

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2911 HBLS HJR 36 - SB 168 291

Rep. Phillips; I don't see an official request from the Department saying this is a good idea or group of people or personnel.

Number 0529

Rep. Barnes; legislation isn't always requested from someone. Its a fact that Anchorage has had very serious problems with escapes and in each instance the superintendents were someplace else.

Mr. Houston; institutions are boiling pots and I'm amazed there isn't a riot.

Rep. Barnes; someone isn't doing their job when there's a problem.

Mr. Houston; you can't be all things to all people. I have 46 staff I have to rely on getting work done through others. When there is negligence I can investigate but I can't be everywhere at once and I must rely on staff to a degree. I will be leaving the State and I am only here to give you my ideas.

Mr. Raye; if there is a need for positions to be put from one class to partially exempt service, there is a method individually, there are administrative procedures where it can be done on an individual basis.

Chairman Fuller; what's the pleasure of the committee for CSHB 209?

Number 0620

Rep. Tischer moved and asked unanimous to adopt CSHB 209.

Chairman Fuller; any objections? Hearing none, so moved. Any more witnesses?

Mary Halloran, Department of Natural Resources, Director, Division of Administration and Management. She wanted to add a new amendment which would place youths employed by DNR in the youth employment, student intern program in the exempt service. Without this amendment, she stated that the young people would be non-permanent employees. This amendment is proposed to insure that these people may be hired at minimum wage as proposed in the budget approved the House Finance, rather than at union wages. With the loss of federal funding, the payment set at the

minimum wage is no longer guaranteed.

Rep. Tischer; what age group are we talking about?

Ms. Halloran; ages 15 through 23.

Mr. Raye; I support this amendment, current statutes make it impossible to maintain state funding.

Chairman Fuller; what is the pleasure of the committee?

Rep. Hayes moved and asked unanimous consent that CSHB 209 (Rls) as amended be moved from Rules Committee.

Number 0695 Chairman Fuller; any objections? Hearing none, so moved.

Number 0699 HJR 36 was moved down on the agenda since the prime sponsor was not present to testify.

Number 0709 HB 180; relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation, was heard by the committee.

Number 0721 Rep. Liska, sponsor of the bill stated they found that under Alaska Housing Finance Corporation, non-veterans could qualify for a loan with no residency requirement and in our deal we submitted earlier not noted that the veterans interest rates on loans for veterans' widows required her to be a resident for one year. So, to bring it into line we have requested that on Page 1, delete Lines 19-29, Subsections (A) and (B) and on Page 2, Line 5, place a semicolon (;) after the word "state". Delete everything after the semicolon through the end of Line 6.

Rep. Phillips; you don't think one year residency will withstand a constitutional test?

Rep. Liska; we probably would lose it, a non-veteran doesn't need any residency requirement. We wanted to clean the bill up so veteran could be on the same status as

non-veterans.

Number 0790

Rep. M.M. Miller; a person comes up from the Lower '48 can qualify for the most generous loan in the country with no residency requirement. The state ends up putting more money into it than the person. Any veteran is already eligible for the most generous program in the United States. I would support the widow situation, but I question whether we want to give additional subsidy to anyone who steps off the plane. Anyone could come in, buy, sell out and get out two months later.

Number 0836

Rep. Liska; until we get residency problem solved we are going to have this problem. It is a very generous program. I would like to see 5 years as it used to be. Now we have a 30-day requirement in order to vote, so many things are on the chopping block now. This is one step until tested in courts.

Number 0903

Rep. Barnes; when military comes to get resident hunting and fishing licenses they have to be here a year. I don't believe you need to put amendments in this bill. You can defend a year in everything but voting. I think we can defend a year.

Rep. Hayes; I agree with Rep. Barnes.

Michael Day, Assistant to Rep. Liska stated they had a legal opinion from Attorney General's Office, one year residency requirement would not hold up in court. Thirty day requirement would be very difficult as well. That is why we came up with this date, the date of opinion, February 22, 1983.

Number 0964

Rep. Barnes; I would like to challenge this opinion, the Attorney General's Office is going too far even if we have to go to court on it.

Rep. Koponen; a year is not asking too much for this, I worry if we go to court and our Attorney General has those opinions we are in trouble.

Rep. Tischer; we don't have an Attorney General as yet, we do have that problem and give credence to opinion that comes from an

individual that doesn't hold a job yet.
Residency decisions get another opinion.

Rep. Hayes; I think a one year residency is supportable. I would not want to see legislature given in to anything less than one year.

Tape 1, Side B
Recording
Number 0001

Rep. Barnes; I would like to ask Rep. Liska to withdraw his amendment to this bill and keep the original and see if it won't stand up to a constitutional test.

Rep. Liska; we based our decision with the Attorney General's Office, I have no objection to withdrawing amendment.

Number 0118

Rep. Miller; I do not want it to go on the record that comments made by Rep. Tischer go unchallenged. We do have an Attorney General.

Rep. Phillips; if we go and pass as is without adopted amendments with no objection to it?

Number 0170

Chairman Fuller; if prime sponsor wishes to withdraw his amendments.

Rep. Phillips moved that HB 180 be passed out of committee with individual recommendations.

Number 0178

Chairman Fuller; no objections? Motion carried with individual recommendations.

Chairman Fuller announced HJR 36 and recognized Rep. Ward, sponsor of the resolution.

Rep. Ward; with this amendment we would have more public input. This legislation gives public input through confirmation in lieu of election of judges. Confirmation process would be able to put more validity into process of judicial system. I support this and think we need this and it is long overdue.

Rep. Ward said, recently the Supreme Court Judges may serve for three years with no input.

Number 0248

Rep. Hayes moved and asked unanimous consent that CSHJR 36 (Rls) be passed out of committee.

Rep. M.M. Miller; I object, Rules Committee Substitute is a slightly better way to go than previous bill, but I would not want anybody to think that I concur, I think it is in the worst public interest. Now I withdraw my objection.

Chairman Fuller; there is a motion before us to pass out Rules CSHJR 36.

Number 0250

No further objections, CSHJR 36 (Rls) was passed out of committee with individual recommendations.

No further business to come before the committee, Chairman Fuller adjourned the meeting at 9:34 a.m.



Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

Official Business

RULES COMMITTEE MEETING

May 3, 1983

8:30 am, Butrovich Room

AGENDA

- HB 209 "An Act placing emergency guards employed by the department of public safety in the exempt service."
- HJR 36 Relating to the confirmation of justices and judges by the legislature.
- HB 180 "An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation."

HJR

42

COMMITTEE REPORT
HOUSE

(9)

FURTHER:

Date: May 23, 1983

Mr. Speaker:

The Committee on RULES has had HJR 42

Relating to the establishment of a sister state relationship
with Taiwan

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HJR 42 (Rules) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Mr. Miller Do Pass
John Hayes
Frankie [unclear]
Tom Fuller
PROB & CLEO: D. [unclear]
Mr. [unclear]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Attila [unclear] (6/26?)
Mr. [unclear] all REC

Tom Fuller
CHAIRMAN

HOUSE RULES
STANDING COMMITTEE
May 23, 1983
8:30 a.m.

BELTZ ROOM

Members Present: Rep. Fuller, Chairman
Rep. Phillips, Vice-Chair
Rep. Hayes
Rep. Barnes
Rep. Tischer
Rep. M.M. Miller
Rep. M.W. Miller
Rep. Koponen
Rep. Larson

COMMITTEE CALENDAR

HB 357 "An Act relating to the regulation of religious schools."
HJR 42 "Relating to the establishment of a sister state relationship with Taiwan."

WITNESS REGISTER

HB 357

Steve Hole

Department of Education

Pouch F

Juneau, Alaska 99811 - Phone 465-2890

Position Statement: Will testify if necessary.

Ed Essa, Aide

Representative Pestinger

Pouch V

Juneau, Alaska 99811 - Phone 465-3712

Position Statement: Made a comment on HB 357

Representative Peter Goll

Alaska State Legislature

Pouch V

Juneau, Alaska 99811 - Phone 465-4925

Position Statement: Concerned about health & safety in pre-elementary schools.

HJR 42

Representative Mitch Abood

Alaska State Legislature

Pouch V

Juneau, Alaska Phone 465-4947

(Previous Action)
Attached (on HB 357)
HJR 42

AMENDED TITLE:

AN ACT RELATING TO THE REGULATION OF RELICIOUS SCHOOLS

PRIME SPONSOR: FRITZ.

CO-SPONSORS: TISCHER, PESTINGER, FURNACE, WARD, FLOOD.

CURRENT STATUS: 5/19/83 IN (H) RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/14/83	01	0861	FIRST READING -- COMMITTEE REPORTS
05/19/83	02	1426	HFSS -- CS05
05/19/83	03	1427	HESS F/NOTE EQUALS ZERO
			RULES
****	**	**	*** *** ***

AMENDED TITLE:

RELATING TO THE ESTABLISHMENT OF A SISTER STATE RELATIONSHIP WITH TAIWAN

PRIME SPONSOR: HAYES.

CO-SPONSORS: COWDERY.

CURRENT STATUS: 5/12/83 IN (H) RULES
HJR 42 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/07/83	01	0766	FIRST READING -- COMMITTEE REPORTS
05/12/83	02	1295	S.A. -- CS01, NR05
			RULES
****	**	**	*** *** ***

(17)

ACTION NARRATIVE

TAPE #1
Recording
Number 0002

Chairman Fuller called the meeting to order at 8:30 a.m. in the Beltz Room and indicated members present. Not present at the beginning of the meeting but arriving later were: Rep. Joe Hayes, Rep. Ramona Barnes and Rep. M.M. Miller. Rep. Fuller Announced agenda (HB 357 and HJR 42) and stated first on agenda was HB 357 - and that the prime sponsor Mae Tischer had an amendment to offer.

Tischer:
0042

The amendment to the Bill, HB 357 on Page 1, Line 16; would be the CS for 357 HESS - Each of these 4 is the same - after receive, insert direct. Mr. Hole just talked to me and indicated that he preferred a different language - if I may, Mr. Chairman, I would ask that he repeat that language.

Hole:

Introduces self and goes on to state that rather than using the word direct, to insert "and does not receive payments from the State or Federal Government."

Larson:

Why not does not receive "any"?

Tischer:

It is not as clear because in instances where, and I will give you an example that was brought up in our ~~committee~~ committee - in the Fairbanks School Districts the school district has a private school student leaving on a regular public school transportation route who asked if they could ride that school bus to the public school, get off, walk to the private school from there, so in other words that was an indirect assistance and the school district of Fairbanks has allowed that and if we say ~~all~~ we are not clarifying the word or the intent of this amendment. Being direct - meaning direct payment for pre-schooler and so forth.

Larson:

Maybe I could find what word "direct" is in order for a direct payment?

Tischer:
0132

In lay terms - direct payment means exchange of money from one hand to another.

Koponen:
0147

The situation is just not in Fairbanks. I think it has been found legal in that there is no payment, it is conceived of as a service which is available to all children, that is transportation, however, putting direct payments in place of any payments - I think would open it up to litigation because you have the cases where the state does provide tuition or similar payments to parents who can then use the money for day care assistance or the equivalent, or special ed. schools or classes of different kinds. It would then be transferred to the school and that would be a much more direct payment. I am sure we would see a suit which may tie up the entire intent of the bill. I would second Rep. Larson's motion to make it "any" payment form because the transportation is a separate issue and there is no transfer of payment.

Tischer: I don't think Mr. Larson made a motion; just a suggestion.

Larson: Maybe you are not familiar with the question - Community and Regional Affairs day care assistance - the person who is under this could probably qualify for day care assistance. Of course, the money goes to the parent then to the institution, is that considered direct or indirect payment?

Hole: Any financial assistance flows from either the state or federal government to the school and that school would not be exempt or would not be covered by this provision and would be subject to other existing regulations.

Phillips:
0206 So if a parent receives a certain amount of money for day care assistance that would not be considered a direct payment then?

Hole: The parent receives day care assistance - the money does not flow directly to the school and I don't see that that would impact the standing of that facility under this.

Phillips: Would this affect private schools such as Montessori Schools?

Hole: Mr. Chairman, No.

Phillips: Why are they so different - why aren't they included in here? They are under the same regulations.

Hole: I can't answer that, Mr. Chairman.

Essa: The crux of this legislation is the separation of church and state and that is why Montessori School doesn't fall under this. The bill directly addresses religious.

Larson: The only motion we had was put to Rep. Fuller by Rep. Tischer to insert the word direct. And of course, at that time, I suggested the word "any" but I did not make a motion to amend.

Tischer: In response to Randy's one about day care assistance, I believe the regulations at this time as far as day care payments are concerned - the municipal pay for day care of a child directly to the day care center - not to a parent.

Hayes: I just want to find out where we are on this bill.

Fuller:
0250 Rather than have the amendments - we have prepared a Rules Committee Substitute to speed it up.

Koponen:

I have been on the board of a religious school. There are currently only 3 sections that deal with religious schools - the old section that did require teachers to be certified was deleted in 1966. There is essentially one section that is permissive that allows the commissioner to give 8th grade diplomas. That is a matter of negotiation between school and commissioner. The section allowing the the transportation of pupils to non-public schools which makes no distinction between religious and other schools which I think is the crucial point that all pupils regardless of where they are going have a right to ride on transportation and the section that allows students to be in attendance at non-public schools not to be counted as absent. The current section is rather permissive - this legislation actually works into statutes a great many more restrictions into religious schools while freeing them under some. I think I would be afraid of the distinction between religious schools that are religious non-profit associations that are exempt from federal taxation and all other private schools. In other words, I feel that we are on shakey grounds on constitutional matters and we actually may be laying a greater burden on religious schools by attempting in this manner to deregulate them without deregulating other schools of the same class. That is the other private non-proprietary schools. I feel we should have had some opinions from constitutional attorneys, the Attorney General before we pass this legislation. X

Fuller:

I will entertain a motion to accept a committee substitute,

Tischer:

I move that the committee accept the Rules Committee Substitute for HB 357 and ask unanimous consent.

Fuller:

Hearing no objection - moved.

Tischer:

If you look at the language in this bill and insert the word "any" before word "direct" it would read that pre-elementary schools and nurseries operated by churches or other non-profit religious organizations that is exempt for federal taxation and doesn't receive any direct tax or state or federal funding means the same as does not receive direct state or federal funding so "any" if you will would be superfluous. I don't see any reason for putting it in there.

0373

Goll:

There are two points in here I think need to be addressed. It is very nice that the bill will help to facilitate religious schools activities - I think that is a well intentioned thing but I do not believe they would want to jeopardize public safety or health and I don't believe you want to create instructional In the Hess, CS, in this first section

continuing the departments authority and jurisdiction and endorsing the department. The Departments interest in the health life, safety, aspects of these facilities is that we would consider the language on Page 2 beginning at Line 10 as all the authority we need to make sure that those facilities meet applicable codes and that they receive proper physical examinations.

Phillips: So, in other words, [educational component] is not necessary because it is covered on this section you just cited right?

Hole: As long as that language remains on Page 2, we would see that the legislature does not intend the Dept. to cease this operation with respect to those particular aspects.

Fuller: On Line 13, does fire safety take care of Mr. Goll's fire safety apprehension about this?

Hole: I think so, but the Dept. is not responsible for enforcing fire safety codes so I can't speak for the fire marshall. But if they perceive it in the same fashion we do.

Goll: If this works out that way I would be happy. My concern is Page 1, Line 13, he refers to the fire marshall - the fire marshall is not a product of the DOE - its a separate institution. Here we have the Dept. of Health & Social Svcs. who supervise these schools, they are not supervising educational components, they are supervising other things like health and safety and we have specifically excluded pre-elementary schools, they are not included. As I say, if it is the feeling of the departments involved that they can enforce health and safety with this as is, I am perfectly happy. My concern is that the Department of Education does not have the ^{statute} responsible to deal with health and safety in preschools. I believe that is why the Dept of Health and Social Services is in the statutes. I would like to be corrected if I am wrong. If the DOE has statute authority to oversee health and safety in preschool, or am I going to call my school a day care center - who is going to make the decision? I am just concerned that health and safety in pre-elementary is covered.

Larson: That was my concern too - preschools.

Fischer: Those regulations for health and safety and building codes and so forth are enforced on a local level by municipalities and boroughs and assemblies and councils - so as far as health and safety and building is concerned those are local rather than state jurisdictions and the policing is done by local fire departments and so forth.

Koponen: True in Anch. and Juneau where boroughs have accepted by popular vote the power - in Fairbanks it does not - they do not wish to exercise health and welfare power and therefore it goes to the state.

XXXXXX
Goll: In the case of Haines, Klukwan or most of other communities in my district there is no co-op agreement between the fire department and public schools.

Tischer: That was not what I was trying to say, where local doesn't cover state does. I ask for correction.

Koponen: CS HB 357 - I would like to move a series of amendments - on Page 1, Line 15, Page 2, Line 8, Page 3, Line 29, Page 4, Line 10 - delete direct and insert any. And ask unanimous consent.

Fuller: After the vote - motion fails. Further amendments?

Koponen: ~~For the purpose of the bill~~ I would like to move to insert after operated (on Page 1, Line 14, Page 2, Line 6, Page 3, Line 27, Page 4, Line 8 delete word a church or other non-profit organization that is exempt for state and federal taxation and insert private non-profit organization organized under Alaska law.

Tischer: I believe that language would violate title of bill which speaks to regulation of religious schools only, and therefore, does not apply. We would have to change to many other things.

Phillips: I will amend the motion to include change of title which would include non-proprietory private schools and I think it would still be germane.

Fuller: Are you amending the amendment?

Phillips: Yes.

0038

Objection voiced by Tischer and Barnes.

Barnes: This bill, I believe makes a constitutional challenge as it is written and I think you can make the bill unconstitutional by adding words to it and I believe that this bill specifically deals with schools that are exempt under the church and other non-profit statutes - Fed. tax code, because of religious affiliations and I believe that by adding to it you have left some out and it would be discriminating against some schools.

Phillips: With just only religious or non-profit religious organizations schools and leaving out other private schools, that are not necessarily religious nature I just think that if you are going to set rules it should go across the board for everybody - not just select group of people. I am not a lawyer but we may have the affect the former speaker just talked about.

Phillips: Amendment to amendment would on Page 1, Line 6 after word 'the' put the regulations of, non-proprietory private schools that way you would not only include religious schools under same rules and regulations and statutes would be exempt from state law. I move adoption of amendment.

Fuller: After the vote, ~~amendment to amendment~~ amendment to amendment fails.

0110

Fuller:

That brings us back to the original amendment - do you want to state your amendment Mr. Koponen.

Koponen:

I move to insert after operated - (Page 1, Line 14, Page 2, Line 6, Page 3, Line 27, Page 4, Line 8 delete word a church or other non-profit organization that is exempt for state and federal taxation and insert private non-profit organization organized under Alaska law and ask unanimous consent.

0131

After a vote, amendment fails.

Phillips:

Question to Steve Hole DOE - on Page 4, Line 11, Sec. 8. AS 14.45.020 which we are repealing. ~~XXXXXXXXXXXXXXXXXXXX~~ Does Dept. have any position on this?

Hole:

The Dept. has not issued diplomas under that section since I have been with the Dept. No problems.

Hayes:

I would like to make a motion that the Rules CS HB 357 be moved out with individual recommendations and ask unanimous consent.

0193

HJR 42

Fuller:

Hearing none, so moved. We will move to the next item on agenda, HJR 42. Here to testify is Rep. Mitch Abood.

Abood:

Identifies self for record...I would like to offer an amendment to it if I may, on Line 11, Page 1,...

Hayes:

I move and ask that Rules CS be adopted and ask unanimous consent, with individual recommendations.

Abood:

The State Affairs Committee was in contact with Senator Stevens, Congressional delegation and state department and this is in such a way it does not affect the Aisle of China or Taiwan, this covers all the people this way, ~~not all the people of Alaska~~ ~~of Alaska~~

Larson:

Proposed motion that Alaskans be changed to WHEREAS the people of Alaska".

Fuller:

After a vote, motion fails.

Rules CS HJR 42 is then moved out of Committee with individual recommendations.

Josephson
5/16/83-

Original sponsors: Paves and Cowdery

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 42 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Relating to the establishment of a
6 sister state relationship with Taiwan.

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

8 WHEREAS the people of Taiwan have developed a prosperous and success-
9 ful free economy while surmounting great difficulties; and

10 WHEREAS Alaskans share the same spirit and economic goals as the
11 people of Taiwan; and [TAIWANESE]

12 WHEREAS the people-to-people program initiated by President Eisenhower
13 in 1956, was designed to bring the people of the world closer together in
14 the interest of peace; and

15 WHEREAS the City of Fairbanks has had a sister city relationship with
16 the City of Tainan, Taiwan since August 1982; and

17 WHEREAS the people of Taiwan have established themselves as great
18 producers of products sold in the world market; and

19 WHEREAS Alaska is the source of many of the raw materials required for
20 those products; and

21 WHEREAS a sister state relationship with strong economic ties is in
22 the mutual interest of Taiwan and Alaska;

23 BE IT RESOLVED by the Alaska State Legislature that an invitation be
24 extended to the people of Taiwan through their Provincial Legislature to be
25 a sister state with the State of Alaska, with strong social, educational,
26 economic, and cultural exchange programs; and be it

27 FURTHER RESOLVED that the people of Alaska and Taiwan should work
28 closely together to improve international goodwill and understanding.

29 COPIES of this resolution shall be sent to Mr. Teng-hui Lee, Governor

1 of Taiwan and to Yu-jen Kao, Speaker of the Provincial Legislature of
2 Taiwan; and to the Honorable Ted Stevens and the Honorable Frank Murkowski,
3 U.S. Senators, and the Honorable Don Young, U.S. Representative, members of
4 the Alaska delegation in Congress.
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SCHOOLS
RELIGIOUS SCHOOLS

HB 357/ Regulation of Religious Schools

SPONSORS: Fritz, Tischer, Pestinger, Furnace, Ward, Flood.

INTRODUCED: April 14; referred to HESS.

INTENT: Relates to the regulation of religious schools: Would require the Department of Education to exclude from general supervision pre-schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding (amends AS 14.07.020(8), Duties of the Department of Education). Compulsory attendance laws would not apply if a child is provided an academic education comparable to that offered by the public schools in the area, either by attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding (amend AS 14.30.010, Pupils and Educational Programs for Pupils. When Attendance Compulsory).

The Commissioner of Education may furnish exam questions for and grant diplomas to eighth grade pupils in private schools not operated by a church or other nonprofit organization that is exempt from federal taxation and does not receive state or federal funding (amends AS 14.45.020, Commissioner May Furnish Examination Question for and grant Diplomas to Eight Grade Pupils -- currently allow the commissioner to furnish exam questions and grant eight grade pupils in private and denominational schools).

Would require teachers and others in charge of private schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding to make monthly attendance reports and annual reports to the commissioner of education in the same manner as teachers and superintendants in the public schools (amends AS 14.45.030, Private and Denomination Schools, Attendance and Annual Reports Required -- currently requires teachers and others in charge of private or denominational schools to make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.)

Would not require the Department of Education to administer the state's program of education for an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding (amends AS 44.27.020 Dept. of Education. Duties of the Department -- currently the Dept. is not responsible for administration of the state's program of education for degree programs of postsecondary education -- no mention of religious educational programs). No effective date.

**HESS Committee action???

Rules Committee meeting at 8:30 AM Monday, May 23 on this legislation prior to it being on House Floor. I have attached a copy of the Rules CS.

S

B

G

7



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
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RULES COMMITTEE MEETING AGENDA

MARCH 28, 1984 8:30 a.m. Cap. Rm. 118

- CSSB 67(L&C)am - "An Act relating to the relocation of utility facilities incident to the construction of highway projects by a municipality; and providing for an effective date."
- CSHB 551(Fin) - "An Act relating to big game management; and providing for an effective date."



Official Business

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FILE INDEX

CSSB 67(L&C)am

- I. Proposed Rules CS for CSSB 67(L&C)am
- II. House CS for CS for Senate Bill 67 (L&C)am
- III. Legislative Reporting Service

Utility
Facilities
(relocation of
by munic.)

SENATE BILL NO. 67, by the Labor & Commerce Committee.
Would grant municipalities the authority to order a utility to relocate its facility if necessary for construction of a highway project. Would allow a municipality to order relocation of utility facilities that are located "across, along, over, under, or within a right-of-way under its jurisdiction." The order must provide a reasonable time for compliance. Costs of relocation would be considered a cost of highway construction to be paid by the municipality.

The state is granted the power to relocate utility facilities under AS 19.25.020 (Relocation of utilities incident to highway projects). That section is amended by the bill to include municipalities.

Also amends AS 19.25.240 (Summary Removal) to allow municipalities to remove at any time from a highway or road under its jurisdiction an encroachment that obstructs or prevents the use of the highway or road by the public. Currently the section only grants that power to the state.

Sec. 5 of the bill states that a municipality is not obligated for utility facility relocation costs associated with a highway project for which general obligation bonds have been approved or for which state general fund appropriations have been received before the effective date of the bill.

Effective July 1, 1983.

Introduced January 25 and referred to Labor & Commerce and Community & Regional Affairs.

Utility
Facilities
(relocation of
by munic.)

SENATE BILL NO. 67, (see page 73). Reported back to the Senate on March 4 by Labor & Commerce with a majority of the committee recommending it be replaced with Labor & Commerce Committee Substitute and that it do pass. Concurring: Eliason (Chmn.), Mulcahy, Sackett and Rodey. To Community & Regional Affairs.

Labor & Commerce CS further amends AS 19.25.020(c) by adding the following language: "except that a municipality is not obligated to pay the cost of relocation of utility facilities that are not located in a municipal right-of-way under the conditions of a valid easement or permit." Remainder identical to original bill.

Utility
Facilities
(reloc. by
munic.)

SENATE BILL NO. 67, (see pages 73;243). Reported back to the Senate on March 30 by Community & Regional Affairs with the committee recommending as follows: Ferguson (Chmn.) and Sackett signed "no recommendation"; Halford signed "do pass." To Rules.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;538). On April 11 the Labor & Commerce CS was adopted.
Am. No. 1 by Gilman was adopted, 17-1-2. Nays: Ray.
The amendment adds new Sec. 5 to the bill:

* Sec. 5. A.S. 19.45.001(4) is amended to read:

(4) "cost of change, relocation, or removal" means the entire cost incurred by the utility properly attributed to the change, relocation, or removal of a facility, less any costs for improvements or upgrading over and above the cost of a functionally equal facility; if a facility is to be relocated and replaced with new equipment, there shall also be subtracted from the entire cost any salvage value derived from the old facility; if a facility's service life is extended by the work done to change or relocate it, a percentage equal to the percentage of extension of the facility's service life shall be subtracted from the cost;

Renumber the following sections accordingly.

The bill then passed, 17-1-2. Nays: Gilman. Absent: Josephson, Rodey. The effective date was adopted.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;519). Received in the House on April 12 and referred to
Community & Regional Affairs and Labor & Commerce.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;519;538). Reported back to the House on May 11 by
Community & Regional Affairs recommending it be replaced with
House Committee Substitute (C&RA) and reported back as follows:
Lacher, Chairman, recommended "do not pass, see letter"; Fritz and
McBride recommended do not pass; Clocksin recommended do pass;
Phillips and Tischer had no recommendation. To Labor & Commerce.
The Chairman's report is as follows:

A majority of the House Committee on Community and Regional Affairs oppose HCSCSSB 67 (C&RA). The provisions of HCSCSSB 67 (C&RA) changes the historical relationship between utility companies and municipalities in matters pertaining to the use of public rights-of-way and streets by various utility companies. Present Alaska Statutes require municipalities to allow utility companies to use the public right-of-way and thereby avoid the expense of securing easements from private property owners. The proposed legislation is designed to further benefit the utilities by requiring municipalities to pay the costs of relocating the utilities when the relocation is incident to a municipal street project. The requirement for municipalities to bear the burden of the relocation costs is contrary to practices established in common law and contrary to procedures used throughout the United States. Imposition of such costs would amount to a public subsidy of private profit-making ventures as well as for private non-profit utility companies.

Enactment of any legislation that would require municipalities to pay utility relocation costs will not, in the long run, reduce operating costs for utilities but in all probability will increase costs to the utilities. Municipalities will undoubtedly be highly restrictive in the conditions of future permits for the installation of utilities and will begin to charge maximum fees for the use of the public right-of-way as opposed to the general practice of providing use at no charge.

The Committee has found that municipalities are fair and reasonable in their relationships with utilities, and that the particular needs of each type of utility is considered when negotiations for the use of a public right-of-way are

costs is insured by the availability of arbitration and redress provided by the Alaska Public Utilities Commission. The considerable diversity of types and purposes of profitable private and of non-profit utility companies further reinforces the Committee's belief that the allocation of utility relocation costs can best be negotiated on the local governmental level, on a case by case basis.

In summary, the Committee believes that the proposed legislation is an unnecessary and unwarranted usurpation of local governmental authority which may have an adverse monetary effect on the utility consumer and the municipal tax payer. Therefore, any attempt to legislatively interfere with the existing relationships between municipalities and utility companies should not be favorably considered.

The House C&RA CS makes the following changes:

--Instead of amending portions of AS 19.25 to provide for assumption by municipalities of costs of moving utility facilities, the House C&RA version adds new sections to the Municipal Code (AS 29) which accomplish the same result.

--Changes effective date from July 1, 1983 to January 1, 1984.

--Changes wording of section on payment of the cost of moving utility facilities: "The cost of change, relocation, or removal . . . is a cost of road or highway construction to be paid by the (1) municipality or the utility according to the terms of a franchise, permit, or agreement in effect on January 1, 1984, if the facility is located under the conditions stated in the franchise permit or agreement; (2) municipality or the utility according to the terms of a permit issued by the municipality after January 1, 1984, for a new or existing facility if the facility is located under the conditions stated in the permit; or (3) utility if the facility is located without a permit or under a permit that does not provide for allocation of relocation costs, or if the location is not in accordance with the conditions stated in an applicable permit."

--Adds to definition of "cost of change, relocation, or removal": "the service life of a facility may be determined by the municipality and may be based on the utility depreciation schedule for taxation or rate-setting purposes." (If service life of facility is extended by relocation, a percentage equal to the percentage of extension of the facility's service life is subtracted from the cost payable by the municipality to move the facility.)

--Adds definition of "encroachment" (if utility not changed, relocated or removed in accordance with a municipal order, the facility becomes an unauthorized encroachment and may be disposed of by the municipality). States that encroachment means and includes "a tower, pole, pole line, pipe, pipeline, driveway, private road, fence, billboard, stand or building, or a structure or object of any kind that is or has been placed in, on, under or over a portion of a road or highway."

--Adds definition of "utility" to include: "railroads and all publicly, privately, or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, telecommunications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned fire and police signal systems and street lighting systems."

Utility
Facilities
(relocation by
municipality)

CS FOR SENATE BILL NO. 67 (L&C)(AM). (see pages 73;243;408; 519;538;754, 1983 report). Reported back to the House February 22 by Labor & Commerce recommending it be replaced with a House L&C substitute and that it do pass. Concurring: Cowdery (Chair), Ringstad, Furnace and Pestinger. Not concurring: Uehling had no recommendation. To Rules.

Labor & Commerce completely rewrites the bill, and their version would:

--amends state statutes relating to the protection and use of state highways and roads, relocation of utilities incident to highway projects (AS 19.25.020) to allow a municipality to order a utility facility that is located across, along, over, under, or within a right-of-way under its jurisdiction to be changed, relocated or removed (currently only the state is allowed to relocate utility facilities under this section). The municipality would have the authority to dispose of the utility facility if it is not changed, relocated or removed in accordance with the order, and the owner of the facility would be responsible for indemnifying the municipality for any amount the municipality may be liable to a contractor by reason of the encroachment. The cost of the change, etc., necessitated by highway construction, is a cost to be paid by the municipality, except that it would not be obligated to pay the cost of relocation of utility facilities that are located in a municipal right-of-way unless ". . . (1) the facilities have been placed in the municipal right-of-way under a valid easement or permit; or (2) the facilities were placed in the municipal right-of-way before the municipality had a system for granting easements or permits for utility facilities."

--Amends section of AS 19.25 relating to summary removal (sec. 240) to include municipalities: "The department or a municipality may at any time remove from a [state] highway or road under its jurisdiction an encroachment that [which] obstructs or prevents the use of the highway or road by the public."

--amends definition section of AS 19.45 (Highways and Ferries. Miscellaneous Provisions), definition of "cost of change, relocation, or removal" by adding language that states: ". . . if a facility's service life is extended by the work done to change or relocate it, a percentage equal to the percentage of extension of the facility's service life shall be subtracted from the cost."

--section 6 of the bill states "A municipality is not obligated for utility facility relocation costs associated with a highway project for which general obligation bonds have been approved or for which state general fund appropriations have been received before the effective date of this Act."

--provides Act takes effect July 1, 1984.



Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

Official Business

FILE INDEX

CSHB 551 (Fin)

- I. Proposed Rules CS for CSHB 551 (Fin)
- II. CSHB 551 (Fin)
- III. CSHB 551 (Resources)

S

B

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8

(SB

152

)

AGENDA

JUNE 18, 1983

BUTROVICH ROOM

CSSB 152 (Fin)

Creating the office of management
and budget.

CSSB 108 (Res)

Establishing the Tanana Valley
State Forest.

SB 108 Establishing the Tanana Valley State Forest and a program
for the management of state forests and forest land

Our purpose in hearing this bill is to consider an amendment proposed by Rep. Hurlbert to be incorporated into a Rules committee substitute. The amendment reinserts into the bill language deleted in House Resources regarding forest land near Minto. When Resources heard the bill, it was thought that this land had high agricultural potential, but the department of natural resources has determined that it does not.

Along with the amendment, your files contain an explanation of the addition, a map of the proposed inclusion, and a letter from the commissioner of DNR regarding the agricultural potential of the area.

ALSO: Rep. Shultz has an amendment he would like to make.

Motion: Adopt the amendments (Hurlbert and Shultz) and incorporate them into a Rules committee substitute.

COMMITTEE REPORT

HOUSE

FURTHER:

(9)

Date: June 18, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 108 (Res)

"An Act establishing the Tanana Valley State Forest and a program for the management of state forests and forest land of the state; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 108 (RIS) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Alvin Korman

M.W. Miller Do Pass

John Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Roll & Bell No Rec

W. H. ... Do Pass if Amended

Ronald L. ... No Rec

... - No Rec

... No Rec

John B. ...
CHAIRMAN

Hurlbert

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Hurlbert

To: HCS CSSB 108 (Fin) HOUSE BILL No. _____

SENATE BILL No. 108

PAGE: _____

LINE: _____

Page 6, lines 28-29

Delete present language and insert, Sections 17-20

Page 7, lines 1-4

Delete present language and insert, Sections 29-34
Section 35, W1/2

Page 7, lines 6-7

Delete present language and insert, Sections 13-36

Page 7, lines 9-10

Delete present language and insert, Sections 13-36

Page 18, lines 11-16

Delete present language and insert, Sections 3-10
Sections 15-22
Sections 27-34

Page 18, lines 18-19

Delete present language and insert, Sections 1-6

Page 18, lines 21-24

Delete present language and insert, Sections 1-24
Sections 27-34

Page 20, lines 3-4

Delete present language and insert, Section 6

Page 20, lines 6-9

Delete present language and insert, Sections 1-24
Sections 27-34

Renumber remaining lines accordingly.

HCS CSSB 108 (Fin)
ESTABLISHING THE TANANA VALLEY STATE FOREST AND A PROGRAM FOR
THE MANAGEMENT OF STATE FORESTS AND FOREST LAND OF THE STATE.

PROPOSED AMENDMENT

RATIONALE:

THE AMENDMENT WOULD ADD APPROXIMATELY 55,000 ACRES OF LAND TO THE TANANA VALLEY STATE FOREST ALONG THE TANANA RIVER NEAR MINTO. THIS WOULD RESTORE THAT UNIT OF THE FOREST TO THE ACREAGE CONTAINED IN THE SENATE-PASSED BILL.

THIS SECTION OF THE STATE FOREST WAS REPORTEDLY DELETED FROM THE ORIGINAL SB 108 BECAUSE OF THE HIGH AGRICULTURAL POTENTIAL OF THE AREA. A SOILS SURVEY HAS BEEN COMPLETED FOR THIS AREA BY THE DIVISION OF AGRICULTURE AND THEY HAVE CONCLUDED THAT ALTHOUGH AG. SOILS ARE PRESENT (CLASS II AND III), THEY ARE PATCHY AND SHALLOW, PERMAFROST IS PRESENT, AND THE LANDS ARE SUBJECT TO ANNUAL FLOODING. THEY RECOMMENDED THAT THE AREA NOT BE CLASSIFIED FOR AGRICULTURE. THE WHITE SPRUCE IS OF COMMERCIAL VALUE AND THERE HAS BEEN A REQUEST FOR A LONG-TERM TIMBER SALE IN THE AREA. THE UNIT IS STRONGLY SUPPORTED BY LOCAL RESIDENTS FOR INCLUSION IN THE STATE FOREST.

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE: 465-2400

May 27, 1983

The Honorable Bettye Fahrenkamp
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

You requested information about the agricultural potential of the Minto deletion from SB 108.

As you know, this area of 73,760 acres is located near the proposed Nenana-Tochaket Agricultural Project. Based on the soils surveys which are now completed for this area, the Division of Agriculture does not recommend that this area be classified for agriculture. Although the soils surveys show some Class II and III soils present, they are patchy and shallow. In addition, it is a permafrost area and subject to annual flooding. On the other hand, the area sustains one of the better white spruce stands within the proposed Tanana Valley State Forest.

If you have any additional questions, please call my office.

Sincerely,



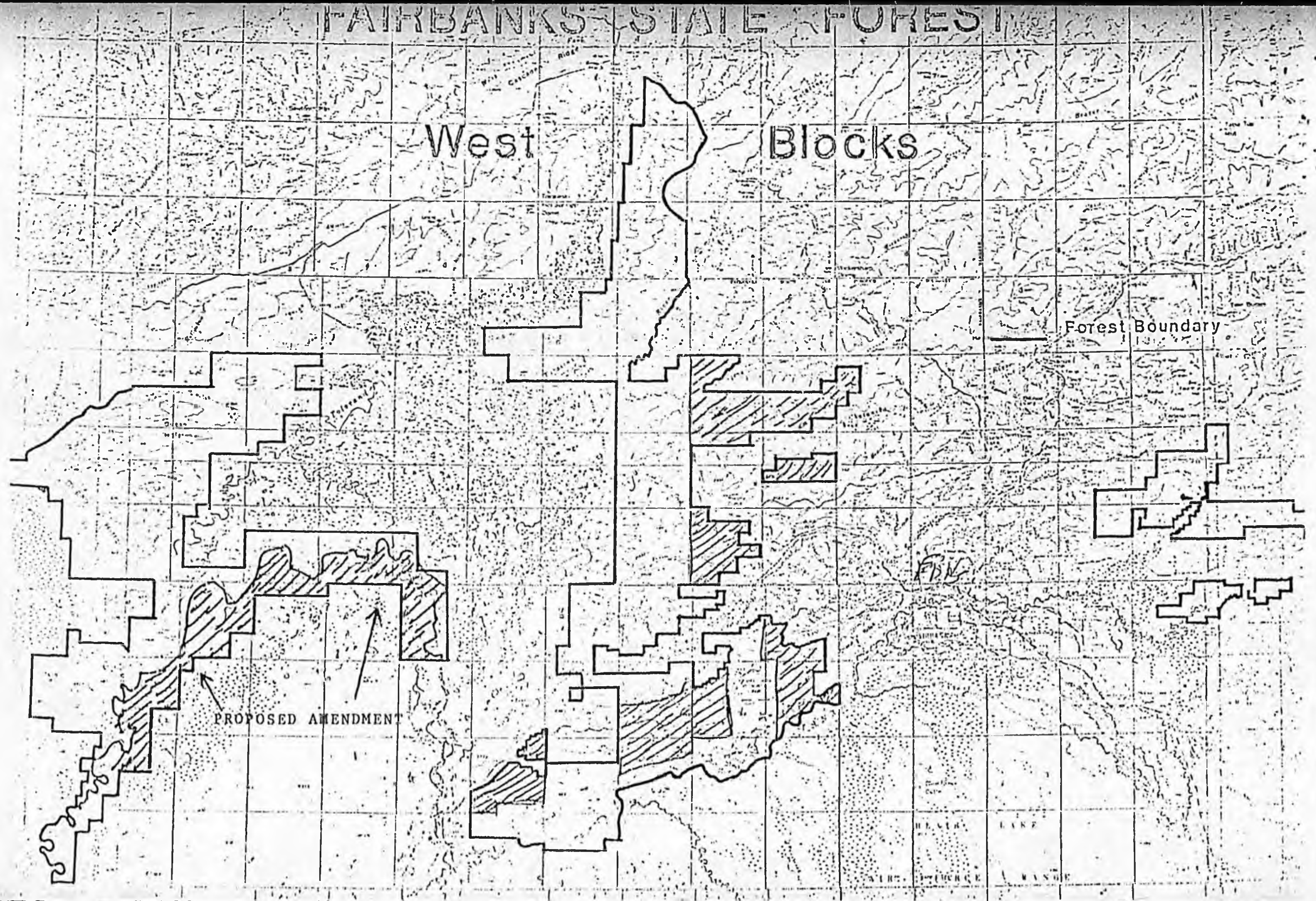
Esther C. Wunnicke
Commissioner

FAIRBANKS STATE FOREST

West Blocks

Forest Boundary

PROPOSED AMENDMENT



Koponen

HOUSE CS for CS for SB 108 ESTABLISHING THE TANANA VALLEY STATE FOREST AND A PROGRAM FOR THE MANAGEMENT OF STATE FORESTS AND FOREST LAND OF THE STATE.

PROPOSED AMENDMENT

In Section 3 in the appropriate place amend the legal descriptions to include the following state lands or waters:

Township 1 South, Range 3 West, Fairbanks Meridian

- ✓ Section 26, S $\frac{1}{2}$ south of Parks Highway
- Sections 27-28, south of Parks Highway
- Section 29, west of Old Nenana Highway and south of Parks Highway
- Sections 31-34, south of Parks Highway
- Section 35

Township 2 South, Range 3 West, Fairbanks Meridian

- ✓ Section 2, N $\frac{1}{2}$, Tract F, ASLS 80-118
- ✓ Sections 3-5
- Sections 8-10
- Section 13, Lots A and C
- Section 14, Lots 5-7, NE $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 15, west of left limit of Tanana River
- Sections 16-17

Township 2 South, Range 4 West, Fairbanks Meridian

- ✓ Section 4, S $\frac{1}{2}$, NE $\frac{1}{4}$
- Section 8, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$
- Section 9
- Sections 16-21
- Sections 28-33

Township 2 South, Range 5 West, Fairbanks Meridian

- ✓ Sections 23-36

Township 3 South, Range 5 West, Fairbanks Meridian

- ✓ Sections 2-5
- Section 6, S $\frac{1}{2}$ S $\frac{1}{2}$
- Sections 7-10
- Section 16
- Section 17, north of right limit of Tanana River, excl. SW $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 18, north of right limit of Tanana River, excl. SE $\frac{1}{4}$ SE $\frac{1}{4}$

Township 3 South, Range 7 West, Fairbanks Meridian

- Section 1
- Section 2, E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 3, SE $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 9, south of Parks Highway
- ✓ Section 10, that portion of NE $\frac{1}{4}$ which lies south of Parks Highway; SW $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 11, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 12, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$
- Section 13, SW $\frac{1}{4}$
- Section 14, S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$
- Section 15
- Sections 16-17, south of Parks Highway
- Section 20, south of Parks Highway
- Sections 21-32

Nenana Ridge Amendment

The amendment would add back approximately 50,000 acres of state land which were included in the Senate-passed bill, but were deleted in the House Resources Committee.

The area lies generally along the Parks Highway west of Fairbanks in a subunit of the proposed Tanana Valley State Forest known as the Nenana Ridge. This area contains some of the best stands of both spruce and hardwoods in the proposed forest and is the most accessible forest area to the Fairbanks urban area.

Wood products in this area are estimated to be 600,000 board feet of sawtimber annually and 4,260 cut cords of hardwoods annually.

The area is also used as a popular hunting and recreation area.

The amendment does not include approximately 1500 acres of state land north of the Parks Highway and west of the Old Nenana Highway located nearest to Fairbanks. This area was not included as it is in the Senate-passed bill to permit possible disposal and development of this area for housing and other private uses.

West

Blocks

Forest Boundary

BOUNDARY
STATE
EXT. FOREST

PROPOSED AMENDMENT
(ADD B.A.S. IN)

DELETIONS MADE ON
HOUSE RESOURCES

FAIRBANKS

NEVADA



Amendment to HCS CSSB 108 (Finance)

by Shultz

Add all state lands within the following townships:

Township 20 North, Range 10 East, Copper River Meridian

Township 21 North, Range 9 East, Copper River Meridian

Township 22 North, Range 9 East, Copper River Meridian

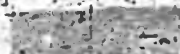

Township 23 North, Range 8 East, Copper River Meridian

Township 24 North, Range 6 East, Copper River Meridian

Township 26 North, Range 5 East, Copper River Meridian

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES

EAST BLOCKS

-  STATE FOREST
-  REMOVED H. RES.
-  NATIVE LAND
-  LOWLAND/SWAMP
-  AGRICULTURE
-  MILITARY
-  FOREST BOUNDARY

T95 R16E

T115 R16E

T26 N R5E

T24N R6E

T23N R8E

T22N R9E

T21N 9E

T21 N R10E

T20N R10E

T20N R13E

T19N R14E

T19N R15E

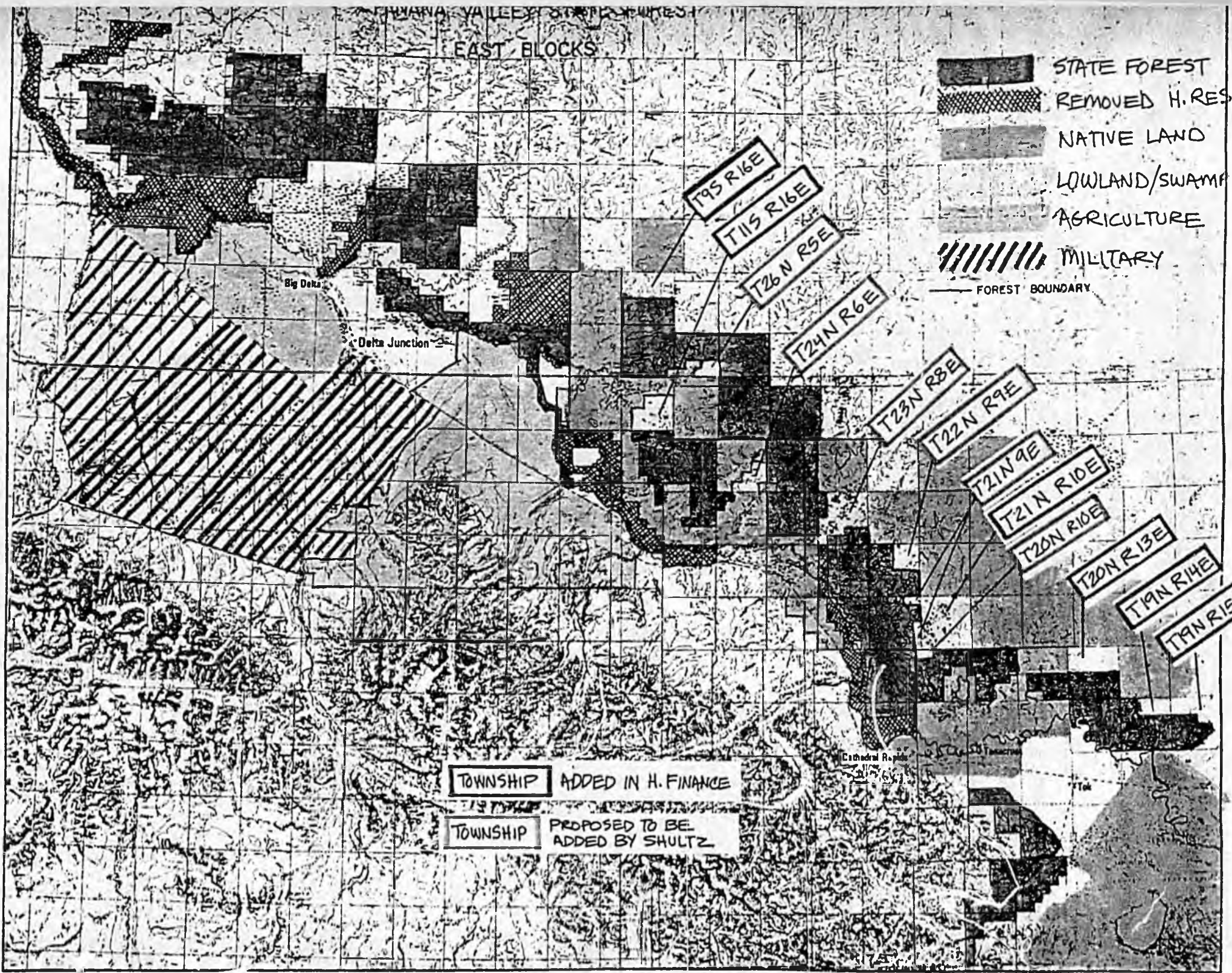
Big Delta

Delta Junction

Cathedral Rapids

TOWNSHIP ADDED IN H. FINANCE

TOWNSHIP PROPOSED TO BE ADDED BY SHULTZ



AMENDMENT

OFFERED IN THE HOUSE:

By: Fuller

To: _____ HOUSE BILL No. _____

HCS CSSB SENATE BILL No. 152 (R13)

PAGE: _____

LINE: _____

Page 1, line 15: DELETE "the institute of social and
economic research,"

Page 1, line 21: DELETE ", as well as the institute
of social and economic research,"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 28, 1983

SUBJECT: Office of Management and Budget
(CSSB 152 (Finance))

TO: Representative Albert P. Adams
Chairman, House Finance Committee

FROM: Keith B. Levy *KBL*
Legislative Counsel

Enclosed is the committee substitute you requested to CSSB 152 (Finance), relating to the office of management and budget. You should be aware that the amendments on page 1 regarding the Institute of Social and Economic Research do not really have the force of law since it only affects the purpose and intent clause of the bill. The Institute of Social and Economic Research does not exist by statute, it was created by the university under the authority of AS 14.-40.110. Consequently, the amendments can, at best, encourage cooperation between the office of management and budget and the Institute of Social and Economic Research. They will not have the effect of causing an actual merger of the two offices.

If you want to actually merge these two offices, you would have to create the Institute of Social and Economic Research within the office of management and budget by statute. You can not do this by way of an amendment to CSSB 152 (Finance), however, since such an amendment would require a title change which is prohibited in the second house by Rule 35 of the Uniform Rules of the Alaska State Legislature.

If I may be of further assistance, please advise.

KBL:ljb

Enclosure
11/015

COMMITTEE REPORT

HOUSE

(9)

FURTHER:

Date: June 18, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 152 (Fin)

"An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date."

under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[X] replace with HCS for CSSB 152 (2d Rules) [X] same title [] new title
and recommends DO PASS

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]
M.W. Miller Do Pass
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] No Rec
[Signature] No Rec

[Signature]
CHAIRMAN

SB 108 Establishing the Tanana Valley State Forest and a program
for the management of state forests and forest land

Our purpose in hearing this bill is to consider an amendment proposed by Rep. Hurlbert to be incorporated into a Rules committee substitute. The amendment reinserts into the bill language deleted in House Resources regarding forest land near Minto. When Resources heard the bill, it was thought that this land had high agricultural potential, but the department of natural resources has determined that it does not.

Along with the amendment, your files contain an explanation of the addition, a map of the proposed inclusion, and a letter from the commissioner of DNR regarding the agricultural potential of the area.

S

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HOUSE RULES
STANDING COMMITTEE
May 30, 1983
9:00 a.m.

Members Present: Rep. Fuller, Chairman
Rep. Phillips, Vice-Chairman
Rep. Hayes
Rep. Barnes
Rep. Tischer
Rep. M.M. Miller
Rep. Larson
Rep. Koponen

Members Absent: Rep. M.W. Miller

COMMITTEE CALENDAR

CSSB 152 (Fin): "An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date."

WITNESS REGISTER

Peter McDowell
Director
Office of Budget and Management
Office of the Governor
Pouch AM
Juneau, Alaska 99811
465-3568

Position Statement: Representing the Governor; will testify if necessary.

PREVIOUS ACTION

SB 152: 2/25/83 - First Reading In Senate.

Committee Referrals - Finance Committee.

3/9/83 - Finance Committee Report - Page 350
of the Senate Journal:

The Finance Committee considered SB 152
(merging the division of budget and
management, the division of policy
development and planning, and the later's

office of coastal management into one office) and recommended it be replaced with CS for SB 152 (Fin), entitled:

"An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; eff. date."

and do pass. The report was signed by Senators Bennett, Josephson, Mulcahy, Faiks, V. Fischer, Ferguson and Sackett.

SB 152 was referred to the Rules Committee.

3/15/82 - Page 392 of the Senate Journal;

The Rules Committee considered SB 152 (making the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office) and a majority of the committee recommended it be placed on the March 15 calendar with the Finance Committee Substitute. The report was signed by Senators Ferguson, Bennett and Faiks; Kelly signed "do pass before SSCR 1"; and Ray signed "no recommendation".

See Senate Journal on the following dates:

March 15, 1983 - Pages 394 -396,

March 16, 1983 - Pages 404 and 405.

March 17, 1983 - Pages 420 - 422.

CSSB 152 (Fin): 3/18/83 - First Reading In House.

Committee Referrals - Finance Committee.

Letter of Intent accompanied the bill - Page 532 of the House Journal.

3/28/83 - Page 651 of the House Journal:

The Finance Committee had CSSB 152 (Fin) (relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning,

and the latter's office of coastal management into one office; efd) under consideration and recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR CSSB 152 (Fin) (same title) and reports it back as follows: Pestinger, Flood, Ward, Lindauer, Martin and Bettisworth recommended do pass and Hurlbert signed "do pass if amended"; Adams, Grussendorf and Zharoff had no recommendation; and Duncan signed "no recommendation, should be amended".

A Zero Fiscal Note was attached.

CSSB 152 (Fin) was referred to the Rules Committee for placement on the calendar.

No previous action in the Rules Committee.

ACTION NARRATIVE

TAPE#1
Recording
Number 0002

Chairman Fuller called the meeting to order at 8:30 a.m., in the Butrovich Room and indicated the members present. Not present at the beginning of the meeting, but arriving late were: Representatives Koponen, Larson and M.M. Miller.

Chairman Fuller announced the agenda; CSSB 152 (Fin) and gave a brief description of the following proposed amendments:

Amendment No. 1:

Page 5, Line 6: Amend Section 6 to read:

*Sec. 6. AS 37.07.040 is amended by adding new paragraphs to read:

(8) prepare the proposed capital improvements budget for the coming fiscal year evaluating both state and local requests from the standpoint of need, equity and priorities of the jurisdiction. Other factors such as project amounts, population, local financial match, or federal funds being used for local match, municipality or unincorporated community acceptance of the facility and all associated costs of the

facility may be considered.

(c) promulgate regulations consistent with this section in accordance with AS 44.62 no later than August 1, 1983.

Amendment No. 2:

Page 9, Lines 19 - 22: Delete existing language in subsection (13) and insert:

(13) render, on behalf of the state, all federal consistency determinations and certifications authorized by Sec. 307 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. Sec. 1456, and a conclusive state consistency determination when a project requires two or more state or federal permits, leases or other authorizations.

Amendment No. 3:

Page 7, Lines 7 - 10: Delete existing language and insert:

(8) "capital projects" and "capital improvements" mean an allocation or appropriation item for an asset with an anticipated life in excess of one year and a cost of \$25,000, and includes land acquisition, construction, or structural improvements including engineering and design for the project, and equipment and repair costs.

Chairman Fuller asked for testimony.

Number 0057

Peter McDowell, Director, Office of Management and Budget, gave his opinion of Amendment No. 1. His office doesn't have any problems with Paragraph 8, added they were in the process of planning the 1985 capitol budget development processes and that they may very well take a little different cut at it because they were finding that, and he felt personally that the state has not carried out its obligation to the unorganized borough very well. They are thinking seriously for example of perhaps three capitol budget bills for next year; one strictly state agencies projects, one would be unorganized borough projects

which are clearly a state's responsibility under the constitution and the third would be municipal projects.

Paragraph 8 would not have any impact on what they were contemplating for the interim in terms of developing capitol projects for next year. Mr. McDowell commented on Paragraph 9, and did not think they (OMB) promulgated regulations for anything to date and that this would be their first and if it weren't necessary as discussed with Chairman Fuller earlier, they would just as soon not enter into the regulations business.

Number 0104

Chairman Fuller apologized and told Mr. McDowell they had tried to contact the Senate regarding this section (9) of the amendment, but he would pursue it further. Chairman Fuller asked about the date mentioned in section (9) and did it bother them?

Mr. McDowell stated that he had no problems with this and that their office would hope to have it done before August first of every year - in terms of budget instructions. In the budget preparation process the target date to have instructions out to agencies carrying 1985 budget is July 1, 1984. This is 11 months behind the beginning of the fiscal year.

Number 0190

Rep. Barnes stated she had problems with this part of the amendment, Section (9) that says another state agency must promulgate regulations; we have too many regulations already and the language shouldn't be left in there.

Rep. Hayes stated that he thought Amendment No. 1 was prepared by his staff and that it would be withdrawn as it wasn't intended for this particular bill.

Chairman Fuller entertained a motion to withdraw Section (9) out of Amendment No. 1.

Rep. Hayes stated the whole amendment should be withdrawn.

Chairman Fuller stated this was submitted by the Senate and pulled out in Finance - Section (8) and they rewrote it.

Rep. Hayes said this was prepared by his office as a substitute for the language in Section 6 in the Senate version and worked it out with Sen. Ferguson's office and changed the language in there as a compromise. House Finance took that section and he wanted to make it clear that it was not his amendment.

Chairman Fuller said as he understood this Section (8), was a compromise with Sen. Ferguson who had originally put it in.

Rep. Hayes said it was a compromise to the Senate version of SB 152 when it first came to the House Finance Committee, but in the meantime the House Finance Committee put out the House Committee Substitute which is this one here and we don't want it in there. His office is not interested in submitting Amendment No. 1, but that doesn't preclude someone else from submitting it.

Chairman Fuller stated he was now the sponsor of Amendment No. 1.

Rep. Tischer asked for clarification as to which bill they were dealing with, the HCS or the Senate bill?

Committee answered; House version.

Linda Wild, Assistant to Chairman Fuller stated that she had talked with Sen. Ferguson several times last week and he liked the language in Section (8) and wanted it in there.

Rep. M.M. Miller raised his ideas on regulations in regards to the reasons and positive aspects of regulations.

Rep. Barnes moved and asked unanimous consent that Section (9) be deleted. There was an objection.

Rep. Barnes stated that they had too many regulations and that the Director of OMB had said they had no problems meeting or getting these things done.

Chairman Fuller stated there was a motion to delete Section (9) of Amendment No. 1. Rep. Tischer stated as a correction; Subsection

(9); and Rep. Barnes said Section (8) in the bill.

There were no objections and the motion carried.

Chairman Fuller explained Amendment No. 2; having the OMB be the lead agency in the coastal land management determinations.

This amendment is proposed by the Rules Chairman and basically what it does; instead of having a whole bunch of agencies addressing these determinations we are giving the hammer to the Governor and Director of OMB and would be cutting out time it takes on determinations. Chairman Fuller asked Mr. McDowell to speak on this.

Mr. McDowell stated the objectives are those of the Governor in terms of the permit process. In the past 5-6 months there has been a joint effort between, OMB, Department of Fish & Game, Environmental Conservation and Natural Resources to reform permit process. The position of the working group of those four agencies to date is moving toward speeding up the process by reducing the number of agencies that do these consistency determinations. The Administration hasn't officially adopted this plan, we might not end up exactly doing it this way - the working group, but he would guess they were right now not that far off. The working group is still debating things like having a center in Fairbanks and another one in Anchorage and Juneau. It represents the same principal they are trying to achieve with permits and it may not end up to be exactly this way.

Number 0430

Rep. Barnes moved and asked unanimous consent that Amendment No. 2 be adopted. No objections and the amendment was adopted.

Chairman Fuller requested Rep. Barnes to move Amendment No. 1.

Rep. Barnes moved and asked unanimous consent that Amendment No. 1 as amended be adopted. No objections, so ordered.

Number 0439

Amendment No. 3 is now to be considered, re; definition of capitol projects.

Rep. Koponen stated he wondered about this and wanted to know if it would not be appropriate to use IRS definitions for capitol project for purpose of consistency, and said he was not objecting.

Mr. McDowell stated he could not say without study.

Rep. Barnes moved and asked unanimous consent that Amendment No. 3 be adopted. No objections, motion carried.

Chairman Fuller stated this was a compromise with Sen. Ferguson, Mr. McDowell and Senate/House Finance version.

Rep. Barnes moved that the Rules Committee Substitute with incorporated amendments be moved out of committee. There were no objections.

No further business to come before the committee, Chairman Fuller adjourned the meeting at 9:30 a.m.

(9)

FURTHER:

Date: May 30, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 152(Fin)

An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date.
under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[XX] replace with ^HCS for CSSB 152(Rules) [X] same tit
[X] new titl
and recommends DO PASS

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation [X] ~~Zero fiscal note attached~~

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

ROBERT PROUD Do Pass
MacLuskie
Barbara B. Buxton
Chris L. Hays
John B. Zille

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Walter J. Korman (no rec.)
W. J. Kille " "
Ronald J. Tamm No Rec.

John B. Zille
CHAIRMAN

AMENDMENT #1 TO HCS CSSB 152(Fin):

Page 5, line 6, amend Section 6 to read:

*Sec. 6. AS 37.07.040 is amended by adding new paragraphs to read:

(8) prepare the proposed capital improvements budget for the coming fiscal year evaluating both state and local requests from the standpoint of need, equity and priorities of the jurisdiction. Other factors such as project amounts, population, local financial match, or federal funds being used for local match, municipality or unincorporated community acceptance of the facility and all associated costs of the facility may be considered.

(9) promulgate regulations consistent with this section in accordance with AS 44.62 no later than August 1, 1983.

AMENDMENT #2 to HCSCSSB 152(Fin):

Page 9, lines 19 - 22: DELETE existing language in subsection (13) and INSERT:

(13) render, on behalf of the state, all federal consistency determinations and certifications authorized by Sec. 307 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. Sec. 1456, and a conclusive state consistency determination when a project requires two or more state or federal permits, leases or other authorizations.

May 24, 1983

The Honorable Jack Fuller
Chairman, House Rules Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HCS CSSB #152 (Finance)

Dear Chairman Fuller:

On behalf of the Alaska Federation of Natives, I am transmitting, for consideration by the Rules Committee, a proposed amendment to HCS CSSB #152 (Finance). That bill, which would create the Office of Budget and Management, is currently pending before the Rules Committee.

As explained in the analysis of the amendment, our proposed change to the bill would cure an existing and severe problem in the administration of the Alaska Coastal Management program. Because administration of that program is the responsibility of the Governor's Office, and because OMB's responsibilities under the ACMP are already addressed in both the title and body of the bill, we believe that SB 152 is the proper vehicle for solving this problem.

Sincerely,



Janie Leask, President
Alaska Federation of Natives

ANALYSIS OF PROPOSED AMENDMENT TO

HCSCSSB 152 (FINANCE)

The enclosed amendment to HCSCSSB 152 (Finance), which would change the wording of proposed AS 44.19.145(a)(13), (page 9, lines 19-22), is intended to cure a severe problem with administration of the Alaska Coastal Management program ("ACMP") which has existed for several years, but which to this date neither the Administration nor the Legislature has been able to solve.

Under current regulations, each state agency with permit jurisdiction over a project is required to find, in the course of its permit proceedings, that the project is "consistent" with the development standards and guidelines contained in the ACMP. Routinely, projects require several state permits from several agencies. Additionally, most significant projects require one or more federal permits, for which yet another "consistency determination" is required by federal law. As a result, precisely the same issue -- the consistency of the project with the ACMP standards -- is adjudicated time and time again by different agencies in different permit proceedings.

At a minimum, this redundancy threatens substantial delays in commencement of a project, and costs the applicant a great deal in both time and money. Moreover, the various agencies who currently conduct these determinations need not agree. Thus, it is entirely possible for one state agency to block a project,

even though most state agencies believe that the project is consistent with the ACMP.

There is no justification for this redundant and burdensome procedure. It has been recognized for several years that only one consistency determination should be performed for a project. Yet, although the problem is obvious, resolution has been elusive because of the in-fighting which has occurred between various state agencies, each of which believes that they should be the department which renders the consistency determination on behalf of the state.

As SB 152 already recognizes, to some degree, the Governor's Office should be ultimately responsible for making a consistency determination on behalf of the state. The Governor's Office is already primarily responsible for administration of the ACMP, and is uniquely suited to mediate disputes between the various resource agencies involved.

Under the Finance Committee substitute, OMB is given responsibility for rendering consistency determinations on federal permits. That does not go far enough, because it does not address the problem of multiple consistency determinations on state permits. The proposed amendment would solve both problems, by providing that OMB will render a single, conclusive consistency determination -- for both state and federal law purposes -- in any situation in which the applicant is faced with multiple permits.

The proposed amendment, therefore, provides a simple and workable solution to an aggravating problem which has persisted only because of inter-agency quarrels. Because of those quarrels, it is unrealistic to assume that the problem will be solved in the future short of legislation.

am # 3

CAPITAL PROJECTS AMENDMENT:

Page 7, lines 7 - 10. DELETE existing language and INSERT:

(8) "capital projects" and "capital improvements" mean an allocation or appropriation item for an asset with an anticipated life in excess of one year and a cost of \$25,000, and includes land acquisition, construction, or structural improvements including engineering and design for the project, and equipment and repair costs.

May 24, 1983

The Honorable Jack Fuller
Chairman, House Rules Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

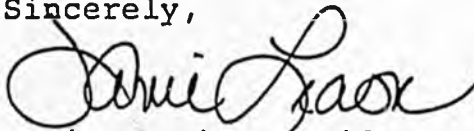
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McDowell

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Jan 15 - Feb 15 = 1
Feb 15 - Mar 15 = 1
Mar 15 - Apr 15 = 1
Apr 15 - May 15 = 1
May 15 - Jun 15 = 1
Jun 15 - Jul 15 = 1
Jul 15 - Aug 15 = 1
Aug 15 - Sep 15 = 1
Sep 15 - Oct 15 = 1
Oct 15 - Nov 15 = 1
Nov 15 - Dec 15 = 1
Dec 15 - Jan 15 = 1
Total = 12

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COMMITTEE REPORT

HOUSE

(9)

FURTHER:

Date: May 30, 1983

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An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date. under consideration and reports it back as follows:

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- do pass with attached amendments(s)
- replace with ^HCS for CSSB 152(Rules) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero fiscal note attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Ross E. Proulx, D. Pass

Max F. ...

Demarcus ...

John ...

John ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Alto ... (no rec.)

... " "

Ronald ... No Rec.

John ...
CHAIRMAN

S

B

1

6

8

HCS CSSB 168 Res.

Add the following

AS 44.83.092. Authority for Municipalities and Utilities to Enter into Power Sales Contracts. The Authority and any municipality or public or private entity operating an electric utility may enter into a contract providing for or relating to the sale of electric power by the Authority to the municipality or such entity. The contract may provide, ~~among other things,~~

(1) that the amounts payable under the contract are operating expenses of the utility and are valid and binding obligations of the municipality or other entity payable from the gross revenues of the utility;

(2) for one or more appropriations of the amounts payable under the contract;

(3) for the municipality or other entity to assume the obligations of another contracting party in the event of a default by that party;

(4) that after completion of a project the municipality or other entity is obligated to make payments notwithstanding a suspension or reduction in the amount of the power supplied by the project; or

(5) that payments under the contract are not subject to reduction by offset or otherwise.

SP 160/20

The Chemical Bank v. Washington Public Power Supply System case decided by the Washington Supreme Court on June 15, 1983 in which the court holds invalid power sales agreements supporting \$2.5 billion in public bonds will have a profoundly negative effect on public power financing. The court in the WPPSS case specifically said that the municipalities and the PUDs lacked statutory authority to enter into contracts with WPPSS which required the utilities to make payments regardless whether a project was completed and regardless of reduction or curtailment of project output. As well, the court stated that stepup provisions, i.e., provisions requiring payments on behalf of defaulting parties, were not authorized under Washington law.

In light of this decision, bond counsel deems it necessary that the authority of Alaska Power Authority to enter into power sales agreements with stepup and take-or-pay provisions must be absolutely clear. Bond counsel feel that such contracts are currently authorized by the statute; however, in order to make bonds secured by such contracts marketable, in light of the WPPSS case, it is felt necessary to further specify the contracting authority. It should be emphasized that this amendment does not authorize the APA to transfer to utilities the risk of non-completion of a project, as was attempted by WPPSS.

The effect of SB 168, by section, is as follows:

- Section 1. Clarifies the language of the statute by requiring that affirmative votes consist of the majority of the directors present.
- Section 2. Allows for meetings by electronic media. In the long run, this would decrease travel costs and time waste while allowing the APA Board to meet on short notice and despite climatic travel constraints.
Prevents directors from voting on leases or contracts if they have a conflict of interest, but exempts directors who are customers of electric co-ops, and therefore, by definition, are part owners.
- Section 3. Essentially makes it permissive rather than mandatory for APA to issue bonds and further clarifies the language of the statute
- Section 4. Provides for consistency between statutes
- Section 5. Provides for conformity with other pertinent statutes.
- Section 6. Provides for an independent cost estimate to be submitted with the feasibility study and a plan of finance. I believe that this section is redundant in view of 44.83.186, which requires an independent cost estimate after the legislature approves a project and allows for only a 7.5% increase before the project has to be recycled by the APA and reauthorized by the legislature. As a matter of policy, the APA has been obtaining independent cost estimates since last year and has hired an in-house estimator to provide further verification of cost estimates. The proposed procedure would further increase the cost of the studies especially since this section would apply to large and small projects equally.
- Section 7 Prohibits the use of wrap-up insurance requirements by the power authority. This provision was added in H. Resources.
- Section 8 Adds a requirement for sale contracts for transmission of electricity. The use of the term electrical power or energy is redundant. The section further clarifies that the contracts must be in compliance of AS 44.83.380 - 44.83.425 or AS 44.83.090.

- Sections 9&10 Insure that AS 44.83.361 does not violate the Alaska Constitution as alleged in a pending lawsuit.
- Sections 11&12 Clarify the provisions of existing statutes on the Rural Electrification Revolving Loan Fund program without making substantial changes to it.
- Section 13 Makes a project's expenditures dependent on a finding that the project is economically feasible. This section removes the redundancy under current statute, preserving the intent to ensure economic feasibility while eliminating the criteria in two places in the statutes.
- Section 14 Clarifies the existing statute on the use of the fund for federally owned projects.
- Section 15 Modifies the existing statute to allow APA to market bonds.
- Section 16 Provides for ownership of projects by the authority rather than the state and should make it easier to market bonds.
- Section 17 Provides for use of national and industrial standards in the APA's determination of whether a utility is qualified to operate a power project owned by APA.
- Section 18 & 20 Assure that power projects are operated in a manner consistent with the bonding agreements.
- Section 19 Amends the Susitna "Equity" Clause from \$5 billion by July 1, 1986 to \$3.5 billion by July 1, 1990.
- Section 21 Allows the authority to sell power at an industrial rate. This provision was added in H.Resources.
- Section 22 Allows APA to adjust the wholesale power rates to meet bonding requirements while still complying with the statutes on rate setting.
- Section 23 Clarifies that interties are not covered under the energy program for Alaska in the rate setting subsection. This clarifies the intent desired by the legislature when it passed HB9 last year.
- Section 24 Clarifies the definition of debt service thereby making it easier to secure bonds.

Section 25

Repeal of AS 44.83.195(b) is necessary in order to align it with other rate making provisions of the statutes.

Repeal of AS 44.83.382(b) (2) is required because any unencumbered revenues must go into the general fund.

Repeal of AS 44.83.398(b) (2) is desirable for two reasons. First, in a pending lawsuit *Trustee of Alaska v. State*, the constitutionality of this section is being challenged. Second, this section could result in a substantial increase in APA wholesale rates if the legislature does not appropriate a total of \$5 billion by July 1, 1986, into the power development fund. Since it appears almost certain that this level of appropriation can not be achieved, APA is experiencing problems in negotiating power sales contracts. Since providing lowest reasonable cost energy is the mandated goal of the program, it makes sense to minimize uncertainty and maximize marketability.

Repeal of AS 44.83.186. An additional requirement of an independent cost estimate immediately following project approval would serve no useful purpose and would involve additional costs. (An independent cost estimate is already required prior to submittal to the legislature for approval.)

Section 26

Provides for an immediate effective date.

*Finance added Chester Lake &
Senor Lake*

RULES COMMITTEE MEETING
AGENDA

JUNE 23, 1983

✓ HCSCSSB 168(Fin)

"An Act relating to the Alaska Power Authority; and providing for an effective date."

OPENING REMARKS FOR CSSB 168:

This bill makes a number of changes to the Alaska Power Authority statutes, most of them fairly technical, although necessary, dealing with the Authority's ability to market bonds. The bill also changes the "Susitna equity" clause from \$5 billion by 1986 to \$3.5 billion by 1990. The Finance Committee substitute adds authorization for the Chester Lake and Terror Lake projects.

Rules is hearing the bill today because of a court decision just handed down in the State of Washington dealing with contracts between utilities and a power authority. In light of this decision, bond counsel feels that amendments are necessary in our statutes this year. Amendments have been incorporated into a draft Rules Committee Substitute, and appear as Section 3, beginning on page 2, line 18.

AVAILABLE TO TESTIFY:

Sterling Gallagher

Laura Davis, attorney general's office

Ron Ripple, Department of Commerce and Economic Development

(Jack: Someone on the committee or Ron Ripple is likely to question what is now Section 23 of the bill, regarding giving industrial consumers a lower rate than residential consumers. This provision was added in House Resources and appears quite controversial; the Senate probably won't buy off on the bill because of it.)

SB 168 (Alaska Power Authority)

Delete Section ²~~21~~ (providing for industrial rates)

Reasons:

1. It's highly controversial and doesn't further the purpose of the bill, which is to assist the APA in selling revenue bonds for existing hydro projects. It's unwise to endanger the bill's passage.

This amendment was rejected by the Senate; it's inclusion will send the bill to conference committee, which may take more time than we have. Without section 21, the Senate will likely concur with the House changes. Failure to pass the bill this session will require a special session, or will prevent the marketing of bonds this fall and will, as a result, harm the APA's bond rating (which will in turn make it more difficult and more expensive to finance future projects).

2. It's a complex policy decision that has not had legislative scrutiny, that the APA is studying and wants time to make recommendations on, and that is not necessary this year.

This amendment was not proposed until late in the session and has not had careful consideration. It's contrary to existing law and policy, which should not be changed casually.

The legislature has a history of making major changes to the APA statutes at the last minute of the session, changes that have caused numerous problems for the state energy program and its financing. APA financial advisors have stated that the bond market watches these actions and reacts negatively when the legislature makes sudden policy changes. This image of "flakiness" has already hurt us.

The APA is already actively considering this issue and would like the chance to complete their study and make recommendations to the legislature. The Senate, in its letter of intent, has directed the APA to do this.

There's no need to act on this amendment this year. The industry most often mentioned as being a candidate for "dump rate" power is the Borax Quartz Hill mine will not be making its development decisions for another year. There may be alternative, and cheaper, methods of meeting their energy needs; the whole range of choices is being considered by the APA and utilities.

3. There are specific problems with the "dump rates" section.

It conflicts with current state policy that the large amount of state money that's being put into the energy program is to benefit residential Alaskans, not industry (which, it should be noted, will receive large subsidies from hydro projects even without the dump rates). Alaska's situation is different from elsewhere in the country where dump rates are common, because nowhere else does the state pay the

capital costs of the projects. If, in fact, a case can be made that allowing dump rates in particular cases would aid residential consumers, then the legislature could consider changing the policy.

Because the issue hasn't been studied, we don't know what the effect would be on individual project rates, on classes of consumers, or on the energy program as a whole. No analysis has been presented.

The "notwithstanding" portion of the language says that for utilities regulated by the APUC, there would be no requirement that residential users would have to benefit from the lower "dump rates." Because APUC statutes mandate their consideration of "cost of service," the APUC generally approves cheaper rates for larger users. In effect, for those utilities regulated by the APUC, the second part of the amendment negates the first part.

There is no provision for residential users to have "first claim" on power or that industrial use be on an interruptible basis. Should an industry be sold a block of what is initially excess power and the demand in the residential and commercial sectors grows, there would not be enough power to meet all demands. Residential users would then bear the burden of paying for additional power sources while industry reaped the benefits of the state-funded project.

The disincentive to overbuilding projects and having surplus power would be removed, as justification could be made to build projects larger than demand requires based on an assumption that industry would develop to make use of the excess power. Aside from arguments about the merits of industrial growth, the result would be that the state would have to pay more for larger projects, and this is something that we cannot afford.

Prepared by:
Nancy Lord
Aide to Sen. V. Fischer