:** Rep. Les Gara  
**Subject:** HB 37

Rep. Gara-

I just want to say thanks for your introduction of HB 37. I was particularly pleased to see that Montana and Willow Creek were prioritized in the bill as I think development threats loom in the near future for these terrific fisheries. Thanks again.

Tight lines,  
Brent

—  
Brent Fenty  
PO Box 142771  
Anchorage, AK 99514

(907) 770-9967  
bfenty@earthlink.net

**B****MOLLY IVINS LETS LOOSE**

Political columnist Molly Ivins will speak in Anchorage on July 21. Check out what she told the Daily News about both George Bushes, sodomy in Texas, tax cuts, her new book, and the Alaska-Texas rivalry: **Q&A in Opinion, Page J-3**

# ALASKA

ANCHORAGE DAILY NEWS • www.adn.com

★ SUNDAY, JULY 13, 2003

## Prime fishing land might be sold off

■ **ANCHOR RIVER:** Sale of five-acre parcels could eliminate public access.

By **JOEL GAY**  
Anchorage Daily News

The beaches, banks and wetlands along one of the Kenai Peninsula's most popular fishing streams are being subdivided into five-acre parcels that, if sold, could eliminate public access to the lower Anchor River.

The owners say they've tried for years to sell the land to the state but could never agree on a price. Now it's time to move on, they say, and the first

step is chopping their two large parcels into 20 smaller ones.

They hope to win preliminary approval of their subdivision plan Monday night from the Kenai Peninsula Borough. The lots could be on the market later this summer.

Supporters of a buyout still hope the land can be purchased and put into public ownership. The landowners say they're still willing to sell. But time is drawing short, said Lynn Whitmore, a longtime local angler who just recently learned about the proposed subdivision.

"I'm going to urge that they try to convert this to public land, by whatever

■ **THE KENAI PENINSULA BOROUGH PLAT COMMITTEE** will hold a public hearing on the proposed Anchor River subdivision at 5:30 p.m. Monday in the Borough Building in Soldotna. For more information, go to [www.borough.kenai.ak.us/planningdept](http://www.borough.kenai.ak.us/planningdept), then click on Plat Committee, then Agendas.

means necessary," he said. "I want the (borough) mayor or somebody to sit down with these two sides and resolve this."

Anchor Point pioneer Vern Mutch homesteaded the area decades ago, selecting land that ran from atop the bluffs to the Cook Inlet beach, with the

river running through it. His son Paul, a commercial fisherman who lives in Ugashik, now owns much of the land, including a 45-acre parcel just north of one of the river's most popular fishing spots, the Graas Hole.

The state Division of Parks owns the adjoining lot to the south, where it provides parking and a boat launch. But thousands of fishermen every year pass through the state land onto the Mutch property, where they camp on the gravel beach and tromp through wetlands to reach the river.

Many also walk or drive ATVs even farther north, toward the river mouth, where they trespass on a 12-acre par-

cel owned by Jim Jacobs.

The parks superintendent on the lower peninsula, Chris Degernes, said it's difficult to imagine the private land suddenly being posted with no-trespassing signs. "The public has used that property so many years — as if it were public — that it will be difficult to keep the public off," she said.

The Division of Parks and the Alaska Department of Fish and Game have wanted to buy the Anchor River lands for years, she said. It's rich territory. About 50,000 to 60,000 people visit every year, she said, mostly to fish. The

See Page B-6. LAND

## Trees cut to reduce fire danger

■ **CLEARING:** Crews of firefighters at work in woods throughout city.

By **TATABOUNE BRANT**  
Anchorage Daily News

Firefighters cut down several tall trees in Kincaid Park last week and chopped them into firewood-sized logs, and officials say the work is just one small part of an ongoing federally funded effort to reduce the chance of a bad wildfire in Alaska's largest city.

About a dozen brush piles

### WEST COAST WEATHER



## HUD funds for city in jeopardy

■ **GRANTS:** "It's at a critical stage," says Mayor Begich, who has stepped in.

By **ROSEMARY SHINOHARA**  
Anchorage Daily News

The new mayor's transition report last week pointed to a crisis in public housing. The city is in danger of losing federal Housing and Urban Development grants next year if it doesn't spend \$2.6 million by Nov. 7.

# LAND: Price undecided

Continued from B-1

Season starts Memorial Day with king salmon, then continues through freezeup with runs of silver salmon, Dolly Varden and steelhead trout. Migrating birds stop by every spring and fall, and others spend the winter.

There is strong support for public ownership, Degernes said, but the stumbling block has always been the land appraisal.

"I am like that is difficult to appraise," she said. Comparable lands rarely sell, so there is little to base an estimate of land value on. And the land is impossible to develop because of its wetlands, the constantly changing river course and winter storm damage.

The Kenai Peninsula Borough appraises the Mutch property at \$16,500 and the Jacobs land at \$15,000. The owners believe the parcels are worth much more, as does the state, though neither side will reveal its offer. But they can't agree on a price, Degernes said.

"We can't just pay what the seller wants," she said. "It has to be based on fair market value, and that's been the stumbling block time and time again."

After negotiations with Fish and Game fell apart several years ago, The Nature Conservancy stepped in. The conservancy buys high-value land, often using a combination of government grants and private funds. It won a \$417,000 National Coastal Wetland Conservation grant to buy the Mutch and Jacobs properties, plus another large lot in the same area. A deal looked possible, according to both sides.

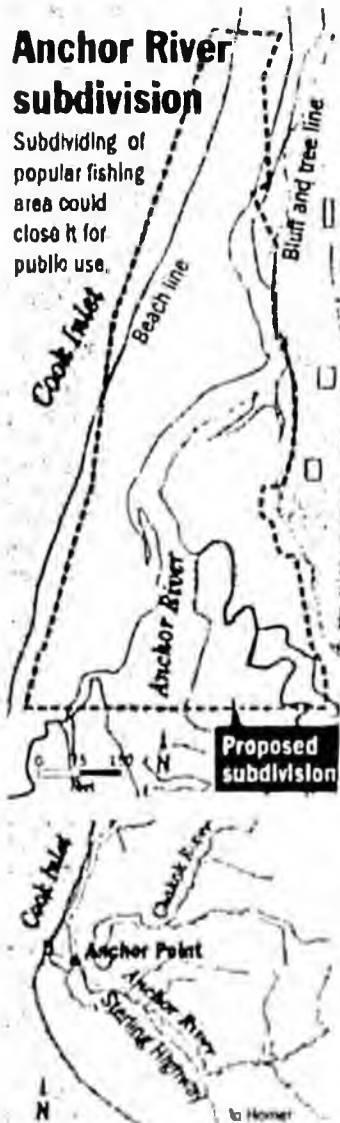
Then a new hurdle arose regarding the river bottom itself. Who owns it?

Surveyor Jerry Anderson, who represents the landowners, said previous court cases make it clear: "The water belongs to the state, but the land underneath (belongs) to the owner." By his reckoning, the two parcels add up to roughly 93 acres.

The Nature Conservancy isn't sure. It wants the issue cleared up to determine how much acreage really exists, said Kenny Powers, the group's di-

## Anchor River subdivision

Subdividing of popular fishing area could close it for public use.



CHARLES ATKINS / Anchorage Daily News

turn the normally angler-friendly Anchor River into a commercial fishery. More fishermen would likely cause more habitat damage on the grassy banks of the stream, he said.

The closure would also block access to the river mouth, a key fishing area. Many anglers start fishing at low tide, walk steadily upstream and follow the fish as the water rises. Caught at low tides, they could reach the river mouth with trespassing.

He understands the owners' frustration, Whitmore said. Rowdy teens and adults party on the land every Memorial Day, and even law-abiding fishermen trespass regularly. Nevertheless, he added, "it'd be an absolute catastrophe to have it developed."

Even if the two sides can

land they own. It's just a question of who owns the river bed," he said.

Powers said he thinks a deal is still possible. "The public values are there and the resources are there that deserve public protection, so we're continuing to be interested," he said. All that remains is to agree on a price. "That's the million-dollar question," he said.

The sellers are broadening the market, Anderson said. "If (the state) isn't going to put the money up, they're going to sell it somebody else."

The land is too wet for homes or cabins, Anderson said, but people will buy the five-acre lots if only to have a place to park their recreational vehicles.

Local fishermen would hate to see no-trespassing signs appear on the lower river, said Whitmore, who has fished there 30 years. The new subdivision could close off about a mile of riverbank.

"If you lose access to that portion of river, it means you compress those 1,000 fishermen into one-third less space," he said. "The people will still come, but they'll have much less space to fish," which could

Murkowski, who has voiced philosophical objection to the government's buying private land, would have to approve the use of state or federal funds. Last month, he killed one such land deal on Afognak Island while approving another for ski trail land near Homer.

Powers, of The Nature Conservancy, said he doubts the governor would veto a deal. "The state has been very supportive of this acquisition, as has community, because of the high value of the resources," he said. "I'd be surprised if Gov. Murkowski did not support this project."

■ Daily News reporter Joel Gay can be reached at jgay@adn.com or at 257-4310.

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**TOYS OF SUMMER**

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 37(FSH)  
(H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title: Public Access to Fishing Streams RDU: Resource Development  
Component: Title Acquisition & Defense  
Sponsor: Rep. Gara  
Requester: (H) FSH Component No.: 2459

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	40.2	40.2	40.2	40.2	40.2	40.2
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	45.2	45.2	45.2	45.2	45.2	45.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill requires DNR, working with the Alaska Department of Fish and Game (ADF&G), to identify private lands that the state should acquire to provide public access to and along popular fishing streams, and then directs DNR to pursue acquisition through purchase of easements, land exchanges, and or fee simple purchase.

Section 2 of the bill requires ADF&G to identify undeveloped land along popular fishing streams for possible acquisition. The bill identifies three areas where this process will look at first, but envisions an ongoing, statewide process. ADF&G then submits the list of parcels to DNR to acquire the land. This fiscal note does not include the actual cost to negotiate and appraise individual acquisitions, and does not include funding to pay the purchase price for acquisitions.

Prepared by: Bob Loeffler, Director Phone 269-8625  
Division: Mining, Land & Water Date/Time 3/18/2005  
Approved by: Tom Irwin, Commissioner Date 3/18/2005  
Agency: Natural Resources

## FISCAL NOTE #2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSHB 37(FSH)

### ANALYSIS CONTINUATION

This fiscal note assumes that ADF&G will provide DNR with a list of parcels, maps of the parcels, names and addresses of property owners, and other information about the parcels. ADF&G will submit a separate fiscal note for these costs.

Section 3 of the bill directs DNR to acquire the lands identified by ADF&G. This fiscal note only includes DNR's costs to conduct initial land title work, field inspections of parcels to be acquired, and preliminary discussions with the owners of parcels that the state desires to acquire.

After these preliminary discussions, DNR would then request appropriations from the legislature to fund work on each parcel or group of parcels, including costs for negotiation, appraisals, surveys, complete land title reviews, and purchase of the land. If the specific acquisitions are not funded, DNR would not be able to pursue the acquisitions further.

DNR's initial costs that are included in this Fiscal Note are:

#### PERSONAL SERVICES COST - \$40,200

Natural Resource Specialist (NRS) III and Land Appraiser II (range 18s) - total 2 months @ \$6,000/month = \$12,000 - to discuss acquisitions with property owners and estimate costs associated with individual parcel acquisitions.

Natural Resource Specialist (NRS) I (range 14) - 6 months @ \$4,700/month = \$28,200 - to conduct initial land title, preliminary valuation, and other research for all parcels.

TRAVEL, CONTRACTUAL, SUPPLIES - total \$5,000 - includes travel to sites (initial areas are all road accessible), research of municipal title records, office supplies, etc.

#### LONG TERM COSTS ASSOCIATED WITH ACTUAL ACQUISITIONS - Not included in Fiscal Note

This fiscal note does not include the cost associated with negotiating the land purchase or exchanges, land appraisals, preparing and recording title documents, any necessary survey costs, and other related costs. DNR's experience with recent land acquisitions indicates that one NRS III position can negotiate and coordinate about four acquisitions per year. Some support staff time is also needed for document preparation, record keeping, additional title research, etc. Based on this, the estimated cost for each purchase is \$40,000 (\$25,000 for personal services and \$15,000 for contractual services including appraisal and environmental audit). Land exchanges are significantly more labor intensive, based on recent experience the cost for land exchanges is \$50,000 to \$100,000 per parcel.

Actual acquisition costs will vary by area and size of parcels. DNR estimates that parcels that provide access to Montana and Willow Creeks along the Parks Highway will cost about \$7,500 per acre for 5-10 acre parcels (\$37,500 - \$75,000 per parcel). Recent ADF&G purchases of parcels for access along the Anchor River and Deep Creek on the Kenai Peninsula were higher, averaging about \$100,000 per parcel.

**HB**

**41**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 9, 2005

FURTHER REFERRALS:

Date of Committee Action: 4/4/05

The FINANCE Committee considered:

HB 41

HOUSE BILL NO. 41

ASSAULT ON SCHOOL EMPLOYEES

"An Act relating to minimum periods of imprisonment for the crime of assault in the fourth degree committed against an employee of an elementary, junior high, or secondary school who was engaged in the performance of school duties at the time of the assault."

Recommends it be replaced with  HCS or  CS for HB 41 (7110)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:

- ADM
- CEC
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DPS				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DOA	#1			✓
DCC	#2			✓
DCE	#3			✓
LAW	#4			✓

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
<i>Mills Hawk</i>	Hawker				X
<i>Weyhrauch</i>	Weyhrauch	X		✓	
<i>Foster</i>	Foster	X			
<i>Stato</i>	Stato			✓	
<i>Moses</i>	MOSES			✓	
<i>Kelly</i>	Kelly			✓	
Chair: <i>K. Meyer</i>	Meyer			✓	
Chair: <i>Chesnut</i>	Chesnut			✓	

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB041-DPS-AST-01-14-05  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
Title An Act relating to assault on school employees RDU Alaska State Troopers  
Component AST Detachments  
Sponsor Representative Lynn  
Requester House Judiciary Component No. 2325

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation has no fiscal impact to the Department of Public Safety. State troopers and local law enforcement already handle violations for the crime of assault, so this statute will not increase the numbers we deal with and should instead act as a deterrent. Violence in our schools is a major problem in our nation. This bill will strengthen law enforcement's ability to deal with crimes that are directed at employees of schools. It will add a minimum term of 60 days imprisonment for convictions of assault in the fourth degree against school employees.

Prepared by: Lieutenant Todd Sharp Phone 269-4532  
Division: Alaska State Troopers Date/Time 1/19/05 11:33 AM  
Approved by: Commissioner William Tandeska Date 1/19/2005  
Agency: Department of Public Safety

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 41(JUD)  
(H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title: An act relating to minimum sentence RDU: Legal and Advocacy Services  
for assault on school employee... Component: Public Defender Agency  
Sponsor: Reps. Lynn & McGuire  
Requester: House Judiciary Component No.: 1631

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would require a mandatory minimum sentence for an assault in the fourth degree committed against any school employee. The Public Defender Agency believes this bill will have a minimal fiscal impact on the operations of the Agency.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)334-4416  
Division: Public Defender Agency Date/Time: 1/14/05 9:26 AM  
Approved by: Michael Tibbles, Deputy Commissioner Date: 1/14/2005  
Agency: Department of Administration

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 41(JUD)  
(H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
Title An Act relating to minimum periods RCU Institutional Facilities  
of imprisonment for assault crime against school employees Component Institution Director's Office  
Sponsor Representatives Lynn and McGuire  
Requester Judiciary, Finance Component No. 524

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

Due to the extremely small number of potential cases, the Department of Corrections does not anticipate a fiscal impact from the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director  
Division: Administrative Services  
Approved by: Portia Parker, Deputy Commissioner  
Agency: Department of Corrections

Phone: 465-4641  
Date/Time: 1/20/05 12:57 PM  
Date: 1/20/2005

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 41(JUD)  
(H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
Title: An act relating to minimum periods of RDU: ESS  
imprisonment for the crime of assault in the fourth degree Component: Executive Administration  
Sponsor: Rep Lynn & Rep McGuire  
Requester: Judiciary Component No.: 2736

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
100 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

There is no financial impact related to this legislation with the Department of Education & Early Development. Rather this legislation extends imprisonment to those who would assault an educator while performing duties at the time of the assault.

Prepared by: Eddy Jeans, Director Phone: 465-4879  
Division: School Finance Date/Time: 1/18/05 3:31 PM  
Approved by: Karen Rohlfed, Deputy Commissioner Date: 1/18/2005  
Agency: Education & Early Development

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4  
Bill Version: CSHB 41(JUD)  
(H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
Title: "An Act relating to minimum periods of imprisonment for the crime of assault in the fourth degree..." RDU: CRIMINAL  
Component: Criminal Justice Litigation  
Sponsor: Rep. Lynn and Rep. McGuire  
Requester: House Judiciary Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
This bill amends AS 12.55.135(d) by adding a new subsection that imposes a 30 day sentence for assault in the fourth degree if the assault is committed against an employee of an elementary, junior high, or secondary school while the employee was engaged in the performance of school duties. Most assaults in schools are committed by juveniles, and there aren't enough cases to result in a fiscal impact on the Department of Law as a result of passage of this legislation.

Prepared by: Kathryn Daughhete, Director Phone: 465-3673  
Division: Administrative Services Division Date/Time: 1/14/05 4:10 PM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date: 1/14/2005  
Agency: Department of Law

adopted 4/4/05 N/O

24-LS0307F  
Luckhaupt  
3/22/05

CS FOR HOUSE BILL NO. 41( )

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

as amended

Offered:

Referred:

# 1

Sponsor(s): REPRESENTATIVES LYNN AND MCGUIRE, Anderson, Wilson, Ramras

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to minimum periods of imprisonment for the crime of assault in the  
2 fourth degree committed against an employee of an elementary, junior high, or  
3 secondary school or certain contractors of school districts who were engaged in the  
4 performance of school duties at the time of the assault."

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

6 \* Section 1. AS 12.55.135(d) is amended to read:

7 (d) A defendant convicted of assault in the fourth degree who knowingly  
8 directed the conduct constituting the offense at

9 (1) a uniformed or otherwise clearly identified peace officer, fire  
10 fighter, correctional employee, emergency medical technician, paramedic, ambulance  
11 attendant, or other emergency responder who was engaged in the performance of  
12 official duties at the time of the assault shall be sentenced to a minimum term of  
13 imprisonment of

14 (A) [(1)] 60 days if the defendant violated AS 11.41.270(a)(1)

1  
2  
3  
4  
5  
6  
7  
8

or (2):

(B) [(2)] 30 days if the defendant violated AS 11.41.230(a)(3);

(2) an employee of, or contract bus driver for, an elementary, junior high, or secondary school who was engaged in the performance of school duties while on school grounds, on a school bus, at a school-sponsored event, or in the administrative offices of a school district at the time of the assault shall be sentenced to a minimum term of imprisonment of 60 days if the defendant violated AS 11.41.230(a)(1) or (2).

adopted n/o

conceptual AMENDMENT }

OFFERED IN THE HOUSE FINANCE COMMITTEE  
BY REPRESENTATIVE WEYHRAUCH

TO: HB 41 version 24-LS0307\F

Page 2, line 8, after "(2)", insert:

"The court may determine a shorter sentence is justified upon proof, under AS 12.55.155, that any of the factors in AS 12.55.155(d) apply."

# Alaska State Legislature

## Chair

Military and Veterans Affairs Committee

## Member

Education Committee  
State Affairs Committee  
Labor and Commerce Committee  
Joint Armed Services Committee  
Econ Dev, Int'l Trade & Tourism

## Finance Subcommittees



A Communication From  
**REPRESENTATIVE BOB LYNN**  
District 31 Anchorage

Session:  
Alaska State Capitol  
Juneau, AK 99801-1182

Phone: (907) 465-4931  
Fax: (907) 465-4316  
Toll Free: (800) 870-4391

Interim:  
716 W. 4<sup>th</sup> Ave., #330  
Anchorage, AK 99501-2133

Phone: (907) 269-0205  
Fax: (907) 269-0207

Representative\_Bob\_Lynn@legis.state.ak.us

## SPONSOR STATEMENT HB 41

State Statute provides for specific terms of imprisonment for crimes committed against certain public employees, such as peace officers, firefighters, etc., in the performance of their official duties. School employees who, each day, work with our most precious resource, our children, deserve the same level of respect and protection under the law.

This bill revises sentencing guidelines so that an individual convicted as an adult of assault on a school employee during, or because of, the performance of official duties, will receive a *mandatory* minimum term of imprisonment. This would be similar to that imposed upon an individual who assaults a peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendance or other emergency responder engaged in the performance of official duties at the time of the offense.

Schools must be safe for teachers and other school employees, as well as for children. This bill adds a giant step toward that safety. Your support of HB 41 is requested.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
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STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



**Business Manager**

Joseph Young  
Anchorage

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Wasilla

John Lucking, Vice President  
Soldotna

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Dan French, Member  
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Pres. Anchorage Chapter

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Palmer  
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Fairbanks  
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Juneau  
Pres. Capital City Chapter

John Jackson, Member  
Ketchikan  
Pres. First City Chapter

Lisa Shields, Member  
Unalaska  
Pres. Aleutian Islands Chapter

Theresa Lalonde, Member  
Wangai  
Pres. Wangai Chapter

January 14, 2005

Representative Bob Lynn  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Dear Representative Lynn;

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 41, an act relating to the crime of assault.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

Your proposed bill calls for more stringent consequences for those who would assault a school employee while in the performance of their official school duties. We believe this to be appropriate as children often view the aggression and must also deal with the aftermath of fear and uncertainty. There is no room for violence or intimidation in any school.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Angella Long  
State President

**ORIGINAL  
IN  
MAIL**



# NEA-ALASKA

*Affiliated with the National Education Association*

January 19, 2005

Representative Bob Lynn  
State Capitol, Room 415  
Juneau AK 99801

Dear Representative Lynn:

Parents have always sent their children to school feeling their children are in the safest place they could be away from home. Because of the acts of violence in public schools around the country and in our state in recent years, the safety of a child or a school employee in the school environment has increasingly been questioned.

Safe schools and classrooms are absolutely essential for student success. In 2000, the legislature passed HB 253, sponsored by then Representative Fred Dyson, requiring school disciplinary and safety programs. We commend that effort. We believe more must be done.

One of the issues addressed at past Delegate Assemblies has been to continue the NEA-Alaska position that *NEA-Alaska shall seek legislation making the consequences of an assault of an educational employee the same as though the assault were to occur on a police officer.* Your introduction of House Bill (HB 41) accomplishes this task and is appreciated by the members of NEA-Alaska. We are in support of HB 41.

NEA-Alaska looks forward to HB 41 being heard in the committee process and will be ready to testify in support of this legislation.

Sincerely,

Bill Bjork, President



## FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

(907) 452-2000 520 Fifth Avenue Fairbanks, AK 99701-4756 [www.northstar.k12.ak.us](http://www.northstar.k12.ak.us)

January 18, 2005

The Honorable John Coghill, Jr.  
The Honorable Bob Lynn  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801

Dear Representatives Coghill & Lynn:

On behalf of the Fairbanks North Star Borough School District, I would like to express my support for HB 41 – Assault on School Employees.

This measure could deter people from seeking out district employees during working hours and/or the performance of school duties, allowing employees to concentrate on our main objective - the education of our children.

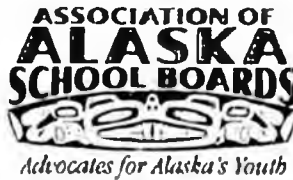
If there is any other information you desire or if you have questions, please do not hesitate to contact my office.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ann E. Short".

Ann E. Short, Ed. D.  
Superintendent of Schools  
/ph

Enclosure



January 19, 2005

Statement of the Association of Alaska School Boards  
On HB 41  
By Carl Rose, Executive Director

The 51 member school districts of AASB have endorsed mandatory minimum sentences for persons convicted of assault on school employees while they are at work on school property. The 60-day sentences proposed in HB 41 may serve as a deterrent to such incidents. If not, the penalty fits the seriousness of such crimes. Our member districts have worked diligently to make Alaska public schools safe places for our children to attend classes. HB 41 would be another tool that we could use to ensure the safety of our children and our employees.

**Alaska Council of School Administrators**

**Resolution 04-4**

**ASSAULT OF SCHOOL EMPLOYEES**

**WHEREAS**, State statute provides for specific terms of imprisonment for crimes committed against certain public employees, peace officers, firefighters, etc. in the performance of their official duties; and

**WHEREAS**, school employees deserve the same level of respect and protection under the law; now

**THEREFORE IT IS RESOLVED** that the Alaska Council of School Administrators urges that Alaska's criminal code or sentencing guidelines be revised so that an adult convicted of assault on a school employee during or because of the performance of official duties will receive a mandatory minimum term of imprisonment similar to that imposed upon an adult who assaults a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant or other emergency responder engaged in the performance of official duties at the time of the offense.

Adopted by the Alaska Council of School Administrators (AASA, AAESP, AASSP and ALASBO) October and December 2004.

January 2005

# Anchorage School District

## POSITION STATEMENT: HB 41

W) 907-742-4322 (F) 907-742-4417  
 Wiget\_Larry@asd.k12.ak.us

TO: HOUSE JUDICIARY COMMITTEE

FROM: CAROL COMEAU, SUPERINTENDENT *Carol Comeau*  
 TIM STEELE, PRESIDENT, ANCHORAGE SCHOOL BOARD

CONTACT: LARRY WIGET, DIRECTOR, GOVERNMENT RELATIONS

SUBJECT: HB 41: AN ACT RELATING TO MINIMUM PERIODS OF IMPRISONMENT FOR THE CRIME OF ASSAULT

The Anchorage School District supports HB 41 (b 24-LS0307\A) and encourages the Legislature to expand the minimum periods of imprisonment provision in the bill to include all employees of a school district who are engaged in the performance of school duties at the time of the assault.

We want all of our employees to feel safe while they are on duty at work, whether in a school, an administrative support facility, or at any other work location or school sponsored activity.

This past spring, a mother (Cassandra West) who hit a Fairview Elementary School teacher three times the previous fall outside his classroom was sentenced to 120 days in jail and 10 years probation, the maximum probation for misdemeanor assault. According to court records, the individual had previous convictions for drug, larceny and false reporting offenses and a history of losing her temper. It was a serious incident and we were pleased with the severe sentence. We applaud the efforts of Municipal Prosecutor Bruce Roberts and Assistant Municipal Prosecutor Richard Felton, as well as the officers of the Anchorage Police Department for taking such a strong stand against this individual for what she did to the teacher.

State statute provides for specific terms of imprisonment for crimes committed against certain public employees, such as peace officers, fire fighters, etc., in the performance of their official duties. Our school employees, who work each day with our most precious resource, our children, deserve the same level of respect and protection under the law. In addition, assault on a school employee during performance of official duties may place students at risk, and any assault because of official duties can have a significant indirect impact on students and school communities.

The Anchorage School Board and Administration urge the Alaska Legislature to revise Alaska criminal code or sentencing guidelines so that a non-student adult convicted of an assault on a school employee during or because of the performance of official duties will receive a mandatory minimum term of imprisonment similar to

that imposed upon an adult who assaults a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendance or other emergency responder engaged in the performance of official duties at the time of the offense.

- 2005 Anchorage School Board Legislative Priority

cc: Anchorage School Board  
Assembly Members  
Mayor Mark Begich  
Walt Monegan, Chief of Police, APD  
Audi Holloway, Deputy Chief, APD  
Captain Ross Plummer, APD  
Lt. Gardner Cobb, APD  
Bruce Roberts, MOA Prosecutor  
Guy Okada, Anchorage Principal Association  
Rich Kronberg, Anchorage Education Association  
Val Woods, Totem Association of Educational Personnel  
William Meers, Public Employees Local 71  
Ray Grey, Teamsters Local 959  
Tim Morgan, Teamster 959 & Food Service Association (Student Nutrition)  
Duane Moran, Anchorage Council of Education

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These search terms have been highlighted: prevent assaults teachers



# ECS StateNotes

## Safety/ Crime/Violence

Education Commission of the States • 700 Broadway, Suite 1200 • Denver, CO 80203-3460 • 303-299-3600 • fax 303-298-8332 • [www.ecs.org](http://www.ecs.org)

### Teachers: Protections/Limits on Liability

March 1998

ECS Information Clearinghouse

State	Legislation	Limits on teacher action	Assaults against teachers	Other rights of teachers and school employees
AL	HB 470/SB 367; enacted 7-95  S 79 (Acts 94-794); enacted 5-94	Teachers granted immunity, as long as their actions are within the boundaries of local board policy	Warrant of arrest issued against anyone assaulting teacher; offender prosecuted  Felony offense	Legal support provided by board, exempt from child-abuse charges when acting within parameters of written board policies; immunity when reporting suspected drug abuse
AR	HB 1422; enacted 4-95		Must be reported by principals to the appropriate local law enforcement agency	
FL	96-293; became law 5-96 without governor's signature		Reclassification of offenses for person committing assault on an elected official or employee of a school district, private school, state-supported school or state university. Any student found to have committed assault on a school employee (as above) - a violation of 784.081, Florida Statutes - shall be expelled and placed in an	Child who attacks school employee to be expelled and placed in an alternative school setting for at least one year

			alternative setting for a minimum of 1 year.	
GA	20-2-1000; enacted 4-95	Teacher free from threat of civil damages when disciplining student, "except for acts or omissions of willful or wanton misconduct"		Legal fees (if teacher/defendant found innocent) paid by plaintiff; county or local board to provide legal support for educator, except in cases when educator violated board policy
IA	Safe Schools Bill; enacted 5-94  HF 2383; enacted 6-94	Teachers may use "reasonable force" to maintain order	Students who commit a violent act against a school employee are to be automatically suspended  School board may choose to expel student	Those prosecuting teachers for use of excessive force must present "clear and convincing" evidence of abuse, rather than a "preponderance" of evidence  Schools authorized to share information regarding students who wish to transfer school; employees are given leave for injuries incurred during a violent episode at school
IN	enacted 5-95			Legislation allows suspensions once limited to five days to be increased to ten days;  Teachers can keep students from their areas of supervision for up to five days;  Monies collected from fines to be used to purchase metal detectors and other safety equipment;  Schools may enact dress codes
IN	SB 73; enacted 3-96		Punished by school principal by means of up to 120 days of community service or by assigning juvenile court counseling conducted in the presence of a representative of the school corporation; fines assessed for crimes committed with weapons	
MD	HB 298; enacted 1-98		School staff may "take reasonable action necessary to prevent violence"	County board will compensate staff member for medical expenses incurred while breaking up violence;  County board will provide legal counsel for staff member who has taken "reasonable action necessary to prevent violence"
MI	PA 158; enacted 6-94		Any person who assaults another person with less than the intent to commit murder or to inflict great bodily harm, with a gun.	A parent of a minor is guilty of a misdemeanor if he or she has custody of the minor, the minor is found in possession of a weapon in a weapon-free school zone, and

			<p>revolver, pistol, knife, iron bar, club, brass knuckles or other dangerous weapon in a weapon-free school zone is guilty of a felony punishable by one or more of the following: 1. Imprisonment for not more than four years 2. community service for not more than 150 hours 3. fine of not more than \$6,000</p>	<p>the parent is aware that the minor would violate the firearms act or acts to further the violation;</p> <p>The misdemeanor is punishable by one or more of the following: 1. a fine of not more than \$2,000 2. community service for not more than 100 hours 3. probation;</p> <p>Anyone in possession of a weapon in a weapon-free school zone is guilty of a misdemeanor punishable by one or more of the following:</p> <p>1. imprisonment for not more than 93 days 2. community service of not more than 100 hours 3. fine of not more than \$2,000</p>
NC	HB 496; enacted 6-95			Offense for assaulting a school bus driver
NC				<p>Amends GS 115c-391 to:</p> <p>1. permit expulsion of student 14 years or older who had been adjudicated delinquent for committing offense that would be felony if committed by adult</p> <p>2. require suspension of 365 days for any student who brings firearm onto school property</p>
NH	HB 1286; enacted 6-96		Automatic expulsion for student who assaults teacher	
NV	<p>392 465, enacted 6-94</p> <p>AB 370, enacted 6-94</p> <p>AC 785, enacted 6-95</p>	<p>Corporal punishment prohibited in public schools, when defined as the intentional infliction of physical pain or physical restraint as a disciplinary technique for pupils</p>	<p>Unlawful to threaten or attack teachers within a school building or on school property, in school transportation vehicles and places where pupils or school employees are involved in school-sponsored activities</p> <p>Requires the expulsion or suspension from school of certain pupils committing an</p>	<p>Teachers may use reasonable force to maintain order;</p> <p>School employee may defend himself if attacked by pupil</p> <p>Provides an additional penalty for felonies committed on school property; prohibits probation for any person convicted of using a firearm to commit a crime; makes various changes relating to criminal gangs to provisions governing education, parole and proceedings in juvenile court; removes the limitation on the civil liability of parents from the delinquent acts of a minor</p>