

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5092 HSTA HB 480 - HB 501

664



Alaska Department of

# NATURAL RESOURCES

ESTHER WUNNICKE,  
COMMISSIONER

SEPTEMBER 1985

## Fact Sheet: RESERVING WATER FOR INSTREAM USE

### WHAT ARE RESERVATIONS OF WATERS?

A reservation of water is a type of water right. The use of water within a stream, lake, or other surface water body may be reserved to maintain an adequate instream flow or level of water for specific activities, such as fish spawning or a river rafting enterprise. Water can be reserved for one or more permissible uses at a particular point or part of a stream or other waterbody, during a certain period of time. Under Alaska Statute 46.15.145, permissible instream uses include:

- Protection of fish and wildlife habitat, migration and propagation.
- Recreation and park purposes.
- Navigation and transportation purposes, and
- Sanitary and water quality purposes.

A reservation of water for one use may also serve as a reservation for another purpose. For example, a reservation for fish spawning may also benefit recreation.

Like out-of-stream water rights, a reservation of water is a property right. However, it cannot be abandoned, conveyed, transferred, assigned, or converted to another use without the approval of the Department of Natural Resources.

### WHO CAN APPLY FOR A RESERVATION OF WATER?

Private individuals or organizations as well as government agencies may apply for a reservation of water for instream use. This is not a required permit, but rather an optional water right. Those who wish to divert, impound, or withdraw water from a surface or ground water source will continue to file for their water rights under Title 46 for obtaining diversionary water rights.

### HOW CAN I APPLY FOR A RESERVATION OF WATER

- You can get an Application for Reservation of Water (Form 10-1151) at any Department of Natural Resources, Division of Land and Water

Management regional office. Your application, however, must be submitted to the regional office in the area where your proposed reservation of water will occur.

- Before submitting your application, you should talk with the regional office people about the type of work or study needed to quantify the instream water use, and information needed in your application.
- When your application is complete and has been accepted, it will be reviewed to ascertain the need for the reservation of water, impacts on other water right holders, and the public interest. An assessment will be made to determine if water is available for the reservation, and if the hydrologic and technical information in the application is accurate and adequate. Public notice of your application must be given.
- Certificates of reservation, when issued, will be granted to the applicant. Conditions may be placed on certificates.
- Certificates of reservation must be reviewed by the Division of Land and Water Management every ten years, but can be reviewed in less than ten years if changed conditions warrant a review.

### WHAT COSTS ARE INVOLVED?

- The Application for Reservation of Water should be accompanied by the appropriate filing fee as set forth in the fee schedule of the Department of Natural Resources.
- You will be required to pay the cost of a legal advertisement to notify the public of your proposed reservation of water.
- If a certificate is issued, you may be required to install and maintain measuring devices, such as stream gages, weirs, or staff gages, and monitor and report on the instream flow or level of water.
- You may also be responsible for additional data collection or analysis during the certificate review period.



## **WHY SHOULD I APPLY FOR A RESERVATION OF WATER?**

You should apply if you want to ensure that the level or flow of water in a stream or lake that you need for your purposes will be available when and where you need it, and will not be appropriated or diverted for another use.

If you have an established instream water right, you have priority use of that water over people who file later for water rights as well as legal standing in case of conflicting uses of water by those without a water right.

Further information about reservations of water for instream uses and application forms may be obtained from the following offices. Applications for reservations of water must be submitted to a Division of Land and Water Management regional or area office.

## **WHAT OTHER WATER RESOURCES PERMITS MIGHT BE NEEDED FROM THE DEPARTMENT OF NATURAL RESOURCES?**

A permit or certificate of appropriation is required for diverting, impounding, or withdrawing water for use from a water body or ground water source.

A certificate of approval is required if you want to construct or modify a dam ten feet or more in height, or if the storage capacity is 50 acre-feet or more. A separate application form along with a sliding filing fee applies for various size dams as set forth in regulations (11 AAC 93.200).

### **DEPARTMENT OF NATURAL RESOURCES DIVISION OF LAND AND WATER MANAGEMENT**

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**SOUTHEASTERN REGIONAL OFFICE**  
400 Willoughby Avenue  
Suite 400  
Juneau, Alaska 99801  
465-3400

**NORTHERN REGIONAL OFFICE**  
4420 Airport Way  
Fairbanks, Alaska 99701  
479-2243

**SOUTHCENTRAL REGIONAL OFFICE**  
Frontier Building  
3601 C Street, 10th Floor  
Pouch 7-005  
Anchorage, Alaska 99510  
762-2277

**Mat-Su Area Office**  
Central Plaza, Suite 202  
Pouch 874008  
Wasilla, Alaska 99687  
376-4595

### **DIVISION OF FORESTRY**

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**HAINES AREA OFFICE**  
Room 6, Gateway Building  
Main Street  
Post Office Box 263  
Haines, Alaska 99827  
766-2120

**KETCHIKAN AREA OFFICE**  
318 NBA Building  
Post Office Box 5220  
Ketchikan, Alaska 99901  
225-3070

**PETERSBURG AREA OFFICE**  
Petersburg State Office Building  
215 Sing Lee Alley  
Box 1580  
Petersburg, Alaska 99833  
722-3236

**DELTA AREA OFFICE**  
Mile 267.5 Richardson Highway  
Post Office Box 1149  
Delta Junction, Alaska 99737  
895-4225

**TOK AREA OFFICE**  
Mile 124.1 Glenn Highway  
Post Office Box 10  
Tok, Alaska 99780  
883-5134

**SOUTHWEST (McGRATH) AREA OFFICE**  
McGrath Airport  
Box 130  
McGrath, Alaska 99627  
524-3010

**KENAI PENINSULA AREA OFFICE**  
Mile 92.5 Sterling Highway  
S.R.2, Box 107  
Soldotna, Alaska 99669  
262-7559

**COPPER RIVER AREA OFFICE**  
Mile 110 Richardson Highway  
Post Office Box 185  
Glennallen, Alaska 99588  
822-5534

# **Fact Sheet: DAM SAFETY, CONSTRUCTION AND MODIFICATION IN ALASKA**

SEPTEMBER 1985

## **WHO IS ULTIMATELY RESPONSIBLE FOR THE SAFETY OF DAMS IN ALASKA?**

Old English common law, on which our legal system is based, holds that the capture of water in itself is a hazardous activity. Therefore, whoever captures the water is liable for any damages caused. In almost all cases, the dam owner is responsible.

## **TO WHOM DOES THIS FACT SHEET APPLY?**

Any person undertaking the construction, enlargement, alteration, repair, or takes out of service a dam either 10 feet or more in height or impounding 50 acre-feet or more of water, must submit the appropriate application together with plans and specifications to the State of Alaska, Department of Natural Resources, Division of Land and Water Development. A "person" includes:

- An individual
- Partnership
- Association
- Public or private corporation
- State agency
- State political subdivision

## **HOW IS THE HEIGHT AND WATER VOLUME OF A DAM MEASURED?**

- If the dam is across a watercourse its height is measured vertically from the natural bed of the water-course at the downstream toe of the dam to the maximum storage elevation.
- If the dam is not across a watercourse, its height is measured from the lowest elevation of the outside limit of the dam to the maximum storage elevation.

Water volume in the case of impoundments is expressed by the acre-foot unit, which is the volume that would cover one acre to a depth of one foot. Since water volume, rather than land coverage, is the measured quantity, a pond, two feet deep, covering a one-half acre land area, would also be one acre-foot in volume.

## **WHAT ARE THE REQUIREMENTS TO BUILD OR MODIFY A DAM?**

- File an "Application for Permit to Construct or Modify a Dam" that includes complete plans and specifications. Forms may be obtained at the Division of Land and Water Management regional offices listed on the reverse side of Fact Sheet.
- The owner will be notified in writing whether or not changes must be made.
- When the application is approved, construction may begin.

During construction, the state will inspect the work to make sure the dam is being built according to the approved plans and specifications. When the dam is completed and the state is satisfied as to its safety, the owner is issued a water rights certificate that allows him to store water according to certain terms, such as specified water level.

Articles 2 and 3 of the Alaska Administrative Code (11 AAC 93.040 through 200) clearly detail all procedures governing the permitting process. Copies of the code are available at any Division of Land and Water Management regional office.

## **ARE OTHER PERMITS REQUIRED?**

Water rights permits are required to construct a water diversion or impoundment. These may be obtained through the Division of Land and Water Management's regional offices in your area. Once use of the dam begins and water quantity actually used is established, a certificate of appropriation can then be issued. This certificate is the legal document which actually conveys the water rights.

## **WHAT OTHER AGENCIES MIGHT REQUIRE PERMITS AND COORDINATION?**

- Alaska Dept. of Environmental Conservation
- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- Federal Energy Regulatory Commission
- U.S. Forest Service
- Local Governments



## **HOW MUCH ARE PERMIT FEES?**

The fee for a permit to alter or repair an existing dam is based on an estimate made by the Department of Natural Resources of the costs of inspections to be made. The fee for a permit to construct a new dam is related to the proposed storage capacity. For a permit to enlarge an existing dam and storage reservoir, the fee is based on the proposed increase in storage capacity. The fee schedule is found in the Alaska Administrative Code (11 AAC 93.200) and ranges from a minimum of \$250 for 50 acre-feet to a maximum of \$5,000 for 26,666 acre-feet or more.

## **DOES THE STATE PERFORM SAFETY INSPECTIONS?**

In an effort to protect the public from present or future hazards related to the storage of water, the state conducts periodic inspection of dams.

## **CAN THE STATE TAKE ACTION TO CORRECT UNSAFE DAMS?**

Alaska maintains a statewide inventory of dams and classifies them according to how often they should be inspected based on height, size of reservoir, and location in relation to population and property. Should it be determined that the structure is unsafe, the state has authority to require that the owner correct the unsafe condition. The owner is responsible for the safe operation and maintenance of the dam in all cases.

## **SOURCES OF INFORMATION ON DAMS**

Additional information available for construction and maintenance of dams may be obtained from the following sources:

- Division of Land and Water Management

- U.S. Soil Conservation Service
- *Guidelines for the Design and Construction of Small Embankment Dams*  
State of California  
Division of Safety of Dams  
P.O. Box 388  
Sacramento, California 95802
- *Design of Gravity Dams*  
U.S. Dept. of the Interior  
Bureau of Reclamation  
1376 Denver Federal Center  
Denver, Colorado 80225
- *Dam Safety Manual*  
State of Colorado  
Division of Water Resources  
1313 Sherman, #818  
Denver, CO. 80203

## **DEPARTMENT OF NATURAL RESOURCES DIVISION OF LAND AND WATER MANAGEMENT**

SOUTHEASTERN REGIONAL OFFICE  
400 Willoughby Avenue  
Suite 400  
Juneau, Alaska 99801  
465-3400

NORTHERN REGIONAL OFFICE  
4420 Airport Way  
Fairbanks, Alaska 99701  
479-2243

SOUTHCENTRAL REGIONAL OFFICE  
Frontier Building  
3601 C Street, 10th Floor  
Pouch 7-005  
Anchorage, Alaska 99510  
762-2277

Mat-Su Area Office  
Century Plaza, Suite 202  
Pouch 874008  
Wasilla, Alaska 99687  
376-4595

Applications to construct or modify a dam must be submitted to a Division of Land and Water Management regional office.



# Fact Sheet: FEDERAL RESERVED WATER RIGHTS

JULY, 1985

## WHAT ARE FEDERAL RESERVED WATER RIGHTS?

- Federal reserved water rights are created when federal lands are withdrawn from entry (by Congress or other lawful means) for federal use.
- Federal reserved water rights:
  - apply to both instream and out-of-stream use
  - may be created without actual diversion or beneficial use
  - are not lost by non-use
  - priority dates are established as the date the land is withdrawn for the primary purpose(s)
  - are created for the minimal amount of water reasonably necessary to satisfy both existing and reasonable foreseeable future uses of water for the primary purpose(s) for which the land is withdrawn
- Water rights for secondary purposes must be obtained under state law, AS 46.15.

## WHY ARE FEDERAL RESERVED WATER RIGHTS IMPORTANT TO YOU?

- Water users in areas where there are federal land withdrawals should file for water rights with DNR in order to protect their use of water. If a basin wide adjudication is started for your river basin, you can then be assured of being included in the adjudication.
- Holders of water rights with priority dates established before the withdrawal of federal lands within a basin will have water rights senior to the federal government. Water users filing for water rights after the withdrawal of federal lands within a specific basin will have water rights with priority dates later than those of the federal government.

## HOW ARE FEDERAL RESERVED WATER RIGHTS ADJUDICATED?

- Federal reserved water rights are a judicial creation. The United States Supreme Court first recognized federal reserved water rights in

*Winters v. United States*, 207 U.S. 564 (1908), an Indian reservation case. Since that time, court cases have extended the Winters Doctrine to other types of federal land withdrawals.

- Federal law, the McCarren Amendment (43 U.S.C. 666), allows judicial adjudication of federal reserved water rights in state court.
- The McCarren Amendment requires that state court adjudications include all water rights in a river basin, including all claimed federal reserved water rights and state administered water rights.

## WHY ARE WE CONCERNED ABOUT FEDERAL RESERVED WATER RIGHTS?

- Because federal reserved water rights are unquantified, DNR does not know how much water is needed or used for the primary purposes of federal land withdrawals in Alaska. Because the unappropriated water available from a water source and the amount of water reserved by a federal withdrawal is unknown, water resources cannot be effectively managed.
- Alaska's growing population and development pressures have caused water supply and water rights conflicts in several areas of unquantified federal reserved water rights. Examples include Sitka's Indian River and Anchorage's Ship Creek.
- For DNR to effectively manage and allocate the state's water and adjudicate water rights, it is necessary to have the federal reserved water rights in Alaska inventoried and quantified by the appropriate federal land management agencies in cooperation with the State of Alaska. The state can then integrate federal reserved water rights with state administratively adjudicated water rights and manage water sources with greater certainty.



## **HOW MUCH LAND IN ALASKA HAS FEDERAL RESERVED WATER RIGHTS?**

- Of the 367.7 million acres in Alaska, almost 49 percent, or more than 178 million acres are reserved federal lands which may have federal reserved water rights:

These federal lands are made up of:

Military land - 2.5 million acres  
National Forests - 23.2 million acres  
BLM lands - 26.1 million acres  
National Parks - 51 million acres  
Fish and Wildlife Refuges - 76 million acres

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For more information about federal reserved water rights and application forms for water rights, please call, write, or come to one of the following Offices:

### **DEPARTMENT OF NATURAL RESOURCES DIVISION OF LAND AND WATER MANAGEMENT**

**SOUTHEASTERN REGIONAL OFFICE**  
400 Willoughby Avenue  
Suite 400  
Juneau, Alaska 99801  
465-3400

**NORTHERN REGIONAL OFFICE**  
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479-2243

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Frontier Building  
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Pouch 7-005  
Anchorage, Alaska 99510  
361-2020

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376-4595

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262-7559

**COPPER RIVER AREA OFFICE**  
Mile 110 Richardson Highway  
Post Office Box 185  
Glennallen, Alaska 99588  
822-5534

# STATE OF ALASKA THE LEGISLATURE

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465-3800

## LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HSA	4-20-88	3:00 p.m.
HSA	5-3-88	3:00 p.m.

Wilderness Acquisitions, Inc.  
9720 Trappers Lane  
Juneau, Alaska 99801  
(907) 789-0740

April 19, 1988

Ms. Frances A. Ulmer, Chairperson  
House State Affairs Committee  
P.O. Box V  
Juneau, Alaska 99811

Re: House Bill 480  
Water Appropriations

Dear Ms. Ulmer:

House Bill 480, in its original draft version (5-1352A), was designed to eliminate an injustice existing in the current law relating to water appropriations. This is how we became aware of that injustice.

In November 1985, we purchased a small portion of the Baranof Townsite at Warm Springs Bay for \$350,000 partly because the hot springs made the property suitable for resort development but mainly because it was well suited for private aquaculture. Before closing the purchase transaction, we checked with DNR to see if there were water appropriations ahead of and therefore superior to the application to appropriate water from the Baranof River which we intended to file on closing. In doing so, we were relying on AS 46.15.050(b) which states that priority of appropriation dates from the filing of an application with the (DNR) Commissioner. DNR informed us that ADF&G had filed an application to appropriate water for a hatchery in 1978 but that the application has been abandoned and the file closed for inaction on the part of ADF&G in 1983. DNR also informed us that with the exception of one minor appropriation, there were no prior rights to the water in the river. We therefore closed on the property and filed our application for water. Soon after doing so, ADF&G learned of our intentions and filed its own application to appropriate water from the river. When DNR received the ADF&G application, it determined that it was not in the public interest to award water rights to us and denied our application. We, justifiably, felt like we had been had and were now out over a third of a million dollars. For almost two years, we have been struggling to reverse that determination. In WAI v. DNR, No. 1JU-86-2429 (First Judicial District 1988), the Superior Court affirmed DNR's legal right to award water to a subsequent applicant.

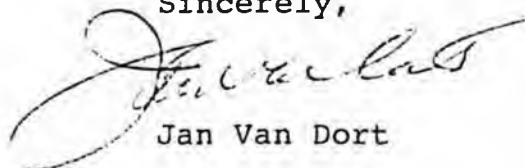
Although we disagree with that decision, the question which

we, through this bill, pose for the Legislature is not whether the judge is correct but, assuming he is, whether the present statutes represent good public policy. We feel that they do not because there is no way that a person engaging in an enterprise which depends upon fresh water can be sure that he or she will be able to obtain the right to obtain the needed water prior to making his or her investment. Under present law, the right to use water is appurtenant to real property. Consequently, the real property interest must be acquired or a commitment to its acquisition undertaken before the water rights application is processed. Also, the right to use water is not vested until a certificate of appropriation is obtained and that certificate cannot be obtained until beneficial use of the water is made. This means that you cannot be sure that you will receive the right to use water until after the required real estate is purchased, the engineering and design completed, the improvements constructed and beneficial use made. Up until that time, the applicant's right to use the water is subject to being subordinated to a subsequent application because DNR determines that the subsequent application represents a higher public interest. This is obviously unworkable from the viewpoint of an investor or lender and must be changed.

HB 480, in its present form, falls short of that goal. The last sentence gives protection only from users of the same class. It would not, for example, give a PNP hatchery operator protection from a domestic user. A person contemplating an investment needs protection from all subsequent applications not just those of the same class. Second, the bill, as it is, would lead to arguments over what constitutes a class. Would, for another example, a private nonprofit hatchery be in the same class as a private for profit hatchery? Third, in order to remedy the injustice to which we have been subjected, the language in the original draft version should be given retroactive application to October 1, 1985. The bill, in whatever form it finally takes, must create some mechanism for protecting the expectations of a potential water user. The original draft version would implement a system similar to the race-notice provisions of our real estate recording statutes. This is both familiar and fair.

We look forward to the opportunity to present additional oral testimony to your committee on this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jan Van Dort", written in dark ink.

Jan Van Dort

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

OFFICE OF THE COMMISSIONER

April 19, 1988

The Honorable Fran Ulmer  
Chair, House State Affairs Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Ulmer:

Subject: HB 480, An Act relating to appropriations of water.

Position: The department is opposed to this legislation.

Background: AS 46.15.080 applies only to instances when competing applications for water from the same source have been filed with the department, and the source is insufficient to supply the needs of all the application proposals filed. The section as it presently exists enables the department to evaluate each competing proposal and to grant permits to those which alone or in combination will constitute the fullest use of the resource and result in the most benefit to the public. The concepts of maximum use and beneficial use in this section are based upon and fully consistent with Article VIII of the Constitution.

This proposed legislation seeks to remove the ability of the department to manage and allocate the use of the resource in a way which maximizes the public benefits consistent with the Constitution and the public interest. The legislation seems to dictate a preference, in these special instances, to allocate the resource in the order which development proposals were submitted regardless of the level of public benefit to be derived from competing proposals that would be precluded. The proposed amendment therefore appears to conflict with the basic intent of the Constitution.

Alaska Statute 46.15.080 provides criteria for determining the public interest used to evaluate competing applications. I believe the state's duty to make allocation decisions based on these criteria in those very rare instances where there are competing applications and insufficient water from a limited source be maintained to protect the public interest.

Representative Ulmer

- 2 -

April 19, 1988

Recommendation: The term "class of users" on line 14 should be defined.

As you are aware the Alaska Water Resources Board passed a resolution regarding this legislation. I have enclosed a copy for your information. Thank you for the opportunity to comment. Please contact me if you have further questions.

Sincerely,

*Tom Hawkins*  
for Judith M. Brady  
Commissioner

Enclosure

cc: Rod Swope  
Bob Evans  
Committee Members  
Bill Sponsor  
Margaret Hayes

Alaska Water Resources Board  
Resolution No. 88-12

House Bill 480 Regarding Priority of Water Right Applications

WHEREAS: House Bill 480 affects the appropriation of water under the Alaska Water Use Act by assigning a preference to water rights applicants in order of the date of receipt of applications "within any class by user"; and

WHEREAS: The Alaska Constitution in Article VIII, Section 13 grants priority of water right upon priority of water appropriation; and

WHEREAS: Under the Alaska Water Use Act a water appropriation is issued, and a priority right created, only after application and adjudication, including review of the public interest affected; and

WHEREAS: No classes of users have been established by law, except for public water supply which is recognized in the Constitution as preferred used.

NOW THEREFORE BE IT RESOLVED: That the Alaska Water Resources Board urges that the Alaska Legislature not adopt House Bill 480.

Adopted this 25th day of February, 1988  
Alaska Water Resources Board

Peg Tileston, Chairwoman

*Peg Tileston*

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to the appro-  
priation of water  
Sponsor: Representative Ulmer  
Requestor: House State Affairs

Agency Affected: DNR  
BRU: Land and Water

Components: Land & Water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Janet Burleson  
Division: Land and Water Management

Phone: 465-3400  
Date: 4/18/88

Approved by Commissioner: Tom Hawkins  
Agency: Department of Natural Resources

Date: \_\_\_\_\_

Distribution (by preparer):

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

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HOUSE STATE AFFAIRS COMMITTEE

NEXT COMMITTEE: JUDICIARY

BILL: HB 498

CURRENT VERSION:

SCHEDULED: FEBRUARY 24, 1988

SPONSOR: ULMER

PHONE NO: JUDY K.

CONTACT FILE: \_\_\_\_\_

BILL SUBJECT: THE DELIVERY OF CONTROLLED SUBSTANCES AND IMITATION CONTROLLED SUBSTANCES TO MINORS

SPONSOR BACKUP: \_\_\_\_\_

AFFECTED AGENCIES:

<u>DEPARTMENT</u>	<u>CONTACT/PHONE</u>	<u>COMMENT</u>
H&SS	JAY LIVEY/3030	ONLY CONCERNED WITH CHILDREN UNDER 18
LAW	STEPHANIE JOANNIDES/3600	

FISCAL NOTES

<u>AGENCY</u>	<u>REQUESTED</u>	<u>DATED</u>	<u>FY 88 AMT</u>	<u>FY 89 AMT</u>
PUBLIC SAFETY		2/22/88	-0-	-0-

ACTION

<u>DATE</u>	<u>COMMENT</u>
2/24/88	HEARING: PASSED FROM HOUSE STATE AFFAIRS

STATE OF ALASKA  
THE LEGISLATURE

POUCH V - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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Mary Van Nimwegen

House State Affs:

2/24/88

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS:

Judiciary

DATE: 2-24-88

The State Affairs Committee has considered HB 498

"An Act relating to the delivery of controlled substances and imitation controlled substances to minors."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

*Clyde Davidson*

\_\_\_\_\_

*David D. Dawley*

\_\_\_\_\_

*Terry Martin*

\_\_\_\_\_

*Lynne Hoffman*

\_\_\_\_\_

*Scott ...*

\_\_\_\_\_

*John ...*

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*John ...*

Chairman's signature

3  
Controlled Sub Act '82

Speed Penalties: N1000

Age set: 19 - 24 years Age 20  
existing power Assoc -

Age ↑ 21 -

Power Motor: Dist. motor -

Power - 19 - 20 4000

1940 21 power motor Assoc  
1st Assoc -

---

STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY

COPY

POUCH Y. STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

MEMORANDUM

February 18, 1988

SUBJECT: HB 498, sectional analysis  
TO: Representative Fran Ulmer  
FROM: Jack Chenoweth  
Legislative Counsel

You have requested a sectional analysis of HB 498.

Stringent penalties are imposed for transactions involving delivery of controlled substances and imitation controlled substances to minors. Under current law, those penalties apply, generally, to delivery to persons under 19 years of age who are at least three years younger than the person delivering the substance. (The three year distinction arises out of concern that the proscribed transaction subject to more stringent penalties involve a genuine sale to a minor rather than a transmittal between persons of approximately the same age, one of whom is 19 or over and one of whom is just under that age.)

The changes made in HB 498 raise the age of persons to whom delivery is made from 19 to 21, maintaining the requirement that the person to whom the controlled substance or imitation controlled substance is delivered is at least three years younger than the person delivering the substance.

The changes apply as follows:

Section 1 amends AS 11.71.010(a), the provision defining misconduct involving controlled substances in the first degree by increasing the age of persons to whom delivery is made from 19 to 21. The provision is applicable to controlled substances on schedules IA, IIA, and IIIA, and generally cover transactions involving substances having the highest degree of danger or probable danger to a person or to the public. As a general summary of the most commonly

Representative Fran Ulmer

Page 2

February 18, 1988

known drugs and narcotics, the substances covered under this provision include opium and morphine (schedule IA), LSD, cocaine, and amphetamines (schedule IIA), and hashish and similar substances (schedule IIIA). Violation of AS 11.71.-010 is an unclassified felony.

Section 2 amends AS 11.71.030(a), the provision defining misconduct involving controlled substances in the third degree by increasing the age of persons to whom deliver is made from 19 to 21. The provision is applicable to controlled substances on schedules IVA, VA, and VIA, and generally cover transactions involving substances having significantly lesser danger or probable danger to a person or the public. As a general summary of the most commonly known drugs and narcotics, the substances covered under this provision include salts chemically related to phenobarbital (schedule IVA), certain designated narcotics listed on other schedules that are present in limited quantities (schedule VA), and, of course, marijuana (schedule VIA). Violation of AS 11.71.030 is a class B felony.

Section 3 amends AS 11.73.030, the provision defining misconduct involving imitation controlled substances. Violation of AS 11.73.030 is a class B felony.

JBC:gc  
WKG1:0091

FISCAL NOTE

REQUEST

Revision Date: \_\_\_\_\_  
Title: "..delivery of controlled substances..  
to minors."  
Sponsor: Reps. Ulmer and Swackhammer  
Requestor: State Affairs

Agency Affected: Public Safety  
BRU: Alaska State Troopers  
Components: Criminal Investigation Bureau

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan F.C.A.  
Division: Alaska State Troopers

Phone: 269-5691  
Date: 2/22/88

Approved by Commissioner: Wayne Hooley, Dep. Comm. Date: 2-24-88  
Agency: Public Safety

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

H B

5 0 0

HOUSE STATE AFFAIRS COMMITTEE

NEXT COMMITTEE: HSS

BILL: HB 500

CURRENT VERSION:

SCHEDULED: MARCH 28, 1988

SPONSOR: ULMER

PHONE NO: JUDY K.

CONTACT FILE: \LLSA\HB500.DBF

BILL SUBJECT: MEMBERSHIP ON THE ALCOHOLIC BEVERAGE CONTROL BOARD AND SUSPENSION OR REVOCATION OF LIQUOR LICENSE

SPONSOR BACKUP: IN FILES

AFFECTED AGENCIES:

<u>DEPARTMENT</u>	<u>CONTACT/PHONE</u>	<u>COMMENT</u>
ABC BOARD		
LAW	PETER FROELICH	
DPS	GAYLE HORETSKI	

FISCAL NOTES

<u>AGENCY</u>	<u>REQUESTED</u>	<u>DATED</u>	<u>FY 88 AMT</u>	<u>FY 89 AMT</u>
REVENUE	2/25/88	3/2/88	-0-	-0-
H&SS/ALCOHOL & DRUG ABUSE		3/4/88	-0-	-0-

ACTION

<u>DATE</u>	<u>COMMENT</u>
3/4/88	HEARING -- HELD FOR FURTHER CONSIDERATION
3/28/88	CS ADOPTED AND PASSED FROM HOUSE STATE AFFAIRS

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465.3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House State Affrs:

March 4 ~ 1988

March 28 - 1988

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 2, 1988

SUBJECT: Sectional analysis - SSBH 500 (State Affairs)  
TO: Representative Fran Ulmer  
Chair, House State Affairs Committee  
FROM: Michael F. Ford *M.F.*  
Legislative Counsel

The following is a sectional analysis of the work draft for CSHB 500 (State Affairs):

Section 1 - Imposes additional qualifications on board members.

Section 2 - Authorizes the board to impose a fine under AS 04.11.575.

Section 3 - Removes the requirement that an agent or employee act knowingly, recklessly or with criminal negligence, before a license or permit is suspended.

Section 4 - Creates authority for the board to impose civil fine upon a licensee. Requires notice and opportunity for a hearing before a fine can be imposed.

Section 5 - Imposes a mandatory license suspension or revocation upon a licensee who sells alcohol to a person under age 21.

Section 6 - Transition language that allows a sitting board member to finish their term notwithstanding the changes to board qualifications in section 1.

Section 7 - Repealer.

MFF:bb  
WKB3:062



ALASKA COUNCIL ON PREVENTION OF ALCOHOL AND DRUG ABUSE, INC.

March 1, 1988

Rep. Fran Ulmer, Chairwoman  
House State Affairs Committee  
P.O. Box V  
Juneau, AK 99811

Dear Chairwoman Ulmer:

I understand that two bills regarding alcohol will be considered in House State Affairs Committee on Friday, March 4. The Alaska Council supports both pieces of legislation and asks that the following comments be read into the record at that time, if at all possible.

HB 500:

The Alaska Council on Prevention of Alcohol and Drug Abuse supports HB 500 which relates to membership on the Alcoholic Beverage Control Board. Public awareness of the severity of alcohol abuse in Alaska is increasing and this bill will help continue that process. The Alaska Council is encouraged by the proposed changes which would require that one member of the board be knowledgeable of alcohol and substance abuse problems. The presence of a substance abuse professional on the ABC Board would be a responsible step toward increasing awareness of the effects of alcohol on individuals and communities.

The Alcoholic Beverage Control Board's decisions impact the health and well being of the citizens of Alaska. The Alaska Council feels that informed, responsible decision making at the state level is crucial to alcohol prevention efforts. Passage of HB 500 will send a positive message that legislators recognize the need for continued awareness of the problems associated with alcohol use and abuse.

HB 521:

The Alaska Council supports HB 521, relating to open containers of alcoholic beverages in motor vehicles. Drinking and driving are a dangerous, often fatal, combination which should be strongly discouraged.



# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

S /E COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE (907) 465-3600

March 4, 1988

The Honorable Fran Ulmer, Chair  
House State Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: Draft CS HB 500(SA) on ABC  
Board membership and penalties

Dear Chairperson Ulmer:

At the request of the committee's staff, I have reviewed the 2/26/88 Work Draft CS for HB 500 (State Affairs) concerning membership of the Alcoholic Beverage Control Board and penalties for violation of alcohol control laws. In general, the draft CS does not present any constitutional or other legal difficulties.

The first section of the bill would require that the five member ABC Board include two public members and one member (who could be one of the two public members) who is "knowledgeable in the diagnosis or treatment of alcohol or substance abuse problems." Current AS 04.06.020 requires little more than that at least two members of the board be "actively engaged in the alcoholic beverage industry" other than the wholesale aspect of it. The new requirements would ensure that the Board include members with a different perspective on the regulation of alcoholic beverages than that of the industry the Board regulates. At least the public member requirement is typical of regulatory boards. Under the status quo, whether the Board includes any true public members (who are not, for example, former licensees) has depended on the particular appointments made by the governor who happens to be in office when vacancies occur. Having made these observations about section 1 of the Draft CS, it is important to note that the issue of limiting the currently very broad

# **CORRECTION**

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



ALASKA COUNCIL ON PREVENTION OF ALCOHOL AND DRUG ABUSE, INC.

March 1, 1988

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House State Affairs Committee  
P.O. Box V  
Juneau, AK 99811

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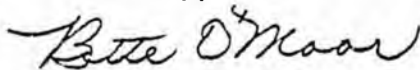
March 1, 1988  
Page Two

In 1985, 58 traffic accidents resulted in 69 alcohol-related deaths in Alaska. Youth under age 21 accounted for 14 percent of these driving fatalities even though this same age group only holds 7.1 percent of the drivers licenses. Measures, such as enacting HB 521, need to be taken to reduce the number of lives that are lost each year in alcohol-related accidents.

The Alaska Council hopes that the House State Affairs Committee will act favorably on HB 521 and take this opportunity to help protect the lives of Alaskans.

Thank you, Chairwoman Ulmer, for sponsoring HB 500 and hearing other bills in House State Affairs Committee which support prevention of alcohol and drug abuse in our state.

Sincerely,

A handwritten signature in cursive script that reads "Bette O'Moor".

Bette O'Moor  
Executive Director

cc: Rep. Steve Frank

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701-4679

P O BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE (907) 465-3600

March 4, 1988

The Honorable Fran Ulmer, Chair  
House State Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: Draft CS HB 500(SA) on ABC  
Board membership and penalties

Dear Chairperson Ulmer:

At the request of the committee's staff, I have reviewed the 2/26/88 Work Draft CS for HB 500 (State Affairs) concerning membership of the Alcoholic Beverage Control Board and penalties for violation of alcohol control laws. In general, the draft CS does not present any constitutional or other legal difficulties.

The first section of the bill would require that the five member ABC Board include two public members and one member (who could be one of the two public members) who is "knowledgeable in the diagnosis or treatment of alcohol or substance abuse problems." Current AS 04.06.020 requires little more than that at least two members of the board be "actively engaged in the alcoholic beverage industry" other than the wholesale aspect of it. The new requirements would ensure that the Board include members with a different perspective on the regulation of alcoholic beverages than that of the industry the Board regulates. At least the public member requirement is typical of regulatory boards. Under the status quo, whether the Board includes any true public members (who are not, for example, former licensees) has depended on the particular appointments made by the governor who happens to be in office when vacancies occur. Having made these observations about section 1 of the Draft CS, it is important to note that the issue of limiting the currently very broad

gubernatorial discretion in ABC board appointments is purely a policy decision for the legislature, with no real legal implications at all.

The Draft CS also increases the disciplinary or penalty options of the ABC Board by adding the power to impose civil fines of up to \$5,000 (secs. 2 & 4). This could result in greater deterrence of licensees from violating AS 04 or 15 AAC 104. We believe generally that the possibility of a fine of this magnitude will not be considered by the courts to be a "criminal" penalty that trigger the rights to counsel and to a jury. State v. O'Neill Investigations, Inc., 609 P.2d 520, 537-38 (Alaska 1980).

Sections 3 and 7 of the Draft CS eliminate provisions in current statutes that make it difficult to hold a licensee responsible in a license suspension or revocation case for the conduct of the licensee's employees. Currently, no action can be taken against a licensee who negligently fails to prevent employees from breaking the law, or, in the words of AS 04.21.030, fails to "exercise that duty of care that a reasonable person would observe to insure that a business under the person's control is lawfully conducted," unless the licensee acted knowingly, recklessly, or with criminal negligence. (AS 04.11.370(5) & (7) and 04.11.535) Because this sort of criminal state of mind is so difficult to prove license suspensions or revocations based even on repeated criminal convictions of employees are extremely rare. Elimination of these provisions essentially leaves us with the ordinary negligence standard set out in AS 04.21.030.

Lastly, sec. 5 of the Draft CS Would limit the current discretion of the board regarding the appropriate suspension for conviction of the licensee (not the licensee's employees) of serving a minor. Now only a ceiling of 45 days suspension for the first conviction of any violation of AS 04 is set by AS 04.16.180, and a ceiling of 90 days license suspension for the second conviction. This section would set minimums to ensure that some meaningful action was taken. One suggestion on this part of the bill is that perhaps the existing ceilings should be eliminated to allow harsher suspensions, when appropriate. Another suggestion is that perhaps the section should be expanded to apply to all criminal convictions of licensees, not just to those involving serving minors. This could be accomplished by changing sec. to an amendment of current AS 04.16.180(a) instead of an addition of a new subsection (e) to the same provision.

The Honorable Fran Ulmer, Chair  
House State Affairs Committee

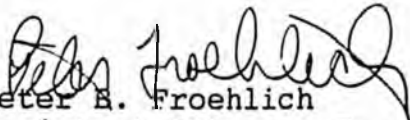
March 4, 1988  
Page 3

Please let me know if I can provide you or the committee with anything further regarding this bill.

Sincerely yours,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:

  
Peter E. Froehlich  
Assistant Attorney General

PBF:jf

cc:Bob Evans  
Art Peterson

POSITION PAPER  
ON  
HOUSE BILL NO. 500

"An Act relating to membership on the Alcoholic Beverage Control Board and to suspension or revocation of a liquor license."

Discussion

AS 04.06. authorizes Alcohol Beverage Control Board (ABC) to make decisions regarding the disposition of alcohol in the state. These decisions directly effect the availability of alcohol in Alaska's communities.

Passage of this bill would require that one of five ABC Board members be knowledgeable in the diagnosis or treatment of alcohol or substance abuse problems. Given the extent of alcohol problems experienced in Alaska, it makes good sense to attempt to bridge the gap between the control and regulation of alcohol activity and the prevention and treatment of alcohol problems. Requiring a member of the ABC Board to be knowledgeable in the treatment of alcohol and drug abuse will help to heighten the awareness of the ABC Board with regard to the effect of its actions.

Position

From a public health and public safety perspective the Department of Health and Social Services is highly supportive of the approach taken in HB 500.

Recommended by:

*Matthew C. Felix*

Matthew C. Felix  
Coordinator  
State Office of Alcoholism  
and Drug Abuse

Date:

*3/2/88*

Approved by:

*Myra M. Munson*

Myra M. Munson  
Commissioner  
Department of Health and  
Social Services

Date:

*3/4/88*

March 3, 1988

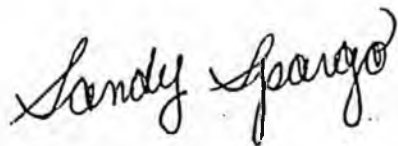
Senate Affairs Committee  
State of Alaska

House Bill No. 500 is a reasonable bill, in that it calls for one member of the Board to consist of a person who is knowledgeable in the diagnosis or treatment of alcohol or substance abuse.

The Bill states, "The Board shall control the manufacture, barter, possession, and sale of alcoholic beverages in the State. The Board is vested with the powers, duties, and responsibilities necessary for the control of alcoholic beverages, including the power to impose a fine under AS 04.11.575. . . ."

The person who is knowledgeable in the diagnosis or treatment of alcohol or substance abuse will, undoubtedly, raise the awareness level of the other Board members of the alcohol and drug abuse problem in Alaska, but how does this person's background contribute beyond this point? Will the drug statistics and stories curb the manufacture, barter, possession, and sale of alcoholic beverages in the State?

It is my hope that the change in the Board membership structure will toughen the stance taken with liquor stores that sell alcohol to minors.



Sandy Spargo  
ALASKANS FOR DRUG-FREE YOUTH  
965 Goldbelt  
Juneau, Alaska 99801

Anchorage Daily News  
February 28, 1988

Winner, 1976 Pulitzer Prize Gold Medal for Public Service  
Gerald E. Grilly Publisher      Howard Weaver  
Managing Editor

Michael Carey  
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983  
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

## Toward a new era for the ABC board

Gov. Steve Cowper can't change state liquor laws by himself, but he can change those charged with implementing liquor laws, the members of the Alcoholic Beverage Control Board. Now that he has an opportunity to make two appointments to the five-member board, the governor shouldn't hesitate to select Alaskans who won't settle for business as usual.

The ABC board has wide-ranging powers over the manufacture, barter, sale, consumption and possession of alcohol. It can put long-time sellers out of business and permit new sellers to enter the industry. It can dictate the terms of licenses and the regulations liquor purveyors must follow.

Given the physical and emotional damage alcohol has done in Alaska the board's charge should be clear: The health, safety and welfare of Alaskans come first.

Last year, board Chairman Mike Gordon said the board should "rationally, intelligently assist the industry, nudging it in the right direction as far as meeting local concerns, and keeping the industry healthy, too."

This is a conventional view of government that holds regulators should both regulate and protect the industry under their control. But this view is hopelessly out of date and inaccurate. Nowhere is the board charged with keeping the industry healthy.

The alcohol industry is one of — if not *the* — "healthiest" industries in this state. Good times or bad, Alaskans rich and poor drink vast quantities of alcohol. Television, magazines — and, yes, newspapers — send the message that drinking can make people happier, more attractive and even more successful.

The debate over how to improve the human condition is endless. Some say the system won't be improved until human nature improves; others says human nature won't improve until the system improves. The ABC board can't change human nature. But Gov. Cowper can improve the system by which alcohol is regulated by mandating a re-examination of the ABC board's role and appointing board members whose first consideration is the health, welfare and safety of their fellow citizens.

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE ULMER

NAME: LINDA CREED  
TITLE:  
ADDRESS: P.O.BOX 102092  
CITY: ANCHORAGE  
PHONE: 563-3989  
BILL NO: HB 500  
SUBJECT: ABC BOARD MEMBERS/LICENSE SUSPENSION  
MESSAGE: AS PRESIDENT OF THE BOARD OF THE ALASKA COUNCIL ON PREVENTION OF ALCOHOL AND DRUG ABUSE, WE STRONGLY SUPPORT HB 500. WE FEEL THIS WOULD MAKE THE BOARD MORE REPRESENTATIVE OF THE PEOPLE OF THE STATE OF ALASKA. WE ASK FOR YOUR SUPPORT.

ZIP: 99510

POMID: 03085537  
DATE: 03/01/88  
TIME: 08:55:37  
LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES

BOUCHER  
DAVISON  
DONLEY  
HOFFMAN  
MARTIN  
MENARD

1 IN THE HOUSE

BY ULMER, SWACKHAMMER  
AND GOLL

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 500

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alcoholic Beverage Control  
7 Board; to suspension or revocation of a liquor li-  
8 cense or permit; and to imposition of a civil fine  
9 for violation of laws and regulations related to  
10 alcohol."

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

12 \* Section 1. AS 04.06.020 is amended to read:

13 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board  
14 consists of five members appointed by the governor and confirmed by a  
15 majority of the members of the legislature in joint session. A member  
16 of the board may not hold any other state or federal office, either  
17 elective or appointive. Two members of the board shall be persons  
18 actively engaged in the alcoholic beverage industry, except that a  
19 [NO] member may not hold a wholesale license or be an officer, agent,  
20 or employee of a wholesale alcoholic beverage enterprise. One member  
21 shall be knowledgeable in the diagnosis or treatment of alcohol or  
22 substance abuse problems. Two members shall be public members who are  
23 not presently and have not previously engaged in the alcohol industry.  
24 No three members of the board may be engaged in the same business,  
25 occupation, or profession.

26 \* Sec. 2. AS 04.06.090(a) is amended to read:

27 (a) The board shall control the manufacture, barter, possession,  
28 and sale of alcoholic beverages in the state. The board is vested  
29 with the powers, duties, and responsibilities necessary for the

1 control of alcoholic beverages, including the power to impose a fine  
2 under AS 04.11.575, to propose and adopt regulations and to hear  
3 appeals from actions of the director, and from actions of officers and  
4 employees charged with enforcing the alcoholic beverage control laws  
5 and the regulations of the board.

6 \* Sec. 3. AS 04.11.370 is amended to read:

7 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND PER-  
8 MITS. A license or permit shall be suspended or revoked if the board  
9 finds that one or more of the following grounds exists:

10 (1) misrepresentation of a material fact on an application  
11 for a license or permit;

12 (2) continuation of activities authorized under a license  
13 or permit would be contrary to the best interests of the public;

14 (3) failure on the part of the licensee to correct defects  
15 that constitute violations of this title, regulations adopted under  
16 this title, or other laws within a prescribed time after receipt of  
17 notice issued by the board or its agent;

18 (4) conviction of a licensee of a violation of a provision  
19 of this title, a regulation adopted under this title, or an ordinance  
20 adopted under AS 04.21.010;

21 (5) conviction of the agent or employee of a licensee of a  
22 violation of this title, a regulation adopted under this title, or an  
23 ordinance adopted under AS 04.21.010, if the licensee is found by the  
24 board to have [EITHER KNOWINGLY ALLOWED THE VIOLATION OR TO HAVE  
25 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
26 with the duty prescribed under AS 04.21.030 with the result that an  
27 agent or employee violates a law, regulation, or ordinance;

28 (6) failure of the licensee to comply with the laws and  
29 regulations pertaining to public health in the state;

1 (7) use of the licensed premises as a resort for illegal  
2 possessors or users of narcotics, prostitutes, or promoters of prosti-  
3 tution; in addition to any other legally competent evidence, the  
4 character of the premises may be proved by the general reputation of  
5 the premises in the community as a resort for illegal possessors or  
6 users of narcotics, prostitutes, or promoters of prostitution;

7 (8) occurrence of illegal gambling within the limits of the  
8 licensed premises;

9 (9) permitting any public offense involving moral turpitude  
10 to occur on the licensed premises;

11 (10) violation by a licensee of this title, a regulation  
12 adopted under this title, or an ordinance adopted under AS 04.21.010;

13 (11) violation by an agent or employee of a licensee of a  
14 provision of this title, a regulation adopted under this title, or an  
15 ordinance adopted under AS 04.21.010, if the licensee is found by the  
16 board to have [EITHER KNOWINGLY ALLOWED THE VIOLATION OF TO HAVE  
17 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
18 with the duty prescribed under AS 04.21.030 with the result that the  
19 agent or employee violates the law, regulation, or ordinance.

20 \* Sec. 4. AS 04.11 is amended by adding a new section to read:

21 Sec. 04.11.575. CIVIL FINE. (a) In addition to any other  
22 penalties imposed under this title, the board may impose a civil fine  
23 in an amount not to exceed \$5,000 upon a licensee that the board  
24 determines has violated a provision of this title or a regulation  
25 adopted under this title.

26 (b) The board may not impose a fine under (a) of this section  
27 unless the board has notified the licensee of the violation and the  
28 amount of the fine and given the licensee an opportunity for a hear-  
29 ing.

was amended by FRODO

1 \* Sec. 5. AS 04.16.180 is amended by adding a new subsection to read:

2 (e) A suspension or revocation of a license ordered by the board  
3 under AS 04.11.370(4) for a violation of AS 04.16.052 shall be as  
4 follows:

5 (1) on second conviction the license of the premises in-  
6 volved shall be suspended for at least 15 days and may be suspended up  
7 to 45 days; and <sup>^</sup> consecutive

8 (2) on third conviction the license of the premises in-  
9 volved shall be suspended for at least 30 days and may be suspended up  
10 to 90 days. <sup>^</sup> consecutive

11 \* Sec. 6. Notwithstanding the amendments made to AS 04.06.020 by sec. 1  
12 of this Act, a member serving on the Alcoholic Beverage Control Board on  
13 the effective date of this Act may continue to serve until the member's  
14 term expires.

15 \* Sec. 7. AS 04.11.535 is repealed.

Original sponsors: Ulmer, Swackhammer  
and Goll

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 500 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alcoholic Beverage Control  
7 Board; to suspension of a liquor license or permit;  
8 and to imposition of a civil fine for violation of  
9 laws and regulations related to alcohol."

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

11 \* Section 1. AS 04.06.020 is amended to read:

12 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board  
13 consists of five members appointed by the governor and confirmed by a  
14 majority of the members of the legislature in joint session. A member  
15 of the board may not hold any other state or federal office, either  
16 elective or appointive. Two members of the board shall be persons  
17 actively engaged in the alcoholic beverage industry, except that a  
18 [NO] member may not hold a wholesale license or be an officer, agent,  
19 or employee of a wholesale alcoholic beverage enterprise. Two members  
20 shall be public members who are not presently and have not previously  
21 engaged in the alcohol industry. No three members of the board may be  
22 engaged in the same business, occupation, or profession.

23 \* Sec. 2. AS 04.06.090(a) is amended to read:

24 (a) The board shall control the manufacture, barter, possession,  
25 and sale of alcoholic beverages in the state. The board is vested  
26 with the powers, duties, and responsibilities necessary for the con-  
27 trol of alcoholic beverages, including the power to impose a fine  
28 under AS 04.11.575, to propose and adopt regulations and to hear  
29 appeals from actions of the director, and from actions of officers and

1 employees charged with enforcing the alcoholic beverage control laws  
2 and the regulations of the board.

3 \* Sec. 3. AS 04.11.370 is amended to read:

4 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND PER-  
5 MITS. A license or permit shall be suspended or revoked if the board  
6 finds that one or more of the following grounds exists:

7 (1) misrepresentation of a material fact on an application  
8 for a license or permit;

9 (2) continuation of activities authorized under a license  
10 or permit would be contrary to the best interests of the public;

11 (3) failure on the part of the licensee to correct defects  
12 that constitute violations of this title, regulations adopted under  
13 this title, or other laws within a prescribed time after receipt of  
14 notice issued by the board or its agent;

15 (4) conviction of a licensee of a violation of a provision  
16 of this title, a regulation adopted under this title, or an ordinance  
17 adopted under AS 04.21.010;

18 (5) conviction of the agent or employee of a licensee of a  
19 violation of this title, a regulation adopted under this title, or an  
20 ordinance adopted under AS 04.21.010, if the licensee is found by the  
21 board to have [EITHER KNOWINGLY ALLOWED THE VIOLATION OR TO HAVE  
22 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
23 with the duty prescribed under AS 04.21.030 with the result that an  
24 agent or employee violates a law, regulation, or ordinance;

25 (6) failure of the licensee to comply with the laws and  
26 regulations pertaining to public health in the state;

27 (7) use of the licensed premises as a resort for illegal  
28 possessors or users of narcotics, prostitutes, or promoters of prosti-  
29 tution; in addition to any other legally competent evidence, the

1 character of the premises may be proved by the general reputation of  
2 the premises in the community as a resort for illegal possessors or  
3 users of narcotics, prostitutes, or promoters of prostitution;

4 (8) occurrence of illegal gambling within the limits of the  
5 licensed premises;

6 (9) permitting any public offense involving moral turpitude  
7 to occur on the licensed premises;

8 (10) violation by a licensee of this title, a regulation  
9 adopted under this title, or an ordinance adopted under AS 04.21.010;

10 (11) violation by an agent or employee of a licensee of a  
11 provision of this title, a regulation adopted under this title, or an  
12 ordinance adopted under AS 04.21.010, if the licensee is found by the  
13 board to have [EITHER KNOWINGLY ALLOWED THE VIOLATION OR TO HAVE  
14 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
15 with the duty prescribed under AS 04.21.030 with the result that the  
16 agent or employee violates the law, regulation, or ordinance.

17 \* Sec. 4. AS 04.11 is amended by adding a new section to read:

18 Sec. 04.11.575. CIVIL FINE. (a) In addition to any other  
19 penalties imposed under this title, the board may impose a civil fine  
20 in an amount not to exceed \$5,000 upon a licensee that the board  
21 determines has violated a provision of this title or a regulation  
22 adopted under this title.

23 (b) The board may not impose a fine under (a) of this section  
24 unless the board has notified the licensee of the violation and the  
25 amount of the fine and given the licensee an opportunity for a hear-  
26 ing.

27 \* Sec. 5. AS 04.16.180 is amended by adding a new subsection to read:

28 (e) Upon the third conviction of a licensee, or an agent or  
29 employee of a licensee for a violation of AS 04.16.052, the board

1 shall suspend the license of the premises involved for at least 15  
2 consecutive days and may suspend the license of the premises involved  
3 up to 45 days.

4 \* Sec. 6. Notwithstanding the amendments made to AS 04.06.020 by sec. 1  
5 of this Act, a member serving on the Alcoholic Beverage Control Board on  
6 the effective date of this Act may continue to serve until the member's  
7 term expires.

8 \* Sec. 7. AS 04.11.535 is repealed.  
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# HOUSE COMMITTEE REPORT

(7)

Date referred: 3/4/88

FURTHER REFERRALS: HESS  
Finance

DATE: 3/28/88

The State Affairs Committee has considered SSHB 500

"An Act relating to the Alcoholic Beverage Control Board; to suspension or revocation of a liquor license or permit; and to imposition of a civil fine for violation of laws and regulations related to alcohol."

**RECOMMENDS:**

- replace with CS SS HB 500 (SA)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- 2  zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

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**SIGNING OTHER RECOMMENDATIONS:**

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\_\_\_\_\_  
 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: 04/21/88  
Title: "An Act relating to membership on the Alcoholic Beverage Control Board & to suspension or revocation of a liquor license."  
Sponsor: Ulmer & Swackhammer  
Requestor: house Finance

Agency Affected: Revenue  
bku: Alcohol Beverage Control board

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Patrick L. Sharrock, Director  
Division: Alcoholic Beverage Control Division  
Phone: 277-8638  
Date: 04/21/88

Approved by Commissioner: Hugh Malone  
Agency: Department of Revenue  
Date: 04/21/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- requestor
- Office of Management and budget
- Impacted Agency(ies)

A M E N D M E N T

Offered in the HOUSE

By Ulmer

TO: SSB 500

Page 1, line 7:

Delete "or"

Insert ", "

After "revocation":

Insert ", or renewal"

Page 2, after line 5:

Insert a new bill section to read:

"\* Sec. 3. AS 04.11.330 is amended by adding a new subsection to read:

(e) An application requesting renewal of a beverage dispensary license, restaurant or eating place license, package store license, or club license shall be denied unless the licensee and the licensee's employees have completed a liquor server awareness training program approved by the board."

Renumber the remaining bill sections accordingly.

November 12, 1985

Ruby Smith, Clerk  
Municipality of Anchorage  
Fouch 6-650  
Anchorage, AK 99502

Re: Municipality of Anchorage Ordinance,  
AO No. 85-128(s), AHC 10.50(B) - Training

Dear Ruby:

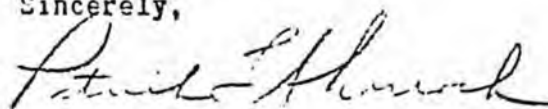
At its meeting of October 31 the Alcoholic Beverage Control Board considered its authority to act on the matter of training programs mentioned in the above ordinance. The board discussed its role under the municipal ordinance in light of the absence of a statute or regulation which outlines criteria for training programs.

Because the training of sellers/servers of alcoholic beverages is beneficial to the industry and the public, the board determined that it would consider training programs, but only in a broad conceptual way. Therefore, having heard brief presentations and reviewed some course materials at its meeting of September 18-19, the board decided the TAM (Techniques in Alcohol Management) and TIPS (Training for Intervention Procedures) programs are reputable and would be acceptable training programs for purposes of the ordinance. Additionally, the board decided that it would be acceptable and appropriate for either program to train and certify instructor personnel from licensees' staff to allow for training by licensees.

The board noted that this action applies for purposes of the Municipality of Anchorage ordinance only and should not be construed by licensees to create a statewide requirement or policy.

If you or the assembly have any questions, please do not hesitate to call.

Sincerely,



Patrick L. Sharrock  
Director

PLS:vk

AMENDED AND APPROVED  
DATE 8-13-85

Submitted by: Assembly Members Baker,  
Brockway, Flynn, Mystrom  
Walsh

Prepared by: Department of Law  
For Reading: July 23, 1985

ANCHORAGE, ALASKA  
AO NO. 85-128 (S)

AN ORDINANCE AMENDING CHAPTER 10.50 AND SECTION 21.45.170 OF THE ANCHORAGE MUNICIPAL CODE RELATING TO ASSEMBLY CONSIDERATION OF ISSUE, RENEWAL AND TRANSFER OF LIQUOR LICENSES.

---

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code 10.50 is amended by  
addition of a new section to read:

10.50 Standards Governing Assembly Protests to Alcoholic  
Beverage Control Board.

In the exercise of its powers under AS 04.11.480, and 15 AAC 104.145 to protest issue, renewal, and transfer of alcoholic beverage licenses within the Municipality of Anchorage, the Assembly shall consider whether the proposed license meets each and every factor and standard set forth below:

- A. Concentration and Land Use. Whether <sup>transfer of location or issue</sup> ~~issue or transfer~~ of the requested license will increase or ~~perpetuate~~ <sup>the</sup> a concentration of uses involving the sale or service of alcoholic beverages within the area affected and will conform to the separate standards of AMC 21.50.020(A) applicable to conditional land uses involving the sale or dispensing of alcoholic beverages.
- B. Training. If application is made for issue, renewal or transfer of a beverage dispensary license, restaurant or eating place license, or package store license, whether the applicant can demonstrate prospective or continued compliance with a Liquor Server Awareness Training Program approved by the State of Alaska Alcoholic Beverage Control Board, such as or similar to the program for techniques in alcohol management (T.A.M.). Until such plan is approved, training by a licensee's employees in the T.A.M. shall constitute compliance with this ordinance.

This subsection shall become effective December 1, 1985.

- C. Operations procedures. If application is made for issue, renewal or transfer of a license, whether the applicant can demonstrate prospective or continued compliance with operations procedures for licenses premises set forth in Section 10.50 \_\_\_\_\_ of this code.

Section 2. Anchorage Municipal Code 10.50 is amended by addition of a new section to read:

10.50. \_\_\_\_\_. Operations procedures for licensed premises.

- A. Except as otherwise provided in this subsection, the Operations procedures set forth in B of the section shall apply to all persons seeking the issue, renewal or transfer of any license issued by the State Alcoholic Beverage Control Board by virtue of AS 04 and other applicable provisions of law allowing the sale or service of alcoholic beverages. Subsections B (1) and B (5) shall not apply to persons or firms seeking the issue, transfer or renewal of licenses issued under AS 04 which do not authorize the sale or service of alcoholic beverages for consumption on the premises licensed.
- B. Persons or firms seeking the issue, transfer or renewal of licenses issued by the State Alcoholic Beverage Control Board under AS 04 and other applicable provisions of law shall comply with the following operations procedures:
1. Happy Hours. No licensee may:
    - a. Sell more than one drink for the price of a single alcoholic drink, or sell a drink with increased alcoholic content, or sell a multiple of any number of drinks in a manner which has the effect of selling more than one drink for the price of a single drink.
    - b. Advertise, promote or put in public notice the giving of free alcoholic drinks to customers.
    - c. ~~Sell~~ Advertise, promote or put in public notice the sale of alcoholic beverages at a reduced price at certain times of the day or days of the week. Nothing in this subsection shall prohibit a licensee from increasing prices during times when entertainment is provided.

This subsection shall not be construed to prohibit licensees from giving away or selling at a reduced price food items to customers and patrons.

2. Games or contests. No operator may allow, sanction, or permit games or contests to be conducted on premises which include in their competition the consumption of alcohol or in which awards are given by the establishment to patrons in the form of alcoholic beverage products.
3. Public Transportation. Licensees shall make available to their patrons access to means of public transportation to permit patrons to make arrangements for transportation to a hotel, private residence or other lodging.
4. Notice of penalties. Within 45 days of the passage of this ordinance, operators shall place, at conspicuous locations within licensed premises, a clear and legible sign describing applicable penalties for driving while intoxicated, and for service or sale of alcoholic beverages to minors or intoxicated persons.
5. Availability of nonalcoholic drinks. Operators shall have nonalcoholic drinks available for their patrons.
6. Compliance determination. In order to determine whether applicants seeking issue, renewal or transfer of alcoholic beverage licenses have complied with the provisions of this chapter, all applicants shall, at the time application is made to the Alcoholic Beverage Control Board for issue, renewal or transfer of licenses, submit to the Municipal Clerk such information as is required on a municipal form prepared by the Municipal Clerk known as the Municipality of Anchorage Alcoholic Beverage Licensee Compliance Form. Operators shall also provide the Municipal Clerk with certificates from all current employees demonstrating that those employees have successfully completed a "Liquor Service Awareness Training Program" such as the program for techniques in alcohol management (T.A.M.) as approved by the State of Alaska Alcoholic Beverage Control Board.

AO NO. 85- \_\_\_\_\_  
Page 4

Section 3. Except as provided in Section 1B and 2B4 of this ordinance, this ordinance shall become effective upon passage.

PASSED AND APPROVED by the Anchorage Municipal Assembly, this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Municipal Clerk

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to membership on on the Alcoholic Beverage Control Board and to suspension or revocation of a liquor license."  
Sponsor: Ulmer and Swackhammer  
Requestor: N/A

Agency Affected: Health & Social Services  
BRU: Alcoholism & Drug Abuse  
Components: Alcohol Abuse Grant

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

\_\_\_\_\_

Prepared by: Matthew Felix *M.F.* Phone: 586-6201  
Division: Alcoholism and Drug Abuse Date: 3/1/88

Approved by Commissioner: *M. M. Merson* Date: 3/4/88  
Agency: Health & Social Services

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

FISCAL NOTE

REQUEST:

Revision Date: 03/02/88  
 Title: "An Act relating to membership on the Alcoholic Beverage Control Board & to suspension or revocation of a liquor license."  
 Sponsor: Ulmer & Swackhammer  
 Requestor: house State Affairs

Agency Affected: Revenue  
 BKU: ABC BOARD  
 Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Patrick L. Sharrock, Director Phone: 277-8638  
 Division: Alcoholic Beverage Control Division Date: 03/02/88  
 Approved by Commissioner: Hugh Malone Date: 03/02/88  
 Agency: Department of Revenue

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

H B

5 0 1

HOUSE STATE AFFAIRS COMMITTEE

NEXT COMMITTEE: HESS

BILL: HB 501

CURRENT VERSION:

SCHEDULED: APRIL 11, 1988

SPONSOR: COLLINS

PHONE NO: 2828

CONTACT FILE: \_\_\_\_\_

BILL SUBJECT: ESTABLISHING THE ALASKA CHILDREN'S COMMISSION

SPONSOR BACKUP: IN FILES

AFFECTED AGENCIES:

<u>DEPARTMENT</u>	<u>CONTACT/PHONE</u>	<u>COMMENT</u>
<u>LEGISLATURE</u>		
<u>GICCY</u>	<u>CARLA/3155</u>	

FISCAL NOTES

<u>AGENCY</u>	<u>REQUESTED</u>	<u>DATED</u>	<u>FY 88 AMT</u>	<u>FY 89 AMT</u>
<u>LEGISLATIVE AFFAIRS</u>	<u>3/4/88</u>	<u>3/4/88</u>	<u>-0-</u>	<u>\$69,300</u>
<u>GOVERNOR'S OFFICE</u>		<u>4/5/88</u>	<u>\$106,900</u>	<u>\$274,200</u>
<u>REPRESENTATIVE COLLINS</u>		<u>4/12/88</u>	<u>\$61,400</u>	<u>\$122,700</u>

ACTION

<u>DATE</u>	<u>COMMENT</u>
<u>3/7/88</u>	<u>HEARING: ASSIGNED TO SUBCOMMITTEE OF ULMER, HOFFMAN &amp; MENARD</u>
<u>4/11/88</u>	<u>HEARING: CS ADOPTED AND PASSED FROM COMMITTEE</u>

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House State Affrs:*

*March 7 ~ 1988*

*April 11 ~ 1988*

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS:

HESS  
Finance

DATE: 4-11-88

The State Affairs Committee has considered HB 501

HOUSE BILL NO.

"An Act establishing the Alaska Children's Commission; and providing for a effective date."

**RECOMMENDS:**

replace with CS HB 501 (SA)  the same title  
 attached amendment(s)  a new title

- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

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**SIGNING OTHER RECOMMENDATIONS:**

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*[Signature]*  
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 Chairman's signature



Official Business

# Alaska State Legislature

House

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

## COMMITTEE ON STATE AFFAIRS

### HOUSE BILL 501

#### FILE CONTENTS

1. HB 501: AN ACT ESTABLISHING THE ALASKA CHILDREN'S COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE
- 1A. CS HB 501 (WORK DRAFT): AN ACT ESTABLISHING THE ALASKA CHILDREN'S COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE
2. PACKET PROVIDED BY REPRESENTATIVE COLLINS
3. LETTER FROM PETER SCALES TO GOVERNOR COWPER, DATED MARCH 18, 1988
4. ALASKA HEAD START DIRECTORS ASSOCIATION RESOLUTION IN SUPPORT OF A CHILDREN'S COMMISSION, DATED FEBRUARY 25, 1988
5. MEMORANDUM FROM REPRESENTATIVE COLLINS TO REPRESENTATIVE ULMER, DATED MARCH 2, 1988
6. MEMORANDUM FROM REPRESENTATIVE COLLINS TO REPRESENTATIVE ULMER, DATED MARCH 17, 1988
7. MEMORANDUM FROM CHRIS CLARK TO GICCY HB 501 SUBCOMMITTEE MEMBERS, DATED MARCH 21, 1988
8. LETTER FROM BYRON MALLOTT, SEALASKA CORPORATION, TO REPRESENTATIVE COLLINS, DATED APRIL 6, 1988.
9. MEMOS REGARDING FISCAL NOTES

#### FISCAL NOTES

- A. LEGISLATIVE AFFAIRS AGENCY, LEGISLATIVE COUNCIL:  
\$69,300
- B. (CS HB 501) OFFICE OF THE GOVERNOR: FY 89, \$106,900;  
FY 90, \$274,200
- C. (CS HB 501) OFFICE OF THE GOVERNOR, PREPARED BY  
REPRESENTATIVE COLLINS: FY 89, \$61,400; FY 90,  
\$122,700.



Original sponsors: Collins, Phillips  
and Menard

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 501 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Children's Commis-  
7 sion; and providing for an effective date."

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

9 \* Section 1. ALASKA CHILDREN'S COMMISSION. (a) The Alaska Children's  
10 Commission is established in the Office of the Governor.

11 (b) The commission consists of the following persons:

12 (1) representatives designated by the governor from the Depart-  
13 ment of Health and Social Services, the Department of Community and Region-  
14 al Affairs, the Department of Public Safety, and the Department of Educa-  
15 tion;

16 (2) a member of the senate appointed by the president of the  
17 senate;

18 (3) a member of the house of representatives appointed by the  
19 speaker of the house;

20 (4) six public members appointed by the governor who are in-  
21 volved with children and issues affecting children;

22 (5) one member appointed by the governor who is not more than 21  
23 years of age and who serves until the member reaches the age of 22 years.

24 (c) A vacancy on the commission shall be filled in the same manner as  
25 the original appointment or designation.

26 (d) The members of the commission who are appointed by the governor  
27 under (b)(4) and (5) of this section serve without compensation for their  
28 service on the commission but are entitled to per diem and travel expenses  
29 authorized by law for commissions under AS 39.20.180.

1 (e) The members of the commission shall elect one of the members as  
2 chair and may elect other commission officers as necessary.

3 \* Sec. 2. DUTIES OF COMMISSION. (a) The commission shall

4 (1) engage in a continuing review of the needs of and problems  
5 facing children and develop effective, comprehensive, and coordinated  
6 strategies to address those needs and problems;

7 (2) serve as an advocate for the interests of children;

8 (3) define the immediate service needs of children;

9 (4) develop minimum standards for care available to children and  
10 families in the areas of child care, health, social services, parent and  
11 staff training, nutrition, mental health, safety, and employment of youth;

12 (5) identify specific goals and strategies to achieve a minimum  
13 standard for care of children, including state funding priorities for  
14 prevention and early intervention services to meet the needs of children;

15 (6) identify the current level of services available and gaps  
16 and overlaps in services to children;

17 (7) develop and recommend adoption of a process for monitoring  
18 and evaluating children's programs, with emphasis on professionally coor-  
19 dinated peer review and program enhancement;

20 (8) provide opportunities for the public to participate in the  
21 planning and development of children's programs through public hearings,  
22 teleconferences, and local community programs;

23 (9) meet with state officials and members of advisory committees  
24 to state agencies that are responsible for the expenditure of state and  
25 federal funds or for other matters on behalf of children;

26 (10) receive from state officials, members of state advisory  
27 committees, legislators, representatives of the state court system, and  
28 providers of children's services requests for review and recommendations by  
29 the commission on matters related to children;

1 (11) serve as a statewide clearinghouse for model programs and  
2 resources for technical assistance for children's programs;

3 (12) advocate studies and basic data collection on children;

4 (13) inform leaders of the business community, education com-  
5 munity, and municipalities and the communications media of the nature and  
6 scope of problems faced by children, in order to encourage their support  
7 for improving the delivery of services to children and state budgeting  
8 processes and state policies concerning children.

9 (b) In formulating the strategy to address the needs of and problems  
10 facing children, the commission shall seek advice and information from  
11 children's services providers with expertise in children's mental health,  
12 health care including prenatal care, adolescent drug and alcohol treatment,  
13 education including early childhood education, nonprofit funding sources,  
14 child abuse and neglect, domestic violence, child care, dependency, delin-  
15 quency and the justice system, and family support systems.

16 (c) The commission shall submit a report each year by the 15th day of  
17 the legislative session to the governor and the legislature on the status  
18 of children in the state and recommendations for improvements for the  
19 delivery of children's services.

20 \* Sec. 3. REVIEW OF LAWS. The commission shall review the laws of the  
21 state with regard to matters involving children and shall make a report of  
22 its findings and recommendations to the governor and the legislature by  
23 January 1, 1991.

24 \* Sec. 4. TECHNICAL ASSISTANCE AND STAFF SUPPORT TO THE COMMISSION.  
25 The departments and agencies of the state shall cooperate with the commis-  
26 sion and shall, subject to the availability of funding, provide technical  
27 assistance and staff support to the commission upon the request of the  
28 commission.

29 \* Sec. 5. POWERS OF THE COMMISSION. The commission may

1 (1) utilize legal, technical, secretarial, and administrative  
2 services as may be provided by the governor and the legislative council;

3 (2) utilize voluntary and uncompensated services of private  
4 persons and organizations as may be made available to the commission;

5 (3) hold public hearings;

6 (4) apply for and receive grants from public and private funding  
7 sources, as may assist the commission in fulfilling its duties;

8 (5) hire staff as necessary to perform the duties of the commis-  
9 sion; and

10 (6) take other actions reasonably necessary to achieve the  
11 purposes of the commission.

12 \* Sec. 6. This Act is repealed December 31, 1991.

13 \* Sec. 7. This Act takes effect January 31, 1989.

STEVE COWPER  
GOVERNOR



Office of the Governor  
P.O. Box A  
Juneau, AK 99811-0101  
465-3155

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

INTERIM COMMISSION ON CHILDREN AND YOUTH

March 18, 1988

The Honorable Steve Cowper  
Governor

The Honorable Jan Faiks, President  
Alaska State Senate

The Honorable Ben Grussendorf, Speaker,  
Alaska House of Representatives

Dear Governor Cowper:

During our meeting of March 17-18, the Governor's Interim Commission on Children and Youth resolved to urge the legislative establishment of a permanent children's commission during this session.

Such a commission, outlined in recommendation 85 of the Commission's report, would serve as a forum in which issues critical to our children's well-being will continue to be addressed.

The Governor extended the present commission until January 1989. The creation of a permanent commission would carry forward the momentum which Governor Cowper and the bipartisan Children's Caucus have begun over the course of the 15th Legislature.

In so doing, the immense statewide support we have seen for a better life for Alaska's children will be one of the finest accomplishments of this Administration and this Legislature.

On behalf of the Governor's  
Interim Commission on Children  
and Youth

  
Peter Scales, Ph.D.  
Chair

# KIDPAC

MAR 21 1988



## A Voice for Children

March 16, 1988

Alan Corrick, President

Thelma Langdon, Vice President

### LEGISLATIVE BULLETIN

"This is an historic piece of work," Governor Cowper said as he introduced a comprehensive funding package for services to Alaska's children. The Governor continued, "It represents nearly a year's concentrated effort of a lot of people who care about kids."

Our Governor has it absolutely right! We've all worked very hard to bring focus to the needs of our children in Alaska. But there is still more we must do.

Last year KIDPAC set three basic goals; 1) establish a statewide network of Alaskans concerned about children, 2) promote the interest of children in the state budget process with specific emphasis on prevention and intervention as priorities, and 3) establish and maintain a permanent Children's Commission.

As well discussed before, our success is reflected in the membership of KIDPAC, the creation of the Governor's Interim Commission on Children and Youth and the Commission's final report that was released January 19th. Most importantly the Governor's budget action on March 10th (proposing 17.4 million dollars for children's programs) was a giant step that we needed in order to realize the dreams:

But the work ain't done yet!

It's up to us - we now need everyone to write to your Legislator and tell them: "Don't come home until you have addressed the needs of children as proposed in the Governor's package and established a permanent Children's Commission for the children and families across Alaska."

Write to your Legislator now, please! The address is: Name of Legislator, Alaska State Legislature, P. O. Box V (MS 3100), Juneau, AK 99811. You will find the details of the package below or at your local Office of the Governor. Kids need you to write today. The final decision of actual funding is up to the Legislature.

P.S. Don't forget - send your KIDPAC contribution to the Salcha address below.

### BUDGET REPORT

The Governor's 17.4 million dollar package released March 10th covers 35 different items for children ranging from 2.3 million dollars for pre-natal care to 3.02 million dollars for child care grants and six hundred and twenty thousand dollars additional for Head Start. Some of the other major pieces in the package include:

Social Workers	1,500,000
Services to Child Victims	1,100,000
Respite and Therapeutic Care for Developmentally Disabled Children	130,000
Increase for Abused Children and Residential Care	500,000
Education and Training Grants for Child Care Workers	258,000
Expansion of Health Services to Infants	1,049,000

P. O. Box 140002, Salcha, Alaska 99714

There are obviously several other programs funded. You can obtain a copy of the package at your local Office of the Governor or request one from the Legislative Information Office.

#### LEGISLATION

Thus far only Virginia Collins has introduced legislation addressing the formation of a Permanent Children's Commission. (HB 501) The Childrens Caucus has endorsed the concept, and we are hoping to generate support for an amended version or a committee substitute for that bill.

There are many other legislators who have introduced legislation affecting children. And all of the Children's Caucus are working hard to support us.

In summary, things are going better than they have for children in the past. But it is all for nothing unless the Legislature takes action this session to fund the Governor's package and create a permanent Children's Commission. **DON'T FORGET TO WRITE YOUR LEGISLATOR!** In the event they suggest that there isn't any money, remind them that they have pots of gold like other leprechauns stashed in various piles. To name a few: the Railbelt Energy Fund - over 230 million dollars, Undistributed Income Accounts - over 530 million dollars, the Back Taxes - over 2 billion dollars, the ELF Suspension - as proposed by the House - an estimated value of over 200 million dollars. In addition, the 40/30/30 concept of distributing the earnings of the Permanent Fund would generate an additional 270 million dollars available for the General Fund. "No," is not an acceptable answer from the Legislature this year. **WRITE YOUR LEGISLATORS TODAY.**

\* \* \* \* \*

Note from your President: Our Lobbyist is doing an excellent job in Juneau on behalf of children. Please send a check today to the Salcha address. This will help us keep the effort going and get information to you. If you've seen this bulletin and are not on our mailing list, please send us your name and address.

**KIDPAC**  
A Voice for Children  
P.O. Box 14002  
Salcha, Alaska 99714



The Honorable Virginia Collins  
House of Representatives  
P.O. Box 4  
Juneau, AK 99811

# Alaska State Legislature

P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-2828

DISTRICT 10  
2600 Denali; Suite 501  
ANCHORAGE, ALASKA 99503  
(907) 276-7943



MEMBER

Community and Regional  
Affairs

Special Committee  
on Telecommunications

Finance Sub-Committee  
for Labor

Anchorage Caucus,  
House Chair

Representative Virginia M. Collins

To: Rep. Fran Ulmer, Chair  
House State Affairs Committee

From: Rep. Virginia Collins *VM*

Re: Request for committee hearing on HB 501, "An Act  
establishing the Alaska Children's Commission; and  
providing for an effective date."

Date: March 2, 1988

---

I respectfully request that you schedule a committee hearing on HB 501, "An Act establishing the Alaska Children's Commission; and providing for an effective date." I would greatly appreciate your doing so as soon as possible.

The bill addresses Recommendation No. 85 of the report recently released by the Governor's Interim Commission on Children and Youth. The legislative commission would consist of chairmen from the Senate and House Judiciary and Health, Education, and Social Services Committees, four other legislators, five members appointed by the governor who represent various state agencies involved with children's issues, and eight public members. The commission would devise and implement strategy for children's services deliveries and would review laws relating to children. The term of the commission would begin on July 1, 1988 and expire January 1, 1990.

As you know from serving on GICCY, a piecemeal approach to children's issues has proven inadequate. Alaska's children need something comparable to the Older Alaskans's Commission. That is, they need a centralized agency to address their needs in a comprehensive manner.

For further information, please contact Chris Clark at 465-2828.

Thank you for your prompt attention to this matter.

cc: HB 501 Co-Sponsors -- Representatives Phillips and Menard

# Alaska State Legislature

P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-2828

DISTRICT 10  
3111 C Street, Suite 410  
ANCHORAGE, ALASKA 99503  
(907) 561-2040



6  
MEMBER

Community and Regional  
Affairs

Special Committee  
on Telecommunications  
Finance Sub-Committee  
for Labor

Anchorage Caucus,  
House Chair

Representative Virginia M. Collins

To: Rep. Fran Ulmer, Member  
Governor's Interim Commission on Children and Youth

From: Rep. Virginia Collins *VMC*

Re: Establishing an Alaska Children's Commission

Date: March 17, 1988

---

For your review, attached please find a copy of a proposed draft of a bill that would establish an Alaska Children's Commission.

Following is a sectional synopsis of the bill:

Section 1: Establishes the Alaska Children's Commission as an eleven-member commission in the Office of the Governor. The commission would include three state agency representatives, two legislators, five members of the public, and a youth no older than 19 years of age.

Section 2: Focuses strategy for the commission on developing a coordinated children's services delivery system. Requires commission to submit a final report by January 1, 1991.

Section 3: Instructs commission to review Alaska law relating to children and to make a report of its findings by January 1, 1991.

Section 4: Sets out duties of the commission.

Section 5: Sets out powers of the commission.

Section 6: Establishes the expiration date of the commission's term as December 31, 1991.

Section 7: Establishes the effective date of the commission's term as starting on January 1, 1989 -- the expiration date of the Governor's Interim Commission on Children and Youth.

Original sponsors: Collins, Phillips  
and Menard

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 501 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Children's Commis-  
7 sion; and providing for an effective date."

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

9 \* Section 1. ALASKA CHILDREN'S COMMISSION. (a) The Alaska Children's  
10 Commission is established in the Office of the Governor.

11 (b) The commission consists of the following persons:

12 (1) representatives designated by the governor from the Depart-  
13 ment of Health and Social Services, the Department of Community and Region-  
14 al Affairs, and the Department of Education;

15 (2) a member of the senate appointed by the president of the  
16 senate;

17 (3) a member of the house of representatives appointed by the  
18 speaker of the house;

19 (4) five public members appointed by the governor who are in-  
20 volved with children and issues affecting children, such as teachers,  
21 social workers, child services providers, attorneys and children's advo-  
22 cates, judges, correction and probation officers, physicians and other  
23 health care providers, family counselors, parents, and other interested  
24 persons;

25 (5) one member appointed by the governor who is not more than 18  
26 years of age and who serves until the member reaches the age of 19 years.

27 (c) A vacancy on the commission shall be filled in the same manner as  
28 the original appointment or designation.

29 (d) The members of the commission who are appointed by the governor

1 alcohol treatment, education including early childhood education, nonprofit  
2 funding sources, child abuse and neglect, child care, dependency, delin-  
3 quency and the juvenile justice system, and family support systems.

4 (c) The commission shall submit to the governor and the legislature  
5 an initial strategy by January 1, 1990, and a final report containing the  
6 long-term children's services strategy and recommendations by January 1,  
7 1991.

8 \* Sec. 3. REVIEW OF LAWS. The commission shall review the laws of the  
9 state with regard to matters involving children and shall make a report of  
10 its findings and recommendations to the governor and the legislature by  
11 January 1, 1991.

12 \* Sec. 4. DUTIES OF THE COMMISSION. The commission shall

13 (1) meet with state officials and members of advisory committees  
14 to state agencies that are responsible for the expenditure of state or  
15 federal funds or for other matters on behalf of children;

16 (2) receive from state officials and members of advisory commit-  
17 tees to state agencies requests for review and recommendations by the  
18 commission on matters related to children;

19 (3) meet with representatives of the state court system concern-  
20 ing judicial involvement with children;

21 (4) receive from representatives of the state court system  
22 requests for review and recommendations by the commission on matters re-  
23 lated to children;

24 (5) meet with representatives of private providers of services  
25 to children, foster parents, and support groups to children;

26 (6) receive from individuals and providers of services to chil-  
27 dren requests for review and recommendations by the commission on matters  
28 related to children and the delivery of services to children;

29 (7) receive from members of the legislature requests for review

# **CORRECTION**

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

Original sponsors: Collins, Phillips  
and Menard

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 501 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Children's Commis-  
7 sion; and providing for an effective date."

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

9 \* Section 1. ALASKA CHILDREN'S COMMISSION. (a) The Alaska Children's  
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11 (b) The commission consists of the following persons:

12 (1) representatives designated by the governor from the Depart-  
13 ment of Health and Social Services, the Department of Community and Region-  
14 al Affairs, and the Department of Education;

15 (2) a member of the senate appointed by the president of the  
16 senate;

17 (3) a member of the house of representatives appointed by the  
18 speaker of the house;

19 (4) five public members appointed by the governor who are in-  
20 volved with children and issues affecting children, such as teachers,  
21 social workers, child services providers, attorneys and children's advo-  
22 cates, judges, correction and probation officers, physicians and other  
23 health care providers, family counselors, parents, and other interested  
24 persons;

25 (5) one member appointed by the governor who is not more than 18  
26 years of age and who serves until the member reaches the age of 19 years.

27 (c) A vacancy on the commission shall be filled in the same manner as  
28 the original appointment or designation.

29 (d) The members of the commission who are appointed by the governor

1 under (b)(4) and (5) of this section serve without compensation for their  
2 service on the commission but are entitled to per diem and travel expenses  
3 authorized by law for commissions under AS 39.20.180.

4 (e) The members of the commission shall elect one of the members as  
5 chair and may elect other commission officers as necessary.

6 \* Sec. 2. STRATEGY FOR DELIVERY OF CHILDREN'S SERVICES. (a) The  
7 commission shall develop a long-term strategy for the development of an  
8 effective, comprehensive, and coordinated children's services delivery  
9 system to meet the needs of the state. The strategy shall

10 (1) define existing service needs of children in the state;

11 (2) identify the kinds of services needed by children and fam-  
12 ilies in the state to maintain a minimum standard of physical and mental  
13 health and safety;

14 (3) identify the current level of services available and gaps  
15 and overlaps of services;

16 (4) make recommendations to implement an effective, comprehen-  
17 sive, and coordinated services delivery system;

18 (5) identify

19 (A) procedures to reduce overlapping services and to fill  
20 gaps in service through shared service programs;

21 (B) methods to increase the effectiveness, participation,  
22 and communication among municipal, state, federal, private nonprofit,  
23 and private for profit funding sources in defining and funding the  
24 children's services delivery system; and

25 (C) state funding priorities for prevention and early  
26 intervention activities to meet the needs of children and families.

27 (b) In formulating the strategy, the commission shall seek advice and  
28 information from children's services providers with expertise in children's  
29 mental health, health care including prenatal care, adolescent drug and

1 alcohol treatment, education including early childhood education, nonprofit  
2 funding sources, child abuse and neglect, child care, dependency, delin-  
3 quency and the juvenile justice system, and family support systems.

4 (c) The commission shall submit to the governor and the legislature  
5 an initial strategy by January 1, 1990, and a final report containing the  
6 long-term children's services strategy and recommendations by January 1,  
7 1991.

8 \* Sec. 3. REVIEW OF LAWS. The commission shall review the laws of the  
9 state with regard to matters involving children and shall make a report of  
10 its findings and recommendations to the governor and the legislature by  
11 January 1, 1991.

12 \* Sec. 4. DUTIES OF THE COMMISSION. The commission shall

13 (1) meet with state officials and members of advisory committees  
14 to state agencies that are responsible for the expenditure of state or  
15 federal funds or for other matters on behalf of children;

16 (2) receive from state officials and members of advisory commit-  
17 tees to state agencies requests for review and recommendations by the  
18 commission on matters related to children;

19 (3) meet with representatives of the state court system concern-  
20 ing judicial involvement with children;

21 (4) receive from representatives of the state court system  
22 requests for review and recommendations by the commission on matters re-  
23 lated to children;

24 (5) meet with representatives of private providers of services  
25 to children, foster parents, and support groups to children;

26 (6) receive from individuals and providers of services to chil-  
27 dren requests for review and recommendations by the commission on matters  
28 related to children and the delivery of services to children;

29 (7) receive from members of the legislature requests for review

1 and recommendations by the commission on matters related to children;

2 (8) inform leaders of the business community, education communi-  
3 ty, and municipalities and the communications media of the nature and scope  
4 of problems faced by children, in order to encourage their support in  
5 improving the delivery of services to children and state budgeting pro-  
6 cesses and state policies concerning children;

7 (9) serve as liaison between government and private groups  
8 concerned with children; and

9 (10) coordinate its activities with those of the Alaska Women's  
10 Commission on matters of mutual concern.

11 \* Sec. 5. POWERS OF THE COMMISSION. The commission may

12 (1) utilize legal, technical, secretarial, and administrative  
13 services as may be provided by the governor and the legislative council;

14 (2) utilize voluntary and uncompensated services of private  
15 persons and organizations as may be made available to the commission;

16 (3) hold public hearings; and

17 (4) take other actions reasonably necessary to achieve the  
18 purposes of the commission.

19 \* Sec. 6. This Act is repealed December 31, 1991.

20 \* Sec. 7. This Act takes effect January 1, 1989.



Official Business

# Alaska State Legislature

## House

7

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

To: GICCY HB 501 Sub-Committee Members:

Senator Joe Josephson  
Rep. Virginia Collins (522-3100)  
Ms. Lare (563-1955)  
Judith Rich (344-7720)  
Dr. Peter Scales (279-0551)

From: Chris Clark (465-2828)

Re: GICCY comments on CSHB 501 (03/16/88 draft) --  
Establishing an Alaska Children's Commission

Date: March 21, 1988

---

Attached please find a summary of comments on HB 501 voiced at last week's GICCY meeting. I have included Carla and Peter's notes in the summary as well.

Also attached are CSHB 501 (03/16/88 draft) and the "Preliminary Draft" distributed at the meeting.

I shall request Legal Services to make some of the easier changes from the list, but thought it may be more efficient to first glean a consensus of changes from the five members of the subcommittee before issuing another committee substitute draft.

cc: Members of the House State Affairs Subcommittee on HB 501 -- Rep. Fran Ulmer, Rep. Lyman Hoffman, and Rep. Curt Menard

Carla Timpone, GICCY Program Coordinator

Page(s) 2, line(s) 29: after "cared," delete: [ADOLESCENT]

Page(s) 3, line(s) 2: expand "child abuse and neglect" to include "family and extra-family violence" (Barbara Miklos). (Would "domestic violence" suffice? See AS 18.66.900(3).)

(Carla Timpone's notes: expand "child abuse and neglect" so that it addresses kids who witness violence in their homes, kids who are abused by family members, kids who are sexually abused by family members and people outside the home.)

Barbara Miklos expressed three concerns:

1) the absence of a DPS member from the commission in light of the department's roles of training of officers who must respond to domestic matters, acting as cross cultural liaisons, and responding to domestic violence and assault.

2) Using stronger language in section 2 (strategy). See attached "Preliminary Draft."

3) Allow the commission to hire staff.

Page(s) 4, line(s) 11-18: Specify assigning an attorney from the Department of Law to the commission. Perhaps add language allowing for staff attorney (Diane Olsen).

Caren Robinson suggested defining staff and where it is located.

Summation of Peter Scales's concerns not mentioned above:

Page(s) 2, line(s) 4-5: Chair should appoint other commission officers as necessary.

Under Section 2 (Strategy), use the language from the "Preliminary Draft" being sure to keep item (5)(B).

Page(s) 3, line(s) 4-11: Delete. (Includes language requiring the submission to the legislature of an initial strategy and final report as well as Section 3, Review of Laws.)

Page(s) 3-4, line(s) 12-29; 1-10: Duties of Commission Section:

(1) is okay;

(2) - (7) is questionable as it implies setting up a legislative task force instead of a citizen-based commission;

(8) is okay in concept but shall require additional funding;

(9) is too vague;



APR 07 1988

8

April 6, 1988

The Honorable Virginia M. Collins  
House of Representatives  
P. O. Box V  
Juneau, Alaska 99811

Dear Representative Collins:

This is a letter of support from Sealaska Corporation for funding for the Governor's Interim Commission on Children and Youth Recommendations which represent a comprehensive, systematic approach to both prevent problems and provide treatment to children and youth in rural and urban Alaska and for the Senate Special Committee on Suicide Prevention Recommendations.

The Governor's Interim Commission on Children and Youth studied extensively the many and growing problems our children and youth face and gathered input from a variety of groups including the Alaska Federation of Natives Elders and Youth Conference. The Senate Suicide Report addresses the seriousness of suicide in Alaska and comes up with a number of recommendations solicited from professional health care providers, teachers, students, villagers, and urbanites.

We believe that because of the depth of study and the wide spread input received that the recommendations they set forth will work given adequate funding.

In addition, we recommend passage of CS for House Bill No. 501, "An Act establishing the Alaska Children's Commission; and providing for an effective date." The important work begun by the Interim Children's Commission needs to be continued.

Sincerely,

SEALASKA CORPORATION

Byron I. Mallott  
Chief Executive Officer



Official Business

# Alaska State Legislature

## House

COMMITTEE ON STATE AFFAIRS

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

TO: Representative Niilo Koponen, Co-Chair  
Representative Johnny Ellis, Co-Chair  
House Health, Education and Social Services Committee

FROM: Representative Fran Ulmer, Chair  
House State Affairs Committee

RE: CS HB 501 (SA) Fiscal Note

DATE: April 11, 1988

Today the House State Affairs Committee passed CS HB 501 (SA) from committee with a fiscal note prepared by Mike Greany, Director of Legislative Finance. This fiscal note was prepared by Mr. Greany at the request of Representative Collins and shows a fiscal impact of \$61,400 in FY 89 and \$122,700 in FY 90. Representative Collins requested that this fiscal note be prepared because she believed the fiscal note prepared by the Office of the Governor was inflated (\$106,900 in FY 89 and \$274,200 in FY 90).

In deference to the sponsor, and in the absence of any objections, the House State Affairs Committee agreed to pass along the fiscal note prepared by Legislative Finance. Immediately after the meeting, I received the attached memo from Michael Nizich of the Governor's Office to Chris Clark, aide to Representative Collins. In light of this memo which explains the higher estimates, I am requesting the HESS Committee to give further consideration to the fiscal note prepared by the Office of the Governor.

CC: Carla Timpone



of the commission," and it is expected that such assistance will continue to be required; however, the Office of the Governor feels strongly that staffing at the level requested in the fiscal note is essential if the ACC is to have adequate resources to fulfil its charge.

With regard to other expenditures, you state that the FY 89 estimate of 106.9 exceeds FY 88 GICCY expenditures by "\$18,000." For your information, total expenditures to date for GICCY are \$119,222. Projected expenditures for the remainder of the fiscal year are \$37,000, for a total of \$156,222.

When comparing GICCY expenditures to those proposed for the ACC it is very important to remember that the GICCY has received a great deal of assistance from its member agencies and from the Office of the Governor. For example: office space and equipment have been provided free of charge; telephone, copier, and postage costs have largely been absorbed by other agencies; publication of one report and two newsletters was paid for entirely by the Legislature (approximately \$25,000); participating departments and agencies have absorbed their own travel costs; the contract for editing the report was paid for through a grant to the Department of Education (\$5,000); funding for speakers on child care issues was provided for by the National Legislative Council. It is not reasonable to assume that other agencies can continue to subsidize the work of the GICCY or of the ACC at this level.

The travel estimate for a full year of operation for the ACC is 42.6. FY 88 travel expenditures for the GICCY to date are \$50,216, with nearly three months remaining in the fiscal year. The GICCY plans to hold one more meeting prior to June 30, 1988. Based on this expenditure rate, I believe that the fiscal note amount is realistic given that the ACC will have four less public members than the GICCY.

The fiscal note includes funding in the contractual line for office space, postage, copier fees, communications, advertising, printing, and repair. As is noted above, the GICCY has received extensive support from its member agencies in these areas and has not had to rent office space. The figure in the note is for full funding for contractual services for the ACC including office space, and is realistic in light of actual expenditures by the GICCY and similar sized agencies.

Equipment funds have been requested for office equipment and furniture for ACC staff. Again, such purchases have not been required for the GICCY because equipment and furniture has been donated by other agencies on a short-term basis. It is not realistic to anticipate that such generosity can continue throughout the life of the ACC.

Chris Clark

-3-

April 11, 1988

I appreciate your concerns regarding the level of funding in the fiscal note; however, based on known GICCY expenditures and the requirements of the bill, it would not be prudent for me to reduce the request.

Attachments

cc: Bob Evans  
Sheila Gottehrer  
Caren Robinson  
Carla Timpone



Official Business

# Alaska State Legislature

## House



P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

To: Rep. Fran Ulmer, Chair  
House State Affairs Committee

From: Chris Clark, Rep. Collins (465-2828)

Re: Fiscal Note for CSHB 501 ("An Act establishing the  
Alaska Children's Commission; and providing for an  
effective date.")

Date: April 8, 1988

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I have asked the Governor's Office to revise the fiscal note it drafted for CSHB 501. Furthermore, I have requested Legislative Finance to draft a fiscal note of the bill.

Enclosed please find a copy of CSHB 501, the fiscal note the Governor's Office provided based on it, a copy of the actual expenditures for the Governor's Interim Commission on Children and Youth (GICCY), a copy of my memo to Mike Nizich protesting his fiscal note, and a copy of my request to Legislative Finance to draft a fiscal note.

Thanks again for scheduling the bill for Monday, April 11.



Official Business

# Alaska State Legislature

## House

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

To: Michael Nizich, Director  
Division of Administrative Services  
Office of the Governor

From: Chris Clark, Rep. Collins (465-2828)

Re: April 1 Fiscal note for CSHB 501 (copy enclosed)

Date: April 7, 1988

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Thank you for sending us a copy of the fiscal note for CSHB 501 ("An Act establishing the Alaska Children's Commission...").

The fiscal estimates you provided, however, are far too high. No where does the bill mention, for example, that the commission would appoint an executive director (Range 24) as you have included in the fiscal note. The Governor's Interim Commission on Children and Youth (GICCY) has been ably managed without an executive director, and we feel that the same level of administration could successfully be extended to the smaller Alaska Children's Commission.

Your estimates for the five-month costs for FY 89 alone exceed by \$18,000 the ten-month costs of GICCY for FY 88. This, we feel, is unreasonable. Although the proposed Alaska Children's Commission only has seven public members and GICCY has eleven public members, you have more than doubled the costs of travel. Your current estimates for the other categories are also too high.

Please revise the fiscal note for CSHB 501. Please base your personal services estimates on a Program Coordinator (Range 18) and an Administrative Assistant (Range 16). Please reduce the other costs in your April 1 fiscal note to reflect similar costs now facing GICCY.

The House State Affairs Committee has scheduled a hearing of CSHB 501 at 3:00, Monday, April 11. Please prepare the new fiscal note by then.

cc: House State Affairs Committee  
Legislative Finance

Fiscal Year 88 Expenditures for  
The Governor's Interim Commission on Children and Youth  
(as of April 7, 1988)

Personal Services (1 Program Coordinator, Range 18; 1 Administrative Assistant, Range 16)	\$51,928.09
Travel	19,634.52
Contractual	16,384.29
Equipment	124.35
<u>Supplies</u>	<u>570.41</u>
Total	\$88,641.66

At this rate, a projected total of \$103,415.27 would be expended by the end of this fiscal year.



Official Business

# Alaska State Legislature

## House

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

To: To Mike Greany, the Indefatigable Director  
Legislative Finance Division

From: Chris Clark, Rep. Collins (465-2828)

Re: Fiscal Note for CSHB 501 ("An Act establishing the  
Alaska Children's Commission; and providing for an  
effective date.")

Date: April 8, 1988

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Enclosed please find a copy of CSHB 501, the fiscal note the Governor's Office provided based on it, a copy of the actual expenditures for the Governor's Interim Commission on Children and Youth (GICCY), and a copy of my memo to Mike Nizich protesting his fiscal note.

I have asked Mike to revise his fiscal note, but I would appreciate it if you could prepare one as well. The House State Affairs Committee has scheduled CSHB 501 for 3:00 p.m., Monday, April 11. I apologize for the short notice, but we did not receive a copy of the fiscal note until the day before yesterday.

I think a quick perusal of my memo to Mike, his fiscal note, and the actual costs of GICCY of which the smaller Alaska Children's Commission is no more than an extension should provide you with adequate information to draft a more reasonable fiscal note.

Thank you in advance for your attention to this. Again, I apologize for the short notice.

cc: House State Affairs Committee