

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2354 SCOMM 99 HOUSE SPEC. WORLD TRADE. . RELATIONS, 1995-1996

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 30, 1995

SUBJECT: Sectional Summary of an Act relating to state implementation of federal statutes. (HB83)

TO: Representative Ramona Barnes, Chair
House Special Committee on World Trade and State/Federal Relations

FROM: Tamara Brandt Cook *TBC*
Director of Legal Services

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

Section 1 Sets out legislative findings to support legislative intent of assuring that state government determine whether federally imposed mandates on the state are inconsistent with state policy or exceed the authority of the federal government.

Section 2 Requires the head of each agency in the executive branch to annually review each program administered by that agency that implements federal statutes that impose mandated duties on the state. A report must be prepared describing materials reviewed, setting out conclusions, and making recommendations for changes in federal law to make the program consistent with state policy or more cost-effective. The review must be delivered to the governor, the house and senate judiciary committees, and the Legislative Budget and Audit Committee by February 1.

Requires the head of each executive branch agency authorized to develop a state program to respond to mandates in federal statute to determine, with the assistance of the Department of Law, whether the federal government has exceeded its constitutional authority to impose mandates on the state. If it is determined that authority may have been exceeded, the agency head must submit a report to the governor and the judiciary committees setting out the basis for the determination.

An agency authorized to develop a state program to respond to mandates is required to give due consideration to the financial restraints of the state and municipalities in the development of the program and to devise a program that is as efficient as possible in terms of long-range public benefit and cost.

Representative Ramona Barnes, Chair

January 30, 1995

Page 2

Each legislative committee that receives a report must review it and may seek additional information regarding the mandate involved. The committee shall inquire further into the legality of the mandate and may enter into contracts for legal research on this issue or contract for research into more cost-effective methods of implementing the mandate.

The committee shall submit a report of its recommendations to the governor regarding the need to seek changes in the mandate so that it is consistent with state policy and suited to the needs of the state, ways in which the state program might be altered to more efficiently implement the mandate, and the advisability of pursuing a legal challenge to the validity of the mandate.

TBC:glc

95-100.glc

B —

HOUSE COMMITTEE REPORT

2/8/95

(5)

Date Referred: January 16, 1995

FURTHER REFERRALS:

State Affairs
Judiciary

Date of Committee Action: 1/31/95

The HOUSE SPECIAL COMMITTEE ON WORLD TRADE & STATE/FEDERAL RELATIONS Committee
considered: HB 83

HOUSE BILL NO. 83

REVIEW OF FEDERALLY MANDATED PROGRAMS

"An Act relating to state implementation of federal statutes."

recommends it be replaced

with the following committee substitute

CS HB 83 (WTR)

☒ the same title
☐ a new title

☐ additional referral to
☐ attached amendment(s)

Committee

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S):

(Dept)

APPROVES PREVIOUS:

(Dept/Date)

(8) ☒ fiscal note(s) Gov, CRA, FEG, ☐ fiscal note(s) _____

HESS, Law, P.S., REV, DOTPF

(9) ☒ zero fiscal note(s) ADMIN, CED, DEC, ☐ zero fiscal note(s) _____

Ed, DEC, FEG, Labor, DNR, MW

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Lail Phillips</i>	Phillips	☒			
<i>W. F. Williams</i>	Williams	☒			
<i>Gene Kubina</i>	Kubina			X	
<i>G. Davis</i>	G. Davis			X	
<i>Mulder</i>	Mulder			X	
<i>Mackie</i>	Mackie			X	
<i>Barnes</i>	Barnes	☒			
		(3)		(4)	

CHAIR'S SIGNATURE

Lail Phillips
Barnes



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Juneau, AK 99801-1182

MEMORANDUM

TO: Tamara Brandt Cook

FROM: Representative Ramona Barnes 

DATE: February 1, 1995

RE: HB 83

Please draft a committee CS for HB 83. The changes reflected in the attached amendment were approved by my committee last night, and we need the CS before we can return the bill to the clerk. If you have any questions, please contact Wayne Maloney of my staff at 465-5686.

AMENDMENT

OFFERED IN THE HOUSE SPECIAL
COMMITTEE ON WORLD TRADE
AND STATE/FEDERAL RELATIONS

BY REPRESENTATIVE OGAN

Page 2, lines 13 - 15:

Delete:

"The commissioner of each department or head of another agency in the executive branch shall annually review each program administered by that department or agency"

Insert:

"The Office of Management and Budget shall annually review each program administered by each department or agency of the executive branch"

Page 2, line 16:

Delete "The commissioner or agency head"

Insert "The Office of Management and Budget"

Page 2, line 19:

Delete "commissioner or agency head"

Insert "Office of Management and Budget"

Page 3, line 18:

Following "governor":

Insert "and the Alaska congressional delegation"

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date:
Title: Relating to state implementation of federal statutes

Dept. Affected: Military and Veterans Affairs
BRU: Alaska National Guard
Component: Commissioner's Office

Sponsor: Rep Ogan
Requestor: House Com on World Trade & State/Fed Relations

COMPONENT SERIAL NO. 414

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared by: Jeff Harrison, Director
Division: Administrative Support Services Division
Approved by Commissioner: MG Jake Lestakof
Agency: Military and Veterans Affairs

Phone: 465-4730
Date: 1/30/95
Date: 1/30/95

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MEMORANDUM

To: House Committees of Referral for HB 83

From: Allen Kingman, Aide to Rep. Scott Ogan *SO*

Re: Sectional Analysis of HB 83

Date: January 19, 1995

The following is a sectional analysis of HB 83, "An Act relating to state implementation of federal statutes." Please be advised that this analysis is not an authoritative interpretation of this bill, and is not intended to provide legal advice concerning the potential ramifications of the bill.

Section 1. FINDINGS AND INTENT:

The findings set forth in this bill are clear and self-explanatory; they reflect the widely held opinion that the federal government has grossly exceeded its authority to make and enforce policy in certain areas. Federal legislation typically authorizes the various executive agencies to promulgate regulations which are oppressive, unconstitutional, and which demonstrate little understanding of or concern for the unique conditions and problems faced by the citizens of the State of Alaska.

Section 2. ADDITION OF A NEW CHAPTER 40 TO TITLE 37:

§ 37.40.10 (a) requires that a commissioner or other agency head charged with implementing a federally mandated program shall annually review the cost-effectiveness of that mandate, as well as whether the mandate conflicts with state policy. The commissioner or agency head will then present his findings and recommendations to the governor, the Legislative Budget and Audit Committee, and the judiciary committees of each house.

§ 37.40.10 (b) requires a similar annual review of federal mandates by commissioners and agency heads, but with a focus on whether the federal mandate encroaches on an area of jurisdiction reserved to the states under the United States Constitution. Findings are reported to the governor and judiciary committees only.

§ 37.40.10 (c) requires that state agencies or departments responsible for developing state programs that implement federal mandates shall develop programs that are responsive to the fiscal limitations of the state and its municipalities, and that the agencies balance the cost of the program to the state with the program's intended benefit.

§ 37.40.020 (a) charges the committees receiving the above-described reports with making an independent determination as to the legality of the federal mandate, and with reviewing any alternative methods of compliance that might be more cost-effective.

§ 37.40.020 (b) requires the reviewing committees to submit recommendations to the governor regarding executive branch implementation of the federal mandate.



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SPONSOR STATEMENT

To: House Committees of Referral for HB 83

From: Representative Scott Ogan *SO*

Re: HB 83, "An Act relating to state implementation of federal statutes."

Date: January 19, 1995

I have introduced HB 83 as a companion bill to HJR 8, "A Resolution relating to mandates and other conditions imposed on the states by the federal government." Whereas the Resolution articulates the resolve of the citizens of this state to stand against further attempts by the federal government to encroach upon our autonomy and rights as a state under the Tenth Amendment to the United States Constitution, this bill provides a simple and practical modality for taking that stand.

HB 83 requires that any commissioner or agency head faced with implementing a federal mandate or condition must first carefully analyze the mandate for three specific difficulties before making any efforts at compliance. First, is the federal policy or legislation an unconstitutional abrogation of state power? Second, is it in conflict with state policy? And third, is the federal mandate a cost-effective method in this state of dealing with the problem it addresses? The agency head or commissioner will present his findings in the form of a written report to the Governor, the Legislative Budget and Audit Committee, and the House and Senate Judiciary Committees.

The two legislative committees receiving such reports shall review them, and are authorized to research the legality of the mandate. Their conclusions shall be presented to the governor, along with specific recommendations to the executive branch for compliance, modified compliance, or legal challenge.

This bill provides a mechanism to scrutinize efforts by the federal government to impose unsuitable policy on our state, and to assert our right to self-determination--a right purchased for us at high cost by our ancestors.



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MEMORANDUM

TO: Jack Kreinheder, OMB

FROM: Wayne Maloney, Legislative staff
Special Committee on World Trade
and State/Federal Relations

Date: January 20, 1995

RE: fiscal notes

This is a formal request, through Committee Chair Rep. Ramona Barnes for fiscal notes for HJR 8 and HB 83. Both measures are scheduled for a hearing before the committee on January 31st.

It is my understanding per our discussion that OMB will obtain fiscal notes from each department and in the case of this request it is not necessary for the committee to contact each department individually. It is also my understanding that the requested fiscal notes will be provided no later than Wednesday, January 25th.



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MEMORANDUM

TO: Representative Scott Ogan

FROM: Representative Ramona Barnes 
Chair, House Special Committee
on World Trade and State/Federal Relations

DATE: January 18, 1995

RE: HJR 8, HB 83

I have scheduled a hearing on your bill, HB 83, "An Act relating to state implementation of federal statutes" for Thursday, January 26th at 5 P.M. in room 408.

Also scheduled for a hearing at that time is HJR 8 "Relating to mandates and other conditions imposed on the states by the federal government."

Would you please ask your staff to provide Wayne Maloney of my staff with the necessary backup and sponsor statement information by 5 P.M. Monday, January 23rd? Please also furnish a list of individuals or representatives of agencies that you expect will testify at the hearing.



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REPRESENTATIVE SCOTT OGAN

House District 27

MEMORANDUM

To: World Trade & St./Fed. Relations Committee

From: Rep. Ogan *A.O.*

Date: January 17, 1995

Re: Request for Hearing on HB 83

Attn: Representative Barnes, Chair

Copy: Speaker Phillips, Vice Chair

Please schedule the above referenced Bill for a hearing at your earliest convenience. Thank you for your attention to this matter.



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HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

TO: Representative Ramona Barnes
Chair, House Special Committee
on World Trade and State/Federal Relations

FROM: Representative Scott Ogan

SUBJ: Request for Teleconference at Matanuska-Susitna L.I.O.

DATE: January 20, 1995

I would like to request a teleconference at the Matanuska-Susitna L.I.O when the House Special Committee on World Trade and State/Federal Relations has its hearing on HB 83 and HJR 8, January 31, 1995.

Thank you for your assistance.

A handwritten signature in cursive script, appearing to read "Scott Ogan".

SCOMM

99:9

MEMORANDUM

TO: Representative Ramona Barnes
FROM: Wayne Maloney
RE: HB 91 "Adding Marine Park Units"

The following is a sectional analysis of HB 91 "adding marine park units".

Section 1: Findings; (a) (1) Marine parks support recreation and tourism by maintaining fish and wildlife resources.

(2) The State is able to ensure public anchorage's and recreational beaches which will be managed as a single unit with consistent development and regulations.

(b) It is the purpose of the Act to extend the marine park system within Lynn Canal by including islands selected under the Statehood Act.

Section 2: Legal description of the islands.

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE CAREN ROBINSON

SPONSOR STATEMENT

HB 91

House Bill 91 designates 13 islands in the Juneau area as a State Marine Park. The islands included in this parcel are located in Lynn Canal; they are unique because they can all be reached within a few minutes by skiff or a few hours by kayak. The primary use of selected lands has been, historically, for recreation purposes.

In 1977 the islands were nominated by the City and Borough of Juneau for state selection from the Tongass National Forest for recreation purposes. In 1989 the State selected the Channel Islands from the federal government under the Alaska Statehood Act.

Establishing the lands as a state park would preserve the quality of existing and future recreational usage while allowing an agency to enforce proper usage of the land. All existing lawful usage, including fishing, trapping and hunting are preserved under statute. Only State Park management can consolidate water, intertidal and upland uses into a single entity with adequate enforcement authority to protect as well as provide for safe use of these resources.

To designate these lands a State Park requires legislative action. Both the City and the State have identified the plan as a priority in the Juneau Coastal Management Plan and the Juneau State Land Plan. A previous bill, introduced during the 1991-92 legislative session, passed the House only to die in the Senate Rules Committee.

The bill has a zero fiscal note. It is important to recognize that Juneau has a long and consistent history of using volunteers to manage parklands. Park maintenance would be overseen by the Division of Parks using Juneau's many volunteer organizations as a labor base.

The creation of the Juneau Channel Islands State Marine Park is urgently needed and would be an outstanding addition to Alaska State Parks by providing an island complex unique to the State Park System. Thank you for your consideration. I urge your support of House Bill 91.



FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB91

Revision Date: Original Dept Affected: Natural Resources
 Title: An Act amending the area within designated BRU: Parks & Recreation Management
marine park units of the Alaska state park system, and adding marine... Component: Parks Management
 Sponsor: Representative Robinson and Elton
 Requestor: _____ Component Serial No. 452

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ None

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)

Existing recreation use leaves trash and starts duff fires from poor fire site choice. Parks staff can assist in minor signing of boat launches and heavy use areas to encourage park visitors to take out trash and use good fire pits. Signage and occasional patrols can be done with no additional funding. Fire fighting is done by the U.S. Forest Service under statewide agreement. Volunteer groups have indicated their willingness to assist in trash clean-up.

Prepared by: Neil Johannsen, Director Phone: 762-2600
 Division: Parks & Outdoor Recreation Date: 6-Feb-95
 Approved by Commissioner: for M. Ruttan, Ind. Act. Comm Date: 2/6/95
 Agency: Natural Resources

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JUNEAU CHANNEL ISLANDS
A STATE MARINE PARK PROPOSAL



Presented by
The Juneau Area State Parks Advisory Board
1994

Introduction

Alaska has the opportunity to establish one of the most wonderful and exciting parks anywhere in the world right here in our capital city. Thirteen islands in Favorite Channel and Auke Bay near Juneau are proposed as the Juneau Channel Islands State Marine Park. This proposal also includes an addition to the existing Shelter Island State Marine Park (SMP). The marine park boundaries would be at the 20 fathom depth around each island, easily determined by most pleasure and all commercial boats.

Four of these islands are within the sheltered waters of Auke Bay and can be reached by canoe, kayak or rowboat in nearly any weather. Each has a long history of use by local youths and families for camping and picnicking. The other nine islands are further off shore and more exposed to storms. Recreation has always been their predominant use, and because of this use they were selected from and approved by the federal government for state ownership.

All but two islands have one or more sand or gravel beaches suitable for landing small boats. There is evidence of camping and picnicking at all of these beaches. All the islands have scenic headlands affording breathtaking views of neighboring islands against a spectacular backdrop of mountains and glaciers. A broad expanse of the Chilkat Mountains flank the area to the west, and the world famous Mendenhall Glacier, and the glaciers and peaks of the Juneau Icefield are visible to the east. Five of the islands are large enough to provide some hiking, and the rest are small enough to scramble all over in an hour or less. There are hills to 1,000 feet on the larger islands.

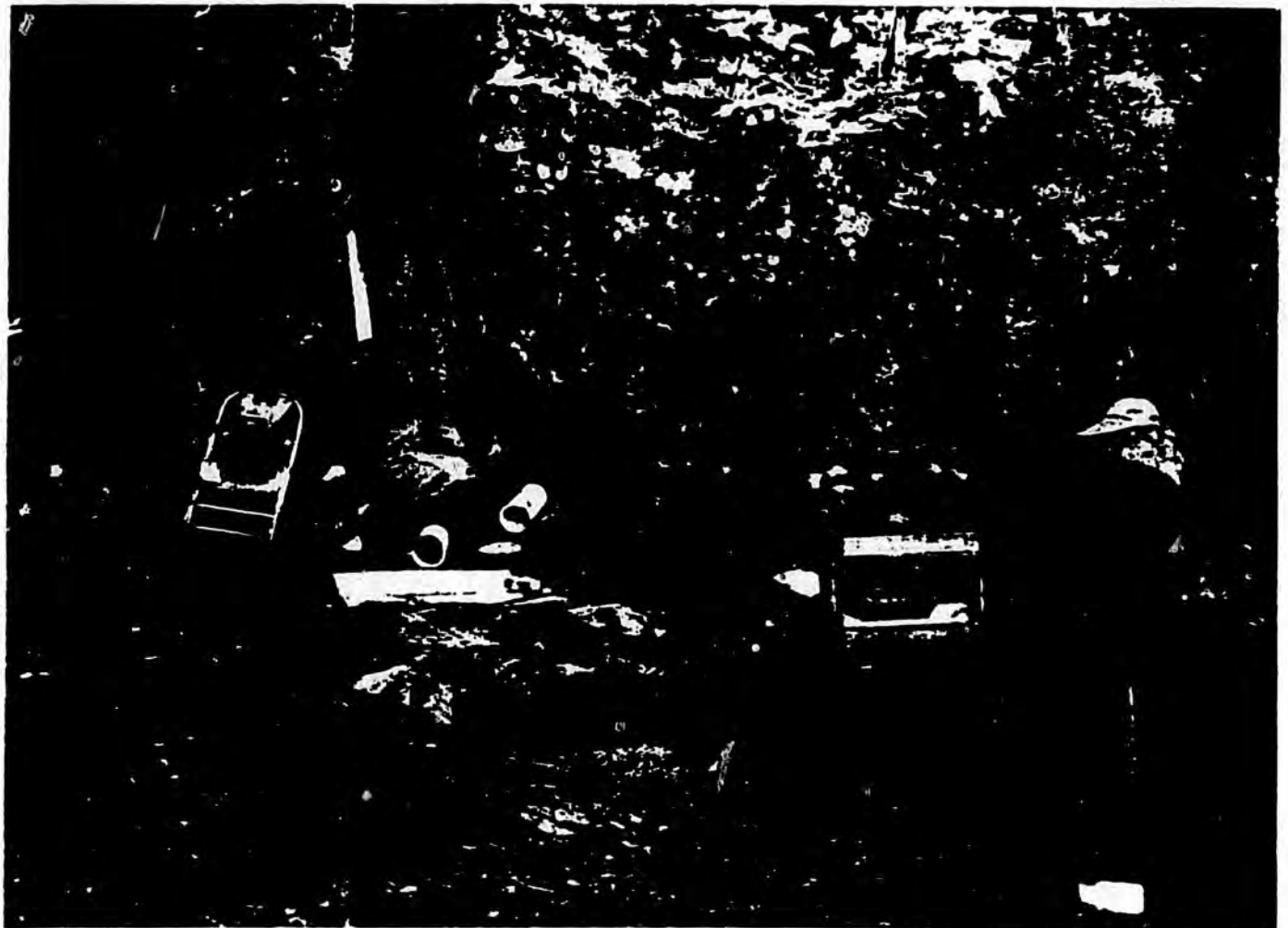
The islands, except one, are covered by typical rain forest vegetation including Sitka Spruce and Western Hemlock with a profusion of berry bushes and other undergrowth. Some of the islands show evidence of selective tree cutting. There are trails near the accessible beaches, and a few human artifacts, but the islands are essentially pristine and undeveloped.

Sea mammals are much in evidence in these waters. Seals to a hundred or more haul out on several of the beaches and there is a regularly used sea lion haulout at Benjamin Island. Humpback whales are often visible, especially in summer. The entire area is within Juneau's most popular sport salmon fishing waters, and boats are always nearby in summer. There is a resident deer population on three islands that provide some hunting.

Many species of birds nest on these islands including pigeon guillemots and black oyster catchers which do not nest on the nearby mainland. There are more than 80 bald eagle nests, and eagles are common year-round residents.

Need for Legislation:

Only the legislature can withdraw over 640 acres from the public domain and designate them as Special Purpose Sites (a state park) under the state's constitution. The island beaches of the proposed park are already heavily used for camping and picnicking and have nearly reached their capacity for self-regulated recreation. Litter is not yet a major problem but human waste is evident in the woods near popular campsites. Fires are often built on forest duff, killing some large spruce and causing peat fires which smolder for weeks. Juneau is rapidly becoming a major ecotourism destination, and commercial guides are likely to soon be competing with local residents for the limited beaches and campsites. It is essential to institute a management system of the type provided by the State Division of Parks and Outdoor Recreation to preserve the quality of existing recreational use and accommodate future needs. Only state park management can meet the need of combining water, intertidal and upland uses into one entity with adequate enforcement authority to protect the resources while providing for safe use. The need to protect these islands for recreational use is recognized by both the city and state plans: The Juneau Coastal Management Plan and the Juneau State Land Plan.



Objectives:

Creation of Juneau Channel Islands State Marine Park would be an outstanding addition to Alaska State Parks, providing an island complex not represented by other units of the Park system. The new park would fully satisfy statutory requirements for state marine parks including:

- 1) Maintaining natural, cultural, and scenic values;
- 2) Maintaining fish and wildlife resources and lawful existing uses of these resources;
- 3) Promoting and supporting recreation and tourism in the state.

Long Term Management:

A long term management plan for the islands as a park unit should be developed. As competition for use of these resources increases, it may become necessary to determine how the public would like these islands to be managed. Designations for day use vs. overnight camping, single campsites vs. group campsites, public vs. commercial use and capacity of the various islands to sustain different use levels may eventually need to be addressed. As use continues to increase improvements will be needed. Fire places, toilets, tables and gravel tent sites can enhance public use and can be sited to spread users thus accommodating more parties. A system of trails on the larger islands would enhance use and could also serve to spread people out. There is a potential for recreation cabins, especially on the larger islands where deer hunters as well as summer users would enjoy them. There may be a potential for some mooring floats at some of the islands. A small inter-island ferry, serving day users and campers, operated by a concessionaire, may some day be feasible.

The Division of Parks and Outdoor Recreation should develop a long term management plan. As improvements are added, normal state park user fees can be collected.

Land Ownership:

As part of the Statehood Act, the Federal Government allowed the State of Alaska to select 400,000 acres from National Forest lands as a land base. The acreages were to be selected from unencumbered federal lands and used for community expansion and/or community recreation purposes. All lands within this Marine Park proposal were selected by the State of Alaska as part of that land selection process.

As early as 1977 many of these islands were nominated for selection by the City and Borough of Juneau for recreation purposes. By June of 1989 this board, the Taku Conservation Society, the City and Borough of Juneau, and Alaska State Parks all nominated these islands for inclusion in a state marine park.

All surrounding marine water, tidelands and submerged lands are already owned by the State of Alaska. If not designated as a marine park, these recreational lands would be managed by the Division of Land. Division of Land selection documents indicate that the intent of the selection of many of these parcels was based on recognition of their current use and suitability for public recreation. Tentative Approval and Patents have been issued to the state on some already, and the Bureau of Land Management is expected to finish Tentative Approval (full management) within the next few months.

There are only two small parcels of private lands within the existing Shelter Island State Marine Park. This proposal does not include any private lands.

Juneau International Airport, through the Federal Aviation Administration, has existing rights and facilities on Coghlan Island. Any future need for facilities to provide safer landing would be of great benefit for the health and safety of all travellers, including tourists to the park.

Island Characteristics - Individual Island Descriptions

Aaron Island (0.4 mi. long)

Orth reports that the island was named in 1880 by Capt. L.A. Beardslee, USN, for "a relative of C.J. Vanderbilt, a local miner." DeArmond, however, indicates that there is no record of a local miner by the name of Aaron. Beardslee was friends with J.M. Vanderbilt for whom he named Vanderbilt Reef, but that family disclaims knowledge of any Aaron. DeArmond, instead suggests that the island was named for Aaron Cohen, a resident of Sitka and then Juneau, who owned and operated a brewery in both towns. DeArmond also believes that Cohen Island and reef were also named after Aaron Cohen.

The island consists mainly of cliffs and headlands. There is a small landing beach on the south end. There is also a small rocky islet at the NE end with a small beach. Dominant vegetation on Aaron Island is rain forest and the small rocky islet is covered with herbaceous vegetation (plants and flowers). Two Bald eagle nests are located on the island. There is a navigation light and a navigation reflector found on the island. Two picnic sites and one camp site are also located on the island.

Battleship Island (0.1 mi. across)

Apparently a local descriptive name first reported by DeArmond in 1957. The island is mostly a vegetated rock with steep sides and a fairly flat top. There is one poor landing beach where rocks have been cleared to aid in landing. Large trees are found on the top. Several camp sites and numerous trails and a lot of litter are present. Island appears to be used a lot by kids as well as adults. Island is readily accessible via sheltered waters. FAA plans to install aircraft navigation lights and electronics in 1995. Large numbers of crows roost on island at night.

Benjamin Island (1.5 mi. long)

Named by Capt. L.A. Beardslee, USN in 1880 when he visited the area. There are three excellent gravel beaches on the south end of the island. Each has one or more heavily used camp sites. There also is a good access beach with a campsite on the northeast side of the island. Primary vegetation is typical rain forest. An important sea lion haulout is located on the west side of the island.

Bird Island
(0.1 mi. across)

Named in 1880 by Capt. L.A. Beardslee and later published on USC&GS chart 728 in 1883. In February 1914, the schooner *W.H. Dimond* went aground on the island and was a total loss.

The island is mainly a rock about 60 feet high with stunted trees on the top. Steep cliffs on the south and west sides. East side of island is less steep and access is difficult but possible. Two Bald eagle nests are on the island. Ten to fifteen pigeon guillemot nests were observed on the cliffs in June and July. No evidence of human use on the island.



Cohen Island
(0.3 mile across)

Named by the USC&GS and published on chart 8300 in 1893. (See discussion under Aaron Island). Cliffs and headlands all around the island. No good landing sites. Rain forest vegetation and two Bald eagle nests present.

Coghlan Island
(1 mi. long)

Named by the USC&GS in 1885 in honor of Joseph Bullock Coghlan, USN, who commanded the *U.S.S. Adams* in a survey of the area in 1883-1884. In later years Coghlan commanded the *U.S.S. Raleigh* during the Philippines campaign of the Spanish American War, and served as commandant of the Puget Sound and New York Naval Shipyards. He rose to the rank of rear admiral and retired in 1906. He died in 1908.

An FAA navigation beacon is located on the northern point of the island. A small building with a tramway is also present on the island and is currently being used by the FAA. There are cliffs on the SW side and beaches on the NW and E sides. Beaches provide good access. The island is forested with a berry understory. There is evidence of fire damage. Pigeon guillemots nest on the NW side. Evidence of camping and picnicking. The island is accessible by sheltered waters and is reachable by small boats and kayaks in all seasons. Has significant deer population most years. Good littleneck and butter clam digging on north end.

Gull Island
(0.4 mi. across)

Named in 1880 by Capt. L.A. Beardslee, USN, because "it was covered by sea gulls." Name published by USC&GS in the 1883 Coast Pilot. There is an excellent sandy beach on the south end with a heavily used campsite.

Lincoln Island
(4.7 miles long)

Named in 1868 by Cmdr. R.W. Meade, USN, of the *U.S.S. Saginaw*, presumably for Abraham Lincoln, 16th. President of the U.S. Name published by the USC&GS in the 1883 Coast Pilot.

There are gravel and cobble beaches on the east side with low (30 ft.) headlands. A sandy beach with camp site is located on the southern end. The west side has cobly rocky beaches. It is exposed to winds and waves of Lynn Canal. The island consists of low, well forested hills, with open headlands on the east side and low herbaceous growth. According to USFWS records there are 17 Bald eagle nests on the island. Deer are also present. There are 5 or 6 good landing sites on the east side and south end, and all have evidence of camping and picnicking use.

Indian Island
(0.1 mi. across)

Local name published in 1962 by the USGS. There are two good landing beaches. The island is within 200 yards of the mainland and is accessible in all weather conditions. There are two shipwrecks, one is a wood fish scow abandoned in 1970 on the east shore.

In late 1950's and early 1960's it was a summer campsite of older natives. During that time they gathered herring roe on hemlock branches. At the same time there was a large herring pound between Indian Point and Indian Island for three months during the spring to harvest halibut bait and live sport fish bait. There are remnants of a Tlingit canoe way on the east beach. Large trees are on the island, one containing a Bald eagle nest. There is one much used campsite with quite a bit of litter.



North Island
(0.4 mi. long)

Named in 1880 by either Capt. L.A. Beardslee, USN, or by Cmdr. R.W. Meade, USN, in 1869. Name was published in the 1883 Coast Pilot by the USC&GS. A popular anchorage for commercial gillnetters fishing Mab Island and Berners Bay. Exposed to northerly winds and seas. There is an excellent beach on the South end that is a whale viewing area.

Portland Island
(1.1 mile long)

Named in 1880 by Capt. L.A. Beardslee, USN. Published in the 1883 Coast Pilot. An extensive reef with some vegetated hummocks is located on the northern end of the island. There is a campground with picnic tables located on the western side of the island. There is a very nice sand beach on the southwest corner, a beach on the east side, and a gravel beach near the northern reef. There are five bald eagle nests on the island and black oystercatchers nest on the reef. Other birds use the north reef for nesting and roosting.

Old stumps indicate some selective logging years ago. There is a poor trail across the southern end of the island. The FS picnic site consists of three tables with cement fireplaces, and an outhouse. All need maintenance.

Ralston Island
(1 mi. long)

Named for W.C. Ralston by Cmdr. R.W. Meade, USN, in 1868. Published in the 1883 Coast Pilot. A World War II CAA (now FAA) radio range station used to be located on the northern shore of the island. Remnants of the facility are still visible. Antenna and house on the north end, and dock pilings on south end with heavily overgrown road connecting them.

Landing beaches on south and east sides. Headlands on east side. Also extensive reefs on east side. Island is connected to Lincoln Island at low tides. Ralston Island is forested with some open meadows. There are two Bald eagle nests on the island. Camping and picnic sites located on the south end.

Shelter Island
(9 mi. long)

The island was named in 1869 by Cmdr. R.W. Meade, USN, and published in the 1883 Coast Pilot. There is already a designated marine park on Shelter Island adjacent to Shelter Cove. This addition would include the center portion with Shelter Lake. There is an old Forest Service cabin (not maintained) in the center parcel. Large sandy beach at Hand Trollers Cove. Also reported remnants of cabins at cove. The island is heavily timbered with spruce and hemlock and scattered groves of Alaska yellow cedar. Deer are common on the island and heavily hunted. Southern end of the island was homesteaded and the homestead was later subdivided and sold. Numerous private cabins are now located on the southern end of island, several miles from the proposed marine park addition.

Suedla Island
(0.3 mi. across)

Local name apparently formed by combining the initial letters of several names or words. Its origin is unknown. Also known as "Merlin's Island" by local residents. The main island has three small gravel beaches on the east side, but other sides are cliffs. There is a very good sand beach on the connected islet on the east side. The island is close to shore and has very protected waters. Main vegetation is large trees with typical undergrowth. Two Bald eagle nests are located on the island. Heavy picnicking and camping use are noted on the east islet. There are ruins of cabin and fox pens in the center of the island.

NOTE: Much of the general site and wildlife information was obtained from Advisory Board member visits to the various islands.

References

- DeArmond, R.N. 1989. Names on the Chart and how they got there. Commercial Art. Juneau, AK. 72 pp.
- Eppenbach, Sara. ed. 1979. The Centennial gazetteer: a guide to Juneau, Alaska place names. Gastineau Channel Centennial Association, Juneau, AK. 74 pp.
- Gibbs, Jim. 1971. Disaster Log of Ships. Bonanza Books, New York, NY. 176 pp.
- Orth, Donald J. 1967, reprinted 1971. Dictionary of Alaska Place Names. Geological Survey Professional Paper 567. U.S. Govt. Print. Office, Wash. DC. 1084 pp.
- United States Coast Guard, 1990 rev. Lighthouses and other aids to navigation in Alaska history. Seventeenth Coast Guard District, Juneau, AK. 87 pp.

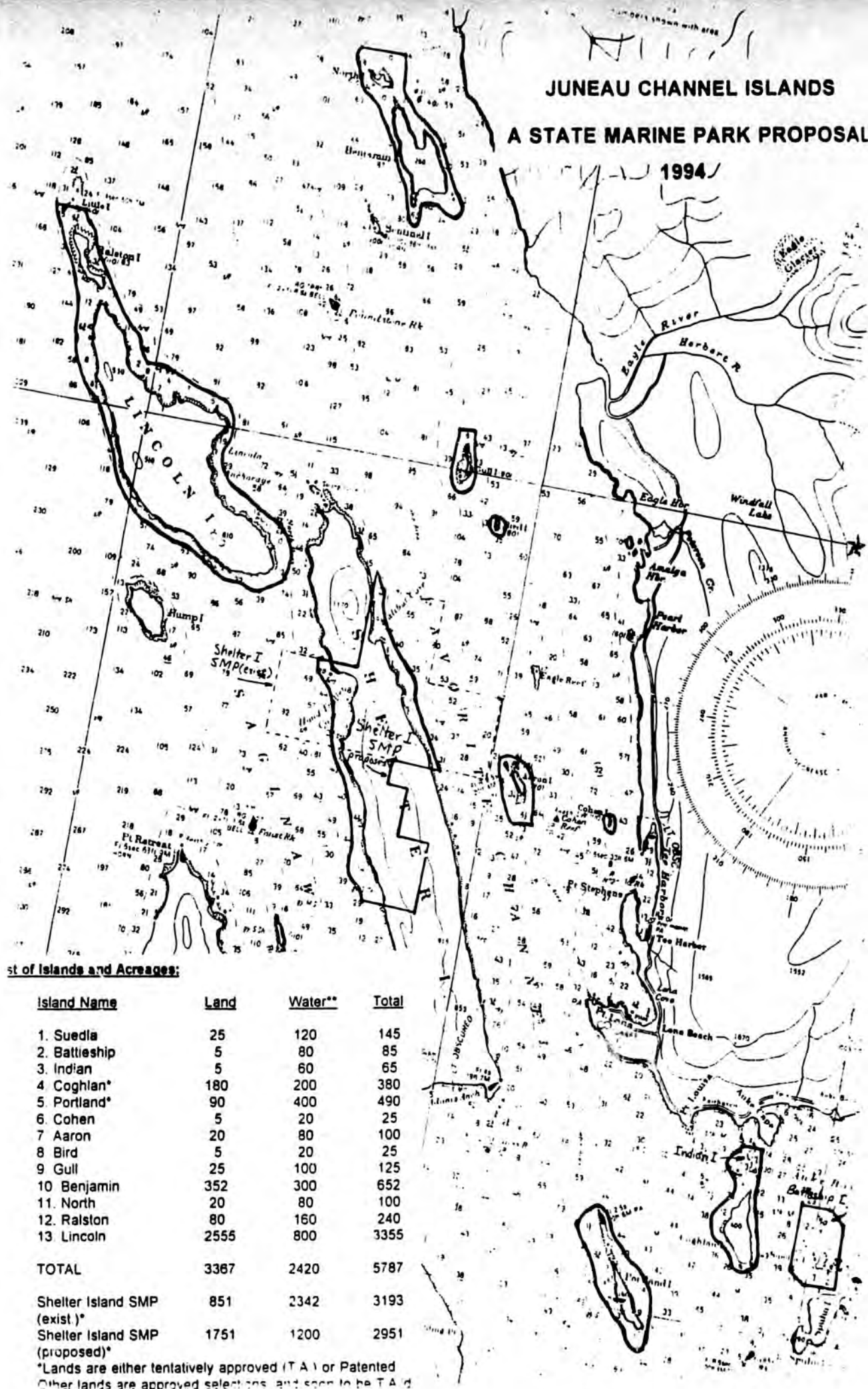
Abbreviations Used

CAA -- Civil Aeronautics Administration
Capt. -- Captain
Cmdr. -- Commander
FAA -- Federal Aviation Administration
FS-- Forest Service
Lt. -- Lieutenant
USC&GS -- United States Coast and Geodetic Survey
USFWS -- United State Fish and Wildlife Service
USGS-- United States Geological Survey
USN -- United States Navy

JUNEAU CHANNEL ISLANDS

A STATE MARINE PARK PROPOSAL

1994



ist of Islands and Acreages:

Island Name	Land	Water**	Total
1. Suedia	25	120	145
2. Battieship	5	80	85
3. Indian	5	60	65
4. Coghlan*	180	200	380
5. Portland*	90	400	490
6. Cohen	5	20	25
7. Aaron	20	80	100
8. Bird	5	20	25
9. Gull	25	100	125
10. Benjamin	352	300	652
11. North	20	80	100
12. Ralston	80	160	240
13. Lincoln	2555	800	3355
TOTAL	3367	2420	5787
Shelter Island SMP (exist)*	851	2342	3193
Shelter Island SMP (proposed)*	1751	1200	2951

*Lands are either tentatively approved (T A) or Patented
Other lands are approved selections and soon to be T A d

Presented by: Mayor & Assembly
Introduced: 03/06/95
Drafted by: J.R.C.

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 1752

A RESOLUTION SUPPORTING CREATION OF THE JUNEAU CHANNEL ISLANDS STATE MARINE PARK.

WHEREAS, it has been proposed that the State of Alaska establish the Juneau Channel Islands Marine Park composed of thirteen islands located in a 640-acre area in Favorite Channel and Auke Bay, and

WHEREAS, the thirteen islands in the proposed park include: Aaron, Battleship, Benjamin, Bird, Cohen, Coghlan, Gull, Lincoln, Indian, North, Portland, Ralston, and Suedla, and

WHEREAS, the park would be an outstanding recreational asset, offering breathtaking views of the Chilkat Mountains and the Juneau ice field, supporting many species of birds, sea mammals, fish, and deer, and providing safe and ready access for established groups of canoers, kayakers, boaters and other users, and

WHEREAS, designation of the area as a Special Purpose Site and withdrawal of the land to the management system of the State Division of Parks and Outdoor Recreation would be the most effective process for preserving existing recreational uses and accommodating future needs, and

WHEREAS, action by the Alaska Legislature is necessary to accomplish the withdrawal, and there is currently pending in the Legislature, HB 91 and SB 34 which propose to accomplish creation of the Juneau Channel Islands Marine Park and an addition to the existing Shelter Island State Marine Park, and

WHEREAS, the CBJ Parks and Recreation Advisory Board at its meeting of January 17, 1995, and the Assembly Lands Committee at its meeting of February 22, 1995, recommended that this resolution be adopted supporting establishment of the Juneau Channel Islands Marine Park;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

1. That the Assembly of the City and Borough of Juneau supports legislation that will create the Juneau Channel Islands State Marine Park.
2. The Clerk shall distribute copies of this resolution to the Alaska Legislative Delegation.

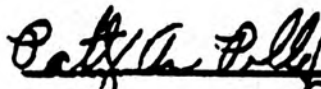
3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 6th day of March, 1995.



Mayor

Attest:



Clerk

Sec. 41.21.300. Declaration of purpose. (a) The purpose of AS 41.21.300 — 41.21.306 is to establish, subject to valid existing rights, the state-owned or acquired land and water described in AS 41.21.304 as marine park units of the Alaska state park system. The primary purposes in establishing the land and water areas described in AS 41.21.304 as marine park units of the Alaska state park system are to

(1) maintain natural, cultural, and scenic values;
(2) maintain fish and wildlife resources and lawful existing uses of these resources;

(3) promote and support recreation and tourism in the state.

(b) The land and water described in AS 41.21.304 is dedicated as special purpose sites under art. VIII, § 7 of the state constitution. (§ 1 ch 64 SLA 1983)

Revisor's notes. — Enacted as AS 41.20.530. Renumbered in 1983.

Sec. 41.21.302. Management of marine parks. (a) The state land and water described in AS 41.21.304 is assigned to the department for control, maintenance, and development consistent with the purposes and provisions of AS 41.21.300 — 41.21.306.

(b) The Department of Fish and Game is responsible for the management of fish and game resources on the state land and water described in AS 41.21.304 consistent with the purposes of AS 41.21.300 — 41.21.306. The Department of Fish and Game shall give written notice to and consult with the department before adoption of regulations governing fish and game management in a marine park unit of the Alaska state park system.

(c) The department shall develop a management plan for each marine park unit of the Alaska state park system to determine the specific purposes and uses for the unit. The commissioner shall give written notice and consult with the Department of Fish and Game, proximately located municipalities of the state, proximately located private landowners, the United States Forest Service, organizations concerned with conservation, recreation, and tourism, and other interested parties during the preparation of a management plan for a marine park unit of the Alaska state park system. A management plan required under this subsection shall be completed by June 14, 1995, for each marine park unit established before June 14, 1990, and within five years of the establishment of the unit for units established after June 13, 1990.

(d) The commissioner may not restrict the exercise of fishing, hunting, or trapping rights permitted under law or under a regulation of the Board of Fisheries or the Board of Game within a marine park unit of the Alaska state park system.

* allows fishing, hunting and trapping.

(e) The commissioner shall allow the development of aquaculture facilities within a marine park unit of the Alaska state park system under terms and conditions that ensure that the development is compatible with AS 41.21.300 — 41.21.306.

(f) The commissioner may enter into a cooperative agreement for (1) the management of a marine park unit of the Alaska state park system with a federal agency, a municipality of the state, or a proximately located private landowner for a purpose stated under AS 41.21.020(7); or

(2) the management of proximately located federal, municipal, or private land as part of a marine park unit of the Alaska state park system.

(g) In the management of a marine park unit of the Alaska state park system the commissioner shall consult and cooperate with a Native corporation that owns an historical or cultural site granted under 43 U.S.C. 1613(h)(1) (sec. 14(h)(1) of the Alaska Native Claims Settlement Act) and that is proximately located to a marine park unit of the Alaska state park system. In the management of a marine park unit of the Alaska state park system the commissioner shall address the potential conflicts with the cultural and historical values of land granted to a Native corporation under 43 U.S.C. 1613(h)(1) (sec. 14(h)(1) of the Alaska Native Claims Settlement Act) and shall provide for appropriate protection to these values.

(h) Nothing in AS 41.21.300 — 41.21.306 precludes the use of or access to land proximately located to a marine park unit of the Alaska state park system or to mineral claims and leases. The commissioner shall permit adequate and feasible access across state land within a marine park unit of the Alaska state park system to and from private and public land within or outside a unit. In the granting of such access the commissioner may adopt reasonable regulations to protect the natural and other values of the marine park unit land and water.

(i) The commissioner may enter into a concession contract under AS 41.21.027 and AS 36 to provide services or construct facilities in a marine park unit of the Alaska state park system. (§ 1 ch 64 SLA 1983; am § 1 ch 67 SLA 1986; am §§ 1, 2 ch 14 SLA 1990; am § 13 ch 168 SLA 1990)

Revisor's notes. — Enacted as AS 41.20.532. Renumbered in 1983.

Effect of amendments. — The first 1990 amendment added "within five years" at the end of the first sentence of subsection (c) and added subsection (i).

The second 1990 amendment, effective June 14, 1990, in subsection (c), deleted "within five years" at the end of the first sentence and added the third sentence.



ALASKA OUTDOOR COUNCIL, INC

P. O. BOX 22394
JUNEAU, AK. 99802
(907) 463-3830

Mar. 29, 1995

Representative Gary Davis, Chair
House Transportation Committee
State Capitol
Juneau, Ak. 99801

Dear Representative Davis:

The Alaska Outdoor Council took a position several years ago in support of HB 91, which would amend the State Marine Parks system by adding the Channel Islands. We are still in basic support of this concept as long as the original statute's provisions for maintaining hunting, trapping and fishing opportunities remain intact.

The Alaska Outdoor Council traditionally supported many classifications of state lands when a demonstrated public objective would ensue. We have always supported broad use of public lands and will continue to do so.

We encourage the House Transportation Committee and the Legislature to pass HB 91. Thank you for this opportunity to present our views on this subject.

Sincerely,

Eddie Grasser
Legislative Affairs

cc: Rep. Caren Robinson
Rep. Beverly Masek
Rep. Bill Williams
Rep. Jeannette James
Rep. Jerry Sanders
Rep. Tom Brice
Rep. Eileen MacLean

PHIL R. HOLDSWORTH, P.E.

CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009
JUNEAU, ALASKA 99801

April 10, 1991

Representative Fran Ulmer
Room 421, Capitol
P.O. Box V
Juneau, Alaska 99811

Dear Representative Fran Ulmer:

As you may recall, the undersigned testified in support of SB 114 before the Senate Resources Committee and explained in some detail the historical creation of the extensive State marine parks system which has been created. The State of Alaska had been authorized to select limited tracts of land within the National Forest for "community expansion" and "community recreation areas".

I was present when HB 131 was heard by the House Resources Committee but had not planned to testify, as DNR covered the issue and presented the map describing the islands involved. I was asked to confirm some positions which were questioned by the committee.

The marine park units covered by this bill are clearly "community" recreation areas, and are ideal for recreational use by the community of Juneau. The area described in the bill covers several small channel islands and a portion of Shelter Island. The land is still in Forest Service ownership but has been selected by the State, and will be approved for conveyance as the land certainly meets the qualification as "community recreation". [There are no known mineral potentials on the involved islands and the Alaska Miners Association has expressed no opposition to the bill.] *

Sincerely,



Phil R. Holdsworth



ALASKA DISCOVERY

Dedicated to the Enjoyment & Conservation of Alaska's Wilderness • Since 1972

Representative Caren Robinson
Alaska House of Representatives
State Capital, Room 114
Juneau, AK 99801-1182

March 28, 1995

Dear Representative Robinson:

Thank you very much for your sponsorship of House Bill 91, which would establish the Juneau Channel Islands State Park. Alaska Discovery has been offering visitors to Alaska guided day kayak tours to Benjamin and North Islands for a number of years, and we are fully supportive of H.B. 91. We disagree strongly with those who call this bill a lock-up. As a business that relies on continued access to the Channel Islands we view the bill as a way of safeguarding the integrity of the islands while still allowing the kind of low-impact eco-tourism in which Alaska Discovery specializes. Some might want to develop the islands for large scale, industrial scale tourism and would therefore oppose any protection for the area. However, Alaska Discovery has established that it is possible to operate a successful tourism business utilizing the islands without heavy impacts to the uplands or disturbance of the wildlife. In addition, we believe that the boating and recreational public would prefer to see the islands remain as they are, with one or two businesses like Alaska Discovery in the area, rather than see large scale development and crowding. State Marine Park designation would allow Juneau to have the best of both worlds: protect the islands while allowing for sustainable eco-tourism.

Thank you, again, for your sponsorship of H.B. 91.

Sincerely,

John Sisk
Interim General Manager

cc: Representative Kim Elton
Senator Jim Duncan



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SCOMM

99:10

TO: Rep. Ramona Barnes

FROM: Wayne Maloney

DATE: February 2, 1995

RE: HB113 "An Act relating to reports by fishing vessels that are not registered"

*Sec. 1 Amends AS 16.05.251 (a) to allow the Board of Fisheries to adopt a regulation requiring foreign fishing vessels entering state waters to report the quantity, species and origin of all fish on board. The new subsection also defines the term "foreign fishing vessel".

*Sec. 2 Requires the Board of Fisheries to consider for adoption, and adopt regulations referenced in Sec 1 (16) prior to May, 1996.

Alaska State Legislature



Representative William K. Williams

Committees:

House Resources,
Chairman

Community &
Regional Affairs

Labor & Commerce

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

in Ketchikan:
352 Front Street
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-8546

SPONSOR STATEMENT

HOUSE BILL 113

"An Act relating to reports by fishing vessels that are not registered under the laws of the state."

House Bill 113 will give the Board of Fish the authority to adopt regulations concerning foreign fishing vessels transiting or in state waters. This legislation would allow the Board to require foreign fishing vessels to report to the Department of Fish and Game the quantity, species, and origin of fish on board.

This will assist the Alaska Department of Fish and Game in their effort to collect data on our border fisheries. House Bill 113 could provide Fish and Game with additional in season management data, providing the state with some significant and timely information that was previously unavailable to our fisheries managers. House Bill 113 will also help protect the state's interest by deterring potential illegal fishing in our waters.

Section two of the Bill directs the Board of Fish to consider for adoption, before May of 1996, the provisions of House Bill 113 concerning foreign fishing vessels present in or transiting the waters of Southeast Alaska.

I urge your positive support of this proposed legislation.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 113

Revision Date:	Dept. Affected: <u>Fish and Game</u>
Title: <u>Reports by Fishing Vessels Not Registered</u>	BRU: <u>Commercial Fisheries Manage. & Dev.</u>
Under the Laws of the State.	Component: <u>Fisheries Management</u>
Sponsor: <u>Rep. Williams</u>	
Requester: <u>House Fisheries</u>	COMPONENT SERIAL NO. <u>1941</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The proposed legislation should not have any fiscal or programmatic impact on the Commercial Fisheries Management and Development Division.

Prepared by: Bob Clasby
Division: Commercial Fisheries Management and Development
Approved by Commissioner: [Signature]
Agency: _____

Phone: 485-4210
Date: 1/28/95
Date: 1.30.95

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W

DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No. HB 113

Sponsor: Rep. Williams

Division: Commercial Fisheries Management and Development

Bill Title: Reports by Fishing Vessels That Are Not Registered Under the Laws of the State.

Department Position: Support

Background/Legislative Intent:

Canadian commercial salmon trollers commonly fish close to the international boundary in Dixon Entrance. Frequently, these vessels enter Alaskan waters to anchor for the night. While at anchor, they do occasionally clean and ice fish. Because of the controversy surrounding the Pacific Salmon Treaty, the use of Alaska harbors by Canadian vessels disturbs some Alaskans. There is also the possibility of illegal fishing by the vessels while in Alaskan waters. The intent of the proposed legislation is to have the Board of Fisheries adopt regulations that will allow the state to more closely monitor the activities of Canadian vessels while in Alaskan waters. This will not only prevent illegal fishing, but reassure concerned Alaskans that Canadian vessels are not taking advantage of their access to our waters to engage in illegal fishing.

Analysis of Bill/Program Effects:

The proposed legislation explicitly grants the Board of Fisheries the authority to adopt regulations that will require a foreign fishing vessel to report to the state information on fish they have aboard their vessel when it is in or transuding state waters. The adoption of this legislation and subsequent adoption of regulations requiring the reporting by a foreign fishing vessel should not have a negative impact on the division's programs. The adoption of such regulations may assist in the prevention of illegal fishing by foreign vessels.

Commissioner's Signature


Frank Rue, Acting Interim Commissioner

Date

1-30-95

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 1, 1995

SUBJECT: Authority of the State to Impose Reporting Requirements on Fishing Vessels Not Registered Under the Laws of the State (HB 113)

TO: Representative Bill Williams

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to the query of Pete Ecklund of your staff as to whether the state may impose reporting requirements on a fishing vessel not registered under the laws of the state (foreign fishing vessels).

HB 113 provides that the Board of Fisheries may adopt regulations requiring foreign fishing vessels present in or transiting the water of the state to report the quantity, species, and origin of fish on board to the Department of Fish and Game. In the context of HB 113, a foreign fishing vessel is any fishing vessel that is not registered under the laws of the state, i.e. fishing vessels from another state or another country. Generally to be registered under the laws of the state, a fishing vessel must have a commercial fishing vessel license issued by the state. The Board of Fisheries is authorized under AS 16.05.475 to adopt a definition of "registered under the laws of the state" for purposes of that statute but has not done so.

The primary constraint on the authority of the state to enact a provision such as that proposed by HB 113 is the interstate and foreign commerce provisions of the United States Constitution (Article 1, sec. 8, cl. 3). The commerce clause gives power to the Congress to regulate foreign and interstate commerce and limits the power of the states to erect barriers against interstate and foreign trade.

The commerce clause is not an absolute barrier to state laws affecting interstate or foreign commerce. The state retains authority under its general police powers to regulate matters of legitimate local concern, even though interstate and foreign commerce may be affected. Maine v. Taylor, 477 U.S. 131, 138, 91 L.Ed.2d 110, 120 (1986). In reviewing a state law affecting commerce, the courts distinguish between state laws that affirmatively discriminate against interstate and foreign commerce and those that place only an incidental burden on commerce.

State laws that fall into the first group, by directly discriminating against commerce or by having an effect that discriminates against commerce, are subjected to demanding scrutiny by the courts. The burden falls on the state to demonstrate that the law serves a legitimate local purpose and that the purpose cannot be served as well by nondiscriminatory means. Maine, 477 U.S. at 138, 91 L.Ed.2d at 121. Laws that fall into the second group violate the commerce clause only if the burden that they impose on commerce are clearly excessive to the putative local benefits.

The first issue to be resolved is whether HB 113 falls into the first group by discriminating against interstate and foreign commerce or the second group by only incidentally affecting commerce. The distinction between the two groups is often a function of whether the purpose or effect of the law is economic protectionism. Pacific Northwest Venison Producers v. Smitch, 20 F.3d 1008 (9th Cir. 1994). If HB 113 is viewed as affirmatively discriminating against interstate and foreign commerce, the state must be able to establish that it is pursuing a legitimate state interest, unrelated to economic protectionism. A law that pursues the goal of economic protectionism is per se invalid under the commerce clause.

The state's interest in protecting fish resources is a recognized justification for state laws affecting interstate and international commerce. Hughes v. Oklahoma, 441 U.S. 322, 60 L.Ed.2d 250 (1979). If the purpose of the HB 113 is to protect state fishery resources by preventing illegal fishing by foreign fishing vessels while they are in state waters, the state would be able to establish that it is pursuing an appropriate goal. However as the purpose of the law become less oriented toward the conservation of state resources and more oriented toward protecting the economic interests of Alaska fishermen, the ability of the state to satisfy the requirements of the commerce clause decreases. The state must also be able to show that it cannot achieve its purpose by a less discriminatory means. If HB 113 is directed at addressing a problem that is posed only by foreign fishing vessels, such as illegal fishing by foreign fishing vessels while they are temporarily in state water, there could not be any less discriminatory means available to the state to achieve its purpose. Also, as long as the reporting requirement is the least burdensome measure available to achieve that goal, then the state law should be able to survive scrutiny under the commerce clause. A simple reporting requirement that could be satisfied by radio or by a phone call is more likely to be consistent with the requirements of the commerce clause, than would a requirement that foreign fishing vessels report to the nearest Fish and Game office and be subjected to a physical inspection by a fish and game officer.

If HB 113 falls into the second group then the state need only show that the local benefit of the law justifies the burden placed on commerce. Under this analysis, the conservation and protection of fishery resources are a legitimate local concern. New York State Trawlers Association v. Jorling, 16 F.3d 1303 (2d Cir. 1994). A simple reporting requirement would probably be a slight burden on foreign vessels and not be clearly excessive in relation to the benefit derived by the state by imposing the requirement.

Representative Bill Williams
February 1, 1995
Page 3

In the abstract, it would seem that the state could easily justify imposing a reporting requirement on foreign fishing vessels in state water and still conform with the requirements of the federal commerce clause. However, the ultimate issue will be whether the actual reporting requirement as adopted by the Board of Fisheries is consistent with the federal commerce clause. In adopting a reporting requirement for foreign fishing vessels, the Board of Fisheries must be very careful as to the proposes for which it is establishing the requirement and as to the degree of burden that is imposed on foreign fishing vessels.

There is no obstacle, that I am aware of, to assertion of state jurisdiction over foreign fishing vessels while they are present in state water. A cursory review of the Magnuson Fishery Conservation and Management Act has not uncovered any provisions that would deprive the state of its authority to regulate activities of foreign fishing vessels in state water.

The laws of the state are equally applicable to nonresidents and aliens who are present in the state. The only possible exception being a treaty that restricts the power of the state to arrest a foreign national, such as treaties relating to diplomatic immunity. There are no treaties that I am aware of that would prevent the state from arresting fishermen who are foreign nationals. The Department of Law has not reported any such problems in exercising criminal jurisdiction over foreign nationals.

If I may be of further assistance, please advise.

GU:lmb
95-109.lmb

Legislative Research Agency

Alaska State Legislature



130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 465-3991
Fax: (907) 463-3351

February 1, 1995

MEMORANDUM

TO: Representative Bill Williams

FROM: Linda J. Snow *LJ Snow*
Legislative Analyst

RE: Reporting Requirements of Fishing Vessels Entering U.S. and Canadian Waters
Research Request 95.083

You asked for information about the Canadian reporting and fee requirements for U.S. fishing vessels that enter Canadian waters. In particular, you asked what, when, to whom, and how U.S. vessels must report. You were also interested in similar information about reporting requirements of Canadian fishing vessels that enter U.S. (Alaska) waters.

Reporting Requirements for U.S. Fishing Vessels Entering Canadian Waters

In general, the Canadian government has no mandatory reporting requirements or fees¹ for foreign fishing vessels transiting Canadian waters unless the vessel operators intend to dock or anchor somewhere along the way. If a foreign vessel intends to dock or anchor in Canadian waters, operators of that vessel must report to Canadian Customs. The exception is that operators of foreign vessels fishing for tuna in Canadian waters must report the vessel name, owner, position, radio call-in sign, and areas to be fished, whether or not they stop in Canadian waters.

According to Roy Zak, senior customs officer with the Canadian Customs office in Prince Rupert, B.C., U.S. vessels that intend to stop at a Canadian port for any reason, or intend to anchor in

¹According to Dave Knapton, enforcement officer for the Conservation and Protection section of the Canadian Department of Fisheries and Oceans, a fee for U.S. fishing vessels transiting Canadian waters was temporarily charged during the summer of 1994. However, that fee was politically motivated in response to the continued dispute over shares of salmon harvest allocated between the U.S. and Canada as defined in a proposed treaty between the two countries, and has since been discontinued.

Representative Williams

February 1, 1995

Page 2

Canadian waters must report to the first Customs clearing station after crossing the border (in a north to south transit, Prince Rupert is the first Customs clearing station). In reporting to Canadian Customs, a vessel operator must present the vessel and crew to the Customs dock immediately upon arrival (Customs personnel is on call 24 hours a day). The information required for a report to Canadian Customs includes documentation information on the vessel, its registry, tonnage, crew, owner, operator, and home port. Canadian Customs checks the citizenship, and sometimes the criminal records, of the crew. Customs also requires a cargo manifest, which will include pounds of fish by species, and in which country they were caught if the vessel is transporting fish.

Large vessels that have four or five crew members and can carry a large supply of fuel have no difficulty making the three-day transit of Canadian waters without stopping. However, many small boats must dock or anchor at some time along the way. Vessel operators who feel they can travel further than the first customs port into Canada before they must dock or anchor, and do not report at the first customs port, subject themselves to possible fines and vessel seizure.

Mr. Zak stated that it is not common for small U.S. fishing vessels to bring a cargo of fish caught in Alaska all the way through Canadian waters to sell or process in Bellingham or further south. Some vessels will take their catch to Prince Rupert for processing, but the vessels do not come in unannounced. They generally have prearranged agreements with processors in Prince Rupert.

All foreign vessels transiting Canadian waters are urged to voluntarily report to the Canadian Coast Guard for safety's sake, as the trip takes about three days, and the Coast Guard can be aware of the vessel's position should it run into trouble. Also, vessels over 20 meters in length (about 65 feet) are asked to voluntarily take part in the "Vessel Traffic System," an electronic tracking safety system that helps prevent collisions of large vessels. As is the case in U.S. waters, the Coast Guard of the host country makes its radio facilities available free of charge to relay any reports made from a vessel to a government agency.

Reporting Requirements for Canadian Fishing Vessels Entering U.S. (Alaska) Waters

A foreign vessel that enters U.S. (Alaska) waters must report to U.S. Customs as soon as it ceases forward motion (i.e., anchors or docks). If a vessel will be in U.S. waters for less than 24 hours, and does not offload cargo (including fish), send crew ashore to purchase supplies or fuel, or to change crews, the vessel operators are only required to report the name and description of the vessel, where it will be, and the approximate time it intends to leave U.S. waters.² Foreign vessel

²According to Ketchikan Coast Guard Base Executive Officer Daryl Milburne, during Canadian fishing openings in Dixon Entrance, near the border between Alaska and Canada, Canadian fishing vessels too small to anchor in the entrance safely, seek the closest harbor in which to rest after a day of fishing. The closest harbors are across the border in Alaska waters. These boats generally leave early in the morning to continue fishing in Canada.

Representative Williams

February 1, 1995

Page 3

operators generally report to the U.S. Coast Guard, and the Coast Guard relays the information to the nearest U.S. Customs office.

The U.S. Coast Guard informs foreign fishing vessel operators that they cannot fish or process fish except to operate their freezers, and that they may have their riggers down if they need them for stability, but otherwise, all fishing gear must be stowed. Foreign fishing vessels which fall under the jurisdiction of the Magnuson Act cannot offload cargo, and the Coast Guard informs them of this also. They are also told that if their time of departure changes more than one-half hour from the original estimate, they must inform the Coast Guard of the new time and reason for the change.³ The Coast Guard watches foreign fishing vessels harbored in Alaska waters by going into those harbors at odd times of the night to make sure that the vessels are shut down, and that no fishing or processing is occurring. The Coast Guard also follows up reports of foreign vessels fishing in U.S. waters. According to the Coast Guard Base Ketchikan Executive Officer, during peak season for Canadian fisheries openings near the border last year, an average of forty boats a night were spending the night in U.S. harbors, his agency seized only three vessels for fishing north of the AB line.⁴ All Canadian vessels seized for illegal fishing were actively fishing during the day, and not in the harbors at night.

Foreign vessel operators who intend to spend more than 24 hours in U.S. waters, or who intend to send crew ashore, exchange crew, or offload cargo, must make a full report to the nearest U.S. Customs. Generally, vessel operators radio the report to a ships agent who reports to Customs for them. The information required for a full report to Customs includes documentation information on the vessel, its registry, tonnage, crew, owner, operator, and home port. U.S. Customs also requires a cargo manifest, which will include pounds of fish by species, and in which country they were caught if the vessel is a fishing vessel.⁵ Attachment A contains basic reporting forms required for the entry of foreign vessels from the U.S. Customs Services.

If a Canadian vessel enters Alaska waters from a river such as the Stikine or Taku rivers in Southeast Alaska, it is not under the jurisdiction of the Magnuson Act, and may dock to offload cargo. Generally, small Canadian fishing boats transiting rivers into Alaska waters either sell the fish unprocessed to canneries in Juneau or Wrangell, while the larger vessels flash freeze the fish in the round, containerize them, and transport them to markets in Canada. Canadian boats coming down the rivers must report to the nearest U.S. Customs office the quantity of fish on board by

³Personal communication with Ketchikan Coast Guard Base Executive Officer Daryl Milburne, January 27, 1995.

⁴The AB line is the undisputed border between Alaska and Canada waters in Dixon Entrance. There is some disputed area in Dixon Entrance, but it is not illegal to fish in those waters, although the Canadian Coast Guard informs U.S. fishing vessels it is illegal.

⁵Personal communication with Doug Harmon, port director, U.S. Customs office in Ketchikan, January 27, 1995.

Representative Williams

February 1, 1995

Page 4

weight and species.⁶ According to Steve Baker, the U.S. Customs agent in Wrangell, Canadian vessels fishing in the Stikine River are not likely to fish in the U.S. portion of the river, as the operator of each vessel has established fish camps on the Canadian portions of the river from which they fish. They simply pass through U.S. waters going to and from their home ports and their fish camps.

We hope this information is helpful to you. If you need further assistance, please don't hesitate to call this office.

Attachment

⁶Personal communication with Steve Baker, U.S. Customs agent at Wrangell, January 27, 1995.

JAN 13 1995
January 13, 1995

Senator Robin Taylor
Representative Bill Williams
State Capitol
Juneau, AK 99801

Dear Robin and Bill,

Enclosed is a proposal from the trustees of the Ketchikan Trollers Committee that foreign fishing vessels with salmon aboard which enter Alaskan waters be required to report the quantity and harvest area of these fish to the nearest Alaska Department of Fish & Game personnel or Fish & Wildlife Protection officer.

The particular problem that we are trying to address is the lack of appropriate harvest information from the booming Canadian salmon troll fishery off Cape Chacon and Cape Muzon at the Alaskan border. Southeast Alaskan fishermen are suffering irreparable harm at the U.S./Canada Pacific Salmon Treaty due to the inability or unwillingness of fishery managers in British Columbia to monitor this growing fishery.

We urge you to introduce joint legislation to address this situation. Please note that we are not asking for the State to interfere inappropriately with the ongoing federal negotiations and actions regarding the "disputed" zone in Dixon Entrance. Our proposal addresses only those foreign fishing vessels which enter waters that undisputedly are under Alaskan jurisdiction.

Thank you for taking the time to consider our proposal. We hope you find that it merits consideration and action.

Sincerely,

/Lonnie

Lonnie Haughton, Secretary/Treasurer
Ketchikan Trollers Committee
PO Box 3006
Ketchikan, AK 99901
(907) 225-1289 & 225-0600 fax

cc: Dave Gaudet, Alaska Department of Fish & Game
Dale Kelley, Alaska Trollers Association
Jim Bacon, Southeast Alaska Seiners
Geoff Bullock, United Southeast Alaska Gillnetters
Representative Jerry Mackie
Mayor Dennis Watson, City of Craig
Gary Freitag, SSRAA

**Proposal by the Ketchikan Trollers Committee
to require that all foreign salmon fishing vessels that enter Alaskan waters
be required to report to the Alaska Department of Fish & Game**

The Problem -

Within the last five years there has been a dramatic increase in the number of Canadian salmon trollers fishing in the "disputed waters" at the Alaskan border near Cape Chacon and Cape Muzon and anchoring each night in Alaskan harbors (Nichols Bay and McLeod Bay). A border fishery that once attracted no more than a dozen trollers now has, at times, in excess of 100 vessels targeting Alaskan and Canadian salmon. Many of these vessels are state-of-the-art freezer trollers, with large crews, that are able to fish until their holds are full.

The magnitude and effect of this shift in salmon harvesting from the British Columbia side of Dixon Entrance over towards the Alaskan border is impossible to determine because:

- a. there is absolutely minimal monitoring of their border fishery by the British Columbia enforcement vessels,
- b. the reporting requirements for British Columbia fishermen are extremely lax,
- c. B.C. salmon managers are unable (or unwilling) to provide information in a timely and appropriate manner, and
- d. what data is available does not adequately differentiate the sub-areas in or near Dixon Entrance in which salmon harvesting has occurred.

The lack of appropriate information about this growing border fishery may mask an overharvest of Alaskan stocks and definitely harms Alaska during negotiations of the U.S./Canada Pacific Salmon Treaty.

The Solution -

Most of the Canadian trollers that participate in the border fishery in this "disputed" zone are allowed (for safety considerations) to anchor each night in harbors that are undisputedly in the jurisdiction of the United States and the State of Alaska. It is the recommendation of the Ketchikan Trollers Committee that legislation be enacted to require the operators of all foreign fishing vessels with salmon aboard that enter undisputed Alaskan waters to report the following information to the Alaska Department of Fish & Game:

- a. the quantity of salmon, per species, aboard the vessel, and
- b. the area where these fish have been harvested.

HOUSE COMMITTEE REPORT

(5)

Date Referred: January 23, 1995

FURTHER REFERRALS:

Resources

Date of Committee Action: _____

The SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 113

HOUSE BILL NO. 113

REPORTS BY OUT OF STATE FISHING VESSELS

"An Act relating to reports by fishing vessels that are not registered under the laws of the state."

recommends it be replaced ☐ the same title
with the following committee substitute _____ ☐ a new title

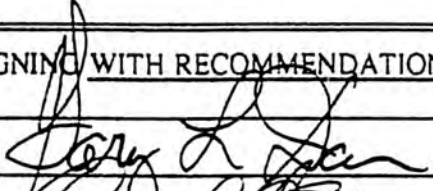
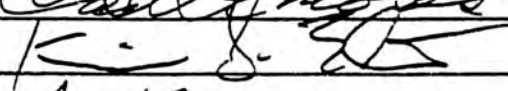
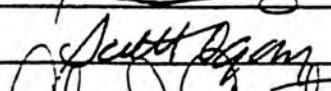
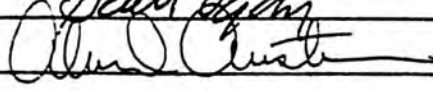
☐ additional referral to _____ Committee
☐ attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

☐ fiscal note(s) _____ ☐ fiscal note(s) _____

☒ zero fiscal note(s) F & G ☐ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
	✓			
	✓			
	✓			
	✓			
			✓	

CHAIR'S SIGNATURE



HOUSE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES WILLIAMS, Therriault, Ogan, Grussendorf, Toohey, Mulder, Rokeberg

Introduced: 1/25/95

Referred: Resources

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the timber resources within the state."

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

3 * **Section 1.** AS 38.05 is amended by adding a new section to read:

4 Sec. 38.05.117. SALVAGE SALES. (a) Notwithstanding the provisions of
5 AS 38.05.113, the commissioner, after making a written finding that the disposal will
6 serve the best interests of the state, may offer for salvage sale timber stands that will
7 lose substantial economic value because of insect or disease epidemics or fire, if not
8 salvaged within two years. Timber on land to be cleared for conversion to nonforest
9 uses also may be offered as a salvage sale.

10 (b) A salvage sale offered as a negotiated timber sale is exempt from
11 AS 38.05.115.

12 * **Sec. 2.** AS 38.05.118(c) is amended to read:

13 (c) A sale of timber may not be negotiated by the commissioner under this
14 section except on a finding that, within an area proximate to the business site that
15 [WHICH] the manufacturer may economically serve, there exists, or will exist within

1 two years.

2 (1) a high level of local unemployment;

3 (2) an underutilized timber manufacturing capacity; and

4 (3) an underutilized allowable cut of state timber, timber that will lose
5 substantial economic value due to insects, disease, or fire, or timber to be cleared
6 for the conversion of land to nonforest uses.

SCOMM

99:11

WORK ORDER REQUEST FORM

W.O. [19] LS-0631

KEYWORDS: BOARDS AND COMMISSIONS ASSIGNED: Utermohle

FISH/GAME, GAME

REQUEST FOR: New Bill

TAKEN BY: Collins

SUBJECT: Board of Game

REQUESTED FOR: REP BARNES BY: Wayne Maloney PHONE: 465-6589

DELIVER TO: Rep. Barnes, Cap. 403

INSTRUCTIONS: Please draft a House duplicate of SB 50, an Act relating to the Board of Game.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []
AUTHORIZED TO CONFER WITH _____

RETURN _____
_____ TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED _____

IN 02/01/95 DUE _____

TYPED: Draft _____ Date _____

Final _____ Date _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Request for DRAFT

WORK ORDER REQUEST FORM

W.O. [19] LS-0632

KEYWORDS: BOARDS AND COMMISSIONS

ASSIGNED: Utermohle

FISH/GAME, FISHERIES

REQUEST FOR: New Bill

TAKEN BY: Collins

SUBJECT: Board of Fish

REQUESTED FOR: REP BARNES

BY: Wayne Maloney

PHONE: 465-6589

DELIVER TO: Rep. Barnes, Cap. 403

INSTRUCTIONS: Please draft a House duplicate of SB 49, an Act relating to the Board of Fisheries.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED _____

IN 02/01/95 DUE _____

TYPED: Draft _____ Date _____

Final _____ Date _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Request for DRAFT

9-LS0631\A
Utermohle
2/1/95

HOUSE BILL NO.**IN THE LEGISLATURE OF THE STATE OF ALASKA****NINETEENTH LEGISLATURE - FIRST SESSION****BY REPRESENTATIVE BARNES**

Introduced:
Referred:

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the Board of Game; and providing for an effective date."

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

3 * Section 1. AS 16.05.221(b) is amended to read:

4 (b) For purposes of the conservation and development of the game resources
5 of the state, there is created a Board of Game composed of three [SEVEN] members
6 appointed by the governor, subject to confirmation by a majority of the members of
7 the legislature in joint session. The governor shall appoint each member on the basis
8 of interest in public affairs, good judgment, knowledge, and ability in the field of
9 action of the board, and with a view to providing diversity of interest and points of
10 view in the membership. The appointed members shall be residents of the state and
11 shall be appointed without regard to political affiliation or geographical location of
12 residence. The governor shall designate one member of the board as chair of the
13 board. The member designated shall serve as chair for a term of two years, and
14 may be designated chair for successive two-year terms. A member of the board
15 may not have a vested economic interest in the utilization of game resources. The

commissioner is not a member of the Board of Game, but shall be ex officio secretary.

* Sec. 2. AS 16.05.221(c) is amended to read:

(c) Members of the Board of Game serve staggered terms of four years and until a successor is appointed. Members of the Board of Fisheries [OR BOARD OF GAME] serve staggered terms of three years and until a successor is appointed. An appointment to fill a vacancy in the membership of the Board of Fisheries or Board of Game shall be made in the same manner as the original appointment and for the balance of the unexpired term.

* Sec. 3. AS 16.05.290 is amended to read:

Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of the Board of Fisheries [A BOARD] is entitled to compensation at a rate equal to Step A, Range 20, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska, for each day going to and from and for each day in actual attendance at board meetings. For other meetings or conferences authorized by the [A] board, a member shall receive compensation at a rate equal to one-half of Step A, Range 20, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska, for each day going to and from and for each day in actual attendance. Each member of the [A] board is also entitled to travel expenses and per diem authorized for boards and commissions under AS 39.20.180.

* Sec. 4. AS 16.05.290 is amended by adding a new subsection to read:

(b) Members of the Board of Game are in the exempt service and are entitled to a monthly salary equal to Step C, Range 26, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

* Sec. 5. AS 16.05.320 is amended to read:

Sec. 16.05.320. QUORUM. A majority of the members of a board constitutes a quorum for the transaction of business, for the performance of any duty, and for the exercise of any power. However, a majority of the full board membership is required to carry all motions, regulations, and resolutions. A majority of the members of each of the boards of fisheries and game constitute a quorum for the transaction of business in a joint board meeting. A majority of the membership of each of the boards is required to carry all joint motions, regulations, and resolutions of the boards.

* Sec. 6. AS 39.25.110(11) is amended to read:

(11) the officers and employees of the following boards, commissions, and authorities:

(A) [REPEALED

(B)] Alaska Permanent Fund Corporation;

(B) [(C)] Alaska Industrial Development and Export Authority;

(C) [(D)] Alaska Commercial Fisheries Entry Commission;

(D) [(E)] Alaska Commission on Postsecondary Education;

(E) [(F)] Alaska Aerospace Development Corporation;

(F) Board of Game;

* Sec. 7. The governor shall appoint, and submit to the legislature for confirmation by the 10th legislative day of the Second Regular Session of the Nineteenth Alaska State Legislature, three persons qualified to serve on the Board of Game as restructured by secs. 1 - 6 of this Act. Notwithstanding AS 16.05.221(c), as amended by sec. 2 of this Act, the governor shall appoint one person to serve on the board for an initial term of two years, one person to serve on the board for an initial term of three years, and one person to serve on the board for a term of four years.

* Sec. 8. (a) This section of this Act does not take effect if sec. 9 of this Act is passed by concurrence of two-thirds of the membership of each house of the Alaska State Legislature as provided under art. II, sec. 18, Constitution of the State of Alaska.

(b) Notwithstanding secs. 1 - 6 of this Act, the persons serving as members of the Board of Game on the day before the effective date of sec. 1 of this Act, and their successors, shall continue to serve on the board until July 1 following the confirmation by the legislature of at least two of the three persons appointed by the governor to serve on the Board of Game as restructured by secs. 1 - 6 of this Act.

(c) Notwithstanding secs. 1 - 6 of this Act, the Board of Game shall operate under the provisions of AS 16.05.221, 16.05.290, 16.05.320, and AS 39.25.110 as those provisions read on the day before the effective date of sec. 1 of this Act until July 1 following the confirmation by the legislature of at least two of the three persons appointed by the governor to serve on the Board of Game as restructured by secs. 1 - 6 of this Act.

* Sec. 9. Sections 1 - 6 of this Act take effect on July 1 following the confirmation by the legislature of at least two of the three persons appointed by the governor to serve on the Board of Game as restructured by secs. 1 - 6 of this Act.

HB 149
SPONSOR SPEECH

MARCH 22, 1995
REPRESENTATIVE RAMONA BARNES

FISHERIES BOARD MEMBERS WOULD BE FULL-TIME
STATE EMPLOYEES AND WOULD BE COMPENSATED
BASED ON RANGE 26, STEP C.<<<<<<<<<<

THERE IS FRUSTRATION OVER THE WAY THE
PRESENT PART-TIME BOARD IS SELECTED.....AND
THAT IS THE REASON FOR THIS BILL.<<<<<<

STATE LAW REQUIRES THE GOVERNOR TO APPOINT
FISH BOARD MEMBERS.....AND I QUOTE...

"ON THE BASIS OF INTEREST IN PUBLIC AFFAIRS,
GOOD JUDGMENT, KNOWLEDGE AND ABILITY IN THE
FIELD OF ACTION OF THE BOARD....AND WITH THE
VIEW TOWARD PROVIDING DIVERSITY OF INTEREST
AND POINTS OF VIEW IN THE MEMBERSHIP."

IN FACT, THE MEMBERS OF THE BOARD HAVE BEEN
APPOINTED IN THE PAST ON THE BASIS OF WHERE
THEY LIVE AND WHAT THEY DO FOR A LIVING....

A PROVISION IN HB 149 WOULD PROHIBIT THE
GOVERNOR FROM APPOINTING TO THE BOARD
ANYONE WHO HAS A VESTED ECONOMIC INTEREST
IN FISHERIES.<<<<<<<<<<

THIS PROVISION IS ENDORSED BY INDIVIDUALS AND GROUPS WHICH INCLUDE KENAI RIVER SPORT FISHING, INCORPORATED. I WOULD LIKE TO QUOTE FROM THE TESTIMONY OF BEN ELLIS, EXECUTIVE DIRECTOR OF THE SPORT FISHING ASSOCIATION.

IN COMMENTS TO THE SENATE RESOURCES COMMITTEE ON FEBRUARY 20TH HE SAID.....
QUOTE...

"WE MUST HAVE A BOARD THAT IS PROHIBITED FROM ANY VESTED ECONOMIC INTEREST. IT APPEARS MORE AND MORE BOARD MEMBERS ARE BEING CONFLICTED OUT OVER FINANCIAL AND PERSONAL INTEREST."

ELLIS WENT ON TO SAY THAT WE MUST HAVE A LEVEL PLAYING FIELD WHERE DECISIONS ARE MADE THAT ARE IN THE BEST INTEREST OF ALL ALASKANS AND THE STATE.

HE SAID THERE IS A PUBLIC PERCEPTION THAT THE BOARD OF FISHERIES IS BIASED TOWARD THE FINANCIAL PROFIT OF A FEW COMMERCIAL USERS AT THE EXPENSE OF THOUSANDS OF NON-COMMERCIAL USERS.<<<<<<<<<

I BELIEVE THAT THE CONCEPT OF A FULL TIME BOARD IS A GOOD ONE. MEMBERS WOULD BE MORE LIKELY TO ACT IN THE INTERESTS OF THE STATE AS A WHOLE.....

AND THE PROVISION THAT FORBIDS A BOARD MEMBER FROM HAVING A VESTED ECONOMIC INTEREST WILL ENCOURAGE APPOINTMENT OF A BOARD THAT WILL MAKE IMPARTIAL DECISIONS.

THANK YOU.

FISCAL NOTE

STATE OF ALASKA		BILL NO.	HB149
1995 LEGISLATIVE SESSION			

Revision Date:		Dept. Affected:	Fish and Game
Title:	An Act relating to the	BRU:	Boards F&G
Board of Fisheries		Component:	Board Service
Sponsor:	Rep. Barnes		
Requester:	House Fisheries	COMPONENT SERIAL NO.	#482

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	278.6	278.6	278.6	278.6	278.6	278.6
TRAVEL	(65.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CONTRACTUAL	(15.0)	(10.0)	(10.0)	(10.0)	(10.0)	(10.0)
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	198.6	218.6	218.6	218.6	218.6	218.6

CAPITAL EXPENDITURES					
-----------------------------	--	--	--	--	--

CHANGE IN REVENUES ()					
-------------------------------	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	198.6	218.6	218.6	218.6	218.6	218.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	198.6	218.6	218.6	218.6	218.6	218.6

Estimate of any current year (FY95) cost: \$	0.0				
--	-----	--	--	--	--

POSITIONS					
FULL-TIME	3	3	3	3	3
PART-TIME					
TEMPORARY					

ANALYSIS:	(Attach a separate page if necessary)				
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This analysis assumes that the Board of Fisheries will go to a two year cycle and that hearings will be held throughout the state by one board member. The total number of hearing and regulatory meeting days will be about the same as the board now meets in regulatory session. Space costs will be slightly reduced, however printing, mailing and advertising will be approximately the same. Also, it is assumed that advisory committees will remain as is for the present time.

There are some questions about process that could increase the cost. For example, all regulatory meetings are now taped. Will hearings be taped? Having a complete record is important for legal challenges. Taping will require staff as well as board member at hearings. It may be difficult for the board to confine public testimony to hearings and not allow testimony during regulatory meetings. This could increase time and expense.

See page two for a comparison of costs.

Prepared by:	Beverly Reaume <i>BR</i>	Phone:	465-6095
Division:	Administration/Boards Support Section	Date:	3/9/95
Approved by Commissioner:	<i>Franklin</i>	Date:	3.14.95
Agency:	Fish and Game		

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[illegible]

FISCAL NOTE

STATE OF ALASKA		BILL NO. HB149	
1995 LEGISLATIVE SESSION			
Revision Date:	2/3/95	Dept. Affected:	Fish and Game
Title:	An Act relating to the	BRU:	Boards F&G
Board of Fisheries		Component:	Board Service
Sponsor:	Rep. Barnes		
Requester:	Resource, Fish Comm.	COMPONENT SERIAL NO.	#482

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	278.6	278.6	278.6	278.6	278.6	278.6
TRAVEL	(65.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CONTRACTUAL	(15.0)	(10.0)	(10.0)	(10.0)	(10.0)	(10.0)
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	198.6	218.6	218.6	218.6	218.6	218.6

CAPITAL EXPENDITURES

--	--	--	--	--	--	--

CHANGE IN REVENUES ()

--	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	198.6	218.6	218.6	218.6	218.6	218.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	198.6	218.6	218.6	218.6	218.6	218.6

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS						
FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This analysis assumes that the Board of Fisheries will go to a two year cycle and that hearings will be held throughout the state by one board member. The total number of hearing and regulatory meeting days will be about the same as the board now meets in regulatory session. Space costs will be slightly reduced, however printing, mailing and advertising will be approximately the same. Also, it is assumed that advisory committees will remain as is for the present time.

There are some questions about process that could increase the cost. For example, all regulatory meetings are now taped. Will hearings be taped? Having a complete record is important for legal challenges. Taping will require staff as well as board member at hearings. It may be difficult for the board to confine public testimony to hearings and not allow testimony during regulatory meetings. This could increase time and expense.

See page two for a comparison of costs.

Prepared by:	Beverly Reaume <i>BR</i>	Phone:	465-6095
Division:	Administration/Boards Support Section	Date:	2/21/95
Approved by Commissioner:	<i>Frank</i>	Date:	2-21-95
Agency:	Fish and Game		

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[illegible]

Department of Fish and Game
Analysis: House Bill 149

Background/Legislative Intent:

This legislation proposes replacing the current citizen Board of Fisheries with a professional board. Alaska's citizen boards of fish and game were instituted in response to the lack of attention paid to the concerns of Alaskans by federal managers during the territorial period of fish and wildlife management.

The problems associated with the current board system which the legislation intends to address are: 1) the political in-fighting over appointments to board seats; 2) the perception of conflict of interest associated with a board composed of people with financial interests in Alaska's fisheries resources; 3) the delay in consideration of public proposals resulting from a part-time board process; and 4) the high cost of the current board process.

Analysis of Bill/Program Effects:

This legislation would replace the current seven member, citizen Board of Fisheries with a three member, professional board. The sponsor cites the Alaska Public Utilities Commission, the Alaska Oil and Gas Commission, and the Commercial Fisheries Entry Commission as potential models for a professional board. No specific professional qualifications are required of board members by this legislation, however, they are prohibited from having a vested economic interest in a commercial fishing permit, commercial fishing vessel or gear, or involvement in any fishery resource processing or marketing business. Board members would serve staggered four year terms, be members of the exempt service, and be paid at a Step C, Range 26 rate.

The primary concern the department has with this bill is that it may further confuse the public about the separation of functions between the board and the department. It is the department's job to carry out the scientific work required to manage Alaska's fisheries resources according to the sustained yield principle. It is the board's job to distribute the opportunities to use these resources among competing beneficial users. This separation of powers is rather symbolically embodied by a citizen board and a professional department. The creation of a professional board could eliminate or blur this distinction.

Because the board is housed within the department, and because the board uses the biological information provided by the department's scientists and managers, there is already some contention that the department inappropriately influences the board's allocation decisions. The most important counter to this perception is that the board members are private citizens, members of the user groups, and not members of the department. Professional board members may also have a tendency to second guess the department's scientific information and conservation concerns and substitute their own opinions. This would further muddy the separation of function and checks and balances that the current system supplies.

Our second concern is that whatever regulatory system the state uses, it must have the support and confidence of the public. The public must believe that they are getting a fair shake and that the process is open and responsive to their concerns. Despite some criticism, the present system appears to have widespread public support. The latest evidence of this is the unanimous recommendation of the Knowles/Ulmer Fisheries Policy Transition Team that the current citizen, lay board be maintained.

Reducing the size of the board and making it a full-time body cannot guarantee an end to political in-fighting over appointments. Recreational, commercial, and subsistence fishing groups will still have intense interest in who is appointed to the board because of the essential role the board plays in allocating fish stocks. They can be expected to lobby heavily for individuals who they believe will share, or at least be sympathetic, to their interests. The smaller size of the board may even intensify lobbying efforts.

Historically, most members of the Board of Fisheries have been representatives of the commercial fishing and seafood industries. These groups have held a majority of four or five seats on the fish board since the Board of Fish and Game was divided into a fish board and a game board by Governor Hammond. Perception of conflict of interest has primarily revolved around the conflict between user groups rather than questions of individual financial gain. Recreational fishing interests, and subsistence fishing interests to a somewhat lesser extent, view the majority position of commercial seafood representation as providing an unsympathetic atmosphere for the hearing of proposals advancing their interests. This has become a major issue during the last ten years.

It appears that the major impetus for HB 149 is the conflict of interest issue. While this bill would reduce the perception that the commercial seafood industry dominates the fish board, it cannot be expected to eliminate the perception entirely. Commercial use of Alaska's abundant fisheries resources will continue to be the dominant use.

Additionally, the proposed legislation has the disadvantage of dramatically reducing public participation in the board process. This has been one of the best attributes of Alaska's fisheries regulation process. Relinquishing this opportunity should not be undertaken lightly. The loss of expertise and local knowledge among board members resulting from this would have a substantial impact on the board. Duplicating this knowledge by staff work could be very costly and probably not achieve the same level of information.

The third issue addressed by this legislation is the delay in consideration of proposals caused by the board's three year cycle. The board went to a three year cycle for several reasons. One of the most important was to provide stability to regulatory regimes and to allow time to evaluate the pros and cons of a particular regulation, especially in the contentious, major allocation battles, before bringing it up for change. In reality, board deliberations are dominated by the big allocation issues in the state: recreational versus commercial in the Cook Inlet salmon fisheries, Area M chum and sockeye interceptions, etc. These issues carry over from board meeting to board meeting. Returning to an annual cycle would invite a hearing on these issues every year just by virtue of the contentious nature of the issues. If there is a good reason to take up an issue out of cycle, the board has the flexibility to do so.

The fourth issue is cost. As the attached fiscal note demonstrates, a professional board would be more expensive than the present citizen board system.

SENATE RESOURCES SUBCOMMITTEE
Anchorage Legislative Information Office
February 24, 1995
3:36 P.M.

dp

SUBCOMMITTEE MEMBERS PRESENT

Senator Loren Leman, Chairman
Senator Lyman Hoffman

SUBCOMMITTEE MEMBERS ABSENT

Senator Drue Pearce, Vice Chairman

OTHER MEMBERS PRESENT

Senator Georgianna Lincoln

COMMITTEE CALENDAR

SENATE BILL NO. 49

"An Act relating to the Board of Fisheries; and providing for an effective date."

PREVIOUS ACTION

SB 49 - See Resources minutes dated 2/20/95.

WITNESS REGISTER

Kay Andrew
P.O. Box 7211
Ketchikan, AK 99901
POSITION STATEMENT: Opposed SB 49.

Ken Erickson, Legislative Aide
Senator Drue Pearce
State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on SB 49.

Nevin May
P.O. Box 3160
Ketchikan, AK 99901
POSITION STATEMENT: Opposed SB 49.

Geneneiva Pearson
P.O. Box 669
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

Senate Resources
Subcommittee

Chris Berns
P.O. Box 26
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

Donald Fox
P.O. Box 2971
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

John Bocci
Cordova District Fishermen United
P.O. Box 1312
Cordova, AK 99574
POSITION STATEMENT: Opposed SB 49.

James Mykland
P.O. Box 1214
Cordova, AK 99574
POSITION STATEMENT: Opposed SB 49.

Jack Hopkins
P.O. Box 343
Cordova, AK 99574
POSITION STATEMENT: Opposed SB 49.

Deborah Lyons
P.O. Box 296
Petersburg, AK 99833
POSITION STATEMENT: Opposed SB 49.

Gordon Jensen
Petersburg Vessel Owners
P.O. Box 264
Petersburg, AK 99833
POSITION STATEMENT: Opposed SB 49.

Chris Sharpsteen
Petersburg Advisory Committee
P.O. Box 1255
POSITION STATEMENT: Opposed SB 49.

Drew Scalzi
41685 Redoubt Circle
Homer, AK 99603
POSITION STATEMENT: Opposed SB 49.

Larry Smith
1520 Lakeshore Drive
Homer, AK 99603
POSITION STATEMENT: Commented on SB 49.

Senate Resources
Subcommittee

Dan Winn
North Pacific Fisheries Association
P.O. Box 1272
Homer, AK 99603
POSITION STATEMENT: Opposed SB 49.

John Foster
P.O. Box 225
Sand Point, AK 99661
POSITION STATEMENT: Opposed SB 49.

Joseph Carr
P.O. Box 294
Sand Point, AK 99661
POSITION STATEMENT: Opposed SB 49.

Peggy Osterback
P.O. Box 61
Sand Point, AK 99661
POSITION STATEMENT: Opposed SB 49.

Leonard Efta
P.O. Box 353
Kenai, AK 99611
POSITION STATEMENT: Opposed SB 49.

Dale Bondurant
HC 1, Box 1197
Soldotna, AK 99669
POSITION STATEMENT: Opposed SB 49.

Joseph Jolly
HC 2, Box 753
Soldotna, AK 99669
POSITION STATEMENT: Opposed SB 49.

Charles McKee
P.O. Box 143452
Anchorage, AK 99514
POSITION STATEMENT: Opposed SB 49.

Don Mitchell
1335 F Street
Anchorage, AK 99501
POSITION STATEMENT: Supported SB 49.

Chip Trien
18011 Golden View Dr.
Anchorage, AK
POSITION STATEMENT: Opposed SB 49.

Senate Resources
Subcommittee

Drew Sparlin, Jr.
P.O. Box 283
Kenai, Ak 99611
POSITION STATEMENT: Opposed SB 49.

Richard Andrew
P.O. Box 7211
Ketchikan, AK 99901
POSITION STATEMENT: Opposed SB 49.

Royce Ranniger
P.O. Box 702
Ward Cove, AK 99928
POSITION STATEMENT: Opposed SB 49.

Ken Duckett
P.O. Box 23178
Ketchikan, AK 99901
POSITION STATEMENT: Opposed SB 49.

Andy Rauwolf
7942 South Tongass Hwy
Ketchikan, AK 99901
POSITION STATEMENT: Opposed SB 49.

Kris Norosz
P.O. Box 232
Petersburg, AK 99833
POSITION STATEMENT: Opposed SB 49.

Oscar Dyson
P.O. Box 1728
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

Virginia Adams
620 Hemlock Dr.
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

Al Burch
P.O. Box 991
Kodiak Draggers Association
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

Bruce Schactler
Area K Seiners
P.O. Box 2599
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

Senate Resources
Subcommittee

Mike Milligan
SR 9121
Kodiak, AK 99615
POSITION STATEMENT: Opposed SB 49.

Ralph Lohse
P.O. Box 14
Cordova, AK 99574
POSITION STATEMENT: Opposed SB 49.

Charles DeVille
P.O. Box 632
Cordova, AK 99574
POSITION STATEMENT: Opposed SB 49.

Dennis Randa, President
Trout Unlimited
P.O. Box 3055
Soldotna, AK 99669
POSITION STATEMENT: Opposed SB 49.

Ben Ellis
Kenai River Sport Fish Association
P.O. Box 1228
Soldotna, AK 99669
POSITION STATEMENT: Supported concept behind SB 49.

Theo Matthews, Executive Director
United Cook Inlet Driftnetters Association
P.O. Box 69
Kasilof, AK 99610
POSITION STATEMENT: Opposed SB 49.

ACTION NARRATIVE

TAPE 95-13, SIDE A

Number 001
#SB49
SRESSUB 2/24/95

SB 49 RESTRUCTURE BOARD OF FISHERIES

CHAIRMAN LEMAN called the Senate Resources Subcommittee meeting to order at 3:36 p.m. and announced SB 49 to be up for consideration.

KAY ANDREW, commercial fisherman from Ketchikan, said she was very surprised to see this kind of legislation. She stated she is totally against it. She had served on the Board of Fisheries and

Senate Resources
Subcommittee

lost her seat because of a political conflict in the Northern part of the state. She did not think it right for the Governor to appoint three people who would be responsible strictly to the Governor. She thought it was important to specify qualifications for people who can be on the Board. She was confused about the length of the terms for the three appointees.

Number 56

KEN ERICKSON, Legislative Aide for Senator Pearce, explained that Section 7 deals with setting up the initial staggered terms. The person appointed to the first term would serve for two years, a person who is appointed to that seat in succeeding years would serve four year terms. He thought the appointees would be from throughout the state with varied backgrounds.

Number 99

NEVIN MAY, Ketchikan commercial/sport fisherman and a sport hunter, said he doesn't see anything in this bill that he likes at all. The system we now have might be refined a little, but it is the envy of the rest of the Pacific Coast as far as management goes. He thought there would be just as much politics, but just fewer people.

GENENEIVA PEARSON, Kodiak resident, said her family has been involved in the commercial fishing harvest since 1944. The industry is too complex to have a Board that doesn't have deep knowledge of the fisheries. It doesn't make any more sense to have lay people regulating fishermen than it does to have lay people regulating dentists, doctors, engineers, and lawyers. She noted SB 49 does not prohibit people who have interests in commercial sport fishing from participating.

Number 175

CHRIS BERNES, Kodiak commercial fisherman since 1958, said this bill is an attack on the fishing industry. To suggest that the Board have people with no commercial fishing experience is irresponsible. This resource is now one of the few remaining solely controlled by the State and should be managed in a responsible way. A professional Board would not lead to a less contentious process, but it would carry all the pitfalls of a lay Board. A Board should be made up of a group of peers who have an in-depth knowledge of the industry. A Board member should be more of a fisherman than a dentist or a lawyer.

MR. BERNES pointed out a contradiction on line 7 - 9 on page 1 and lines 1 and 2 on page 2 which describes the qualifications of the Board members.

Number 244

DONALD FOX, Kodiak commercial fisherman a member of the local Advisory Board for ten years, said there are problems within the Board of Fisheries the way it is constituted, but he thought it would better to try to fix it than to totally change it. He sees SB 49 as, "an attempt by the sport fishing interest, the Railbelt, and Mat-Su Valley legislators to get total control of our Board of Fish." He suggested just increasing the Board from seven to nine members according to specific geographic areas - with representation for everybody.

JOHN BOCCI, Cordova District Fishermen United, said he had problems with understanding the word "commercial" as it is used in SB 49. It is also a blatant attempt to put control where it doesn't belong and it certainly isn't going to cure any perceived problems in the Boards of Fisheries and Game. He commended HB 141 which confirms

members before they serve and said this should be applied to all boards and commissions. He strongly suggested gradually changing the existing system rather than gutting it. He added that he is also an avid sports fisherman and hunter.

Number 293

JAMES MYKLAND, Cordova commercial fisherman, strongly opposed SB 49. The Alaska commercial fishing industry is the state's largest private employer, providing jobs for 75,000 people during the peak of the season. He thought more funds needed to be allocated to fisheries management. The present structure of the Board seems to be working. "How else can you explain record harvests of salmon in Alaska during the last five years?" he asked.

MR. MYKLAND said he would like to see higher funding for the staff of the Board of Fisheries and for the local Advisory Board which help identify the specific problems each area is having. He does support HB 141 which would help depoliticize the confirmation process. He also agrees with the Knowles/Ulmer transition team recommendation to create regional management panels.

Number 330

JACK HOPKINS, Alaskan resident, said he is opposed to SB 49. He felt the current system is working, and any changes would be a great injustice to the state, the people, and the resource.

Number 348

DEBORAH LYONS, Petersburg, said she is a former member of the Board of Fisheries and was on the Governor's transition team, she is currently helping the Salmon Commission, and is a member of the Northern Southeast Regional Aquaculture Association. She noted

that some very wise legislators created the entire Board process, recognizing how much of our state is out of the eyes of the enforcement people. People have to make an individual decision whether or not to obey the regulations. We don't have the enforcement capability or the funding for the ADF&G to observe everything that goes on in this state. Legislators realize that public involvement in creating regulation is important to have effective fish and game management.

MS. LYONS said that the Board process isn't working very well at the present time, and it needs to in order for people to respect the regulations enough to obey them.

She didn't really see how this bill could make the situation any better.

GORDON JENSEN, Petersburg Vessel Owners Association, said he spent twenty years on the Board of Fish and Game and he thought it was probably the best system. He said people need to have the ability to participate, but this bill would minimize their input.

CHRIS SHARPSTEEN, Petersburg Advisory Committee, opposed SB 49. He said we have a system in place that works when it's not fiddled with. Now people have access to the process, and because of that access believe in the process. The input is incredible as long as it is acted upon. If you put three bureaucrats in charge of the Board of Fisheries, you're going to alienate entirely the users of this resource.

DREW SCALZI, Homer commercial fisherman, opposed SB 49. He was a member of the transition team and was surprised that this came up in the Legislature so quickly. He looked at the makeup of the APUC and AOGA, and the background required reflected what their jobs on the Commissions were. He said there is nothing wrong with the

process the way it is now.

Number 453

LARRY SMITH, Homer, said he spent a number of years on local Advisory Committees and he thought that was an important part of the process that has suffered over the years. He thought the concept of the bill was good, but it needed a lot of work, especially with public input, in all the phases. He thought, however, that the Board should be organized so that it could avoid going to the Legislature to accomplish its goals.

DAN WINN, North Pacific Fisheries Association, said they usually don't get involved in the Board of Fisheries process. They use the NPFC. One of the reasons is because they have such diverse user groups that they don't want it divided up. In SB 49 they find the "who may not be a member" section quite offensive and they voted today to oppose this legislation. He didn't think a professional Board would be any better than the current organization. The other fisheries on the west coast that have professional boards have declined because of it.

JOHN FOSTER, Sand Point commercial fisherman, opposed SB 49, because it prohibits the members of the Board from having an vested economic interest in the fisheries resources. There is nothing about sport fishing interests being prohibited. He, therefore, thought it was discriminatory.

He is aware of the problems in the Area M fishery; most of which are caused by political meddling. No other area has been hit as hard by Board politics, but he still believes in the Board process. It is very important to have people who are knowledgeable about the fishing industry making the decisions for the fishing industry.

JOSEPH CARR, Sand Point commercial fisherman, concurred with Mr. Foster's testimony.

PEGGY OSTERBACK, Sand Point commercial boat owner, opposed SB 49, because it is discriminatory in nature, because it keeps people who have a financial interest in the fisheries from being on the Board. It implies that a person does not have the integrity to serve on the Board just because they have an interest in fishing. Looking at the other state boards and commission you'll find those people still have a vested financial interest in the businesses they regulate. She used the Board of Education, the Board of Chiropractic Examiners, the Medical Board, and the Judicial Conduct Commission, as examples.

A person who participates in the fishing industry brings experience and knowledge to the Board that cannot be acquired in any other way than by participating in the industry.

SENATOR LEMAN noted that Senator Georgianna Lincoln was on line in Delta Junction.

LEONARD EFTA, Kenai commercial fisherman, opposed SB 49. He said in a Board with only three members that two people would have complete control of the fishery which could be a disaster. With a seven member Board there is representation from various user groups which he thinks is real important.

DALE BONDURANT opposed going to a three member Board. He said the reason the Boards were separated in the past was because it's a big job and the diversity and knowledge was needed. He agreed that it would be likely for "sweetheart deals" to happen with a three member Board. He said the playing field needs to be leveled on the existing Board, though. There should be some sort of economic requirements to get back to fair representation. He said this is

a common resource and all people in Alaska should be represented on it.

Number 532

JOSEPH JOLLY, commercial fisherman and Board member of United Cook Inlet Driftnetters Association (UCIDA), opposed reducing the number of people on the Board of Fisheries.

TAPE 95-13, SIDE B

MR. JOLLY pointed out that SB 49 proposes paying a Board the Legislature is having a hard time finding money to pay for other things. People have to remember that all user groups use the fish out there, he said, and they need to look at the habitat concerns that are happening on the rivers. Commercial fishermen put a portion of their income into renewing the resource; he thought it was time that everyone else did, too.

Number 571

CHARLES MCKEE, Anchorage resident, said it would be difficult to restructure the Board. He said there is a meeting on March 15 between Oregon, Washington, Montana, and Alaska on salmon recovery. He thought it was wiser to work in that direction rather than to put energy into a new Board structure.

DON MITCHELL, Anchorage attorney, said he had represented clients on both Boards over the last 20 years. He said Governor Cowper appointed a Task Force to look into this issue. He said anyone who knows about the regulatory process knows that its time has come and gone and it is more than inefficient. It is morally and ethically corrupt. Senator Pearce, in this bill, attacks only one of three components.

First, there is no way to test the quality of information provided by the public and ADF&G and there is no record of supporting evidence for decisions that are made.

Second, there are no standards for coming up with a decision. He said that people complain about too much politics in the Board process. Consulting the Alaska Constitution, one will find that the Congress of the State assigned the Legislature, not the Boards of Fisheries and Game, the responsibility for making these decisions. They recognized that who gets to use fish and game has a very important social and economic policy consequences. In 1958, when the Board process was created by the Legislature, there was no sport fishery and no one cared about the Native people. He said the only statutory guide to decision making is the subsistence statute. The Legislature needs to ask questions like, are mixed stock fisheries good or bad for the State of Alaska. Then the Board, based upon the facts, should make decisions.

The third issue, which Senator Pearce is addressing, is the issue of the composition of the Board itself. He said people are appointed to the Board now, because of their conflict of interest. That is why people are tired of this Board process.

MR. MITCHELL noted that the Natives are becoming more attracted to the Federal Subsistence Board and its because most people are not "mobbed up" with their decisions.

CHIP TRIEN, commercial and sport fisherman, said he didn't think regulating fish was as complicated as rocket science. But it requires a great deal of deliberation and consensus building. It should be compared to that kind of thing. Public trust is a very, very important part. The Board process requires a great deal of public input and should be considered seriously. A three member Board doesn't allow for the same kind of public input that a seven