

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7360 SENATE COMMUNITY & REGIONAL AFFAIRS

Senator Drue Pearce - Page 3

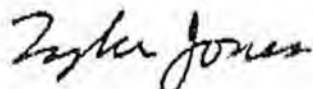
taxing power has been seen as a fatal flaw. In the case of these bills, however, a compromise has been struck. The ability to sell bonds provides the port revenues to develop economically self-supporting projects. Absent sufficient revenues from port operations, however, an authority will need other funding support. The authority can gain that support by increasing revenues, by implementing efficiencies, or by soliciting funds for operations from the local government. In other words, to enjoy the power of taxation the authority need only go to its local government and be persuasive. The port has two options: be self-sustaining or seek support from local taxes. It doesn't require advanced degrees in rocket science to anticipate that only those localities which have strong evidence that their proposed port authorities are going to be self-supporting will create authorities under this legislation. The balance of the ports will retain control at the local government level.

In summary, the legislation has immediate value for mature port organizations seeking independence. It also offers a project-related funding mechanism and a vehicle for cooperation between two or more ports. While benefiting from these new powers, the ports formed under the proposed authority legislation will also be called on to exhibit considerable financial and political maturity. The legislation also serves as a model which some of the faster growing ports, like the Port of Dutch Harbor, can aspire to. The powers that the proposed legislation would extend to local authorities will inspire many port promoters in Alaska's coastal communities to sharpen their pencils and perhaps to dream a little. The responsibilities, however, are quite sobering and will likely derail more than a few ill-conceived schemes.

Thank you for the opportunity to provide comments on this well thought out bill. If it becomes law it will serve as an effective new instrument to aid in port development and management.

Please contact me if there are any questions concerning these comments. A similar letter is being transmitted to Rep. Larry Baker concerning HB 399.

Sincerely,



Tyler Jones

Post-It™ brand fax transmittal memo 7671		# of pages >	3
To	KEN ERICKSON		
From	TYLER JONES		
Cc.	Sen. Pearce's Office		
Co.	Port of Dutch Harbor		
Dept.			
Phone #	274-9559		
Fax #	463-5352		
Fax #	276-8967		

**A Resolution of the Alaska Municipal League Board of Directors**

**Board Resolution No. 92-1**

**A RESOLUTION URGING THE PASSAGE OF LEGISLATION  
TO ALLOW FOR LOCAL AND REGIONAL PORT AUTHORITY**

WHEREAS, the people of Alaska find themselves with many opportunities in maritime and aviation commerce, international trade, tourism, fisheries, oil and mineral development, timber development, transportation, and other industries in Alaska;

WHEREAS, ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska;

WHEREAS, the future development of ports in Alaska will require the expenditure of large sums of money and the close cooperation of the State of Alaska, its regions, and political subdivisions in the encouragement of the investment of capital and the formulation and execution of the necessary physical plans;

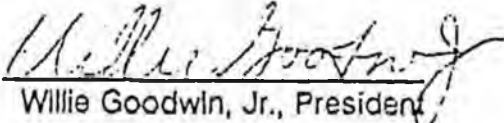
WHEREAS, it is confidently believe that a better coordination of ports, harbors, transportation, and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefiting the people of Alaska;

WHEREAS, the foregoing are best accomplished through the enactment of legislation expressly authorizing the formation of local or regional port authorities, defining the purposes, jurisdictions, powers, and duties for such authorities, and authorizing the issuance of self-liquidating revenue bonds by them to finance acquiring, constructing, equipping, maintaining and operating of their ports;


WHEREAS, the foregoing can best be accomplished through the cooperation of one or more of the regions and communities in Alaska by and through one or more joint and common port authorities;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska legislature to proceed with all due speed to enact legislation expressly to allow and to provide for the structure for the formation of local and regional port authorities within Alaska and that once enacted, the legislation be signed into law by the Governor of the State of Alaska.

Adopted this 16th day of November 1991.

  
Willie Goodwin, Jr., President

Attest:

  
Scott A. Burgess, Executive Director

# Alaska Association of Harbormasters & Port Administrators, Inc.

334 Front Street  
Ketchikan, Alaska 99901

November 12, 1991

Jerome Selby, President  
Alaska Municipal League

Post-It™ brand fax transmittal memo 7671		# of pages >	
To	RICH WILSON	From	DOUG ENSLEY
Co.	Rich Hill Corp	Co.	CITY OF KTAI
Dept.	2171	Phone #	228-5632
Fax #	561-4674	Fax #	225-5075

Dear Mr. Selby:

The Alaska Association of Harbormasters and Port Administrators recently held its annual conference in Kenai, Alaska. One of the presentations and items of discussion was the Department of Transportation and Public Facilities Ports and Harbors Task Force proposal: Sustaining and Developing Alaska's Ports and Harbors.

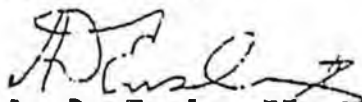
Our Association supports the proposal and the essential program elements outlined in the report. The three components: Development Plan, Financial Foundation, and Cooperation must be supported to enhance our facilities and local economies.

The Alaska Association of Harbormasters and Port Administrators feels very strongly that a Financial Foundation must be established as the first step in implementing the proposal. Our Association also feels that harbor maintenance which the State has deferred can be deferred no longer. To that end we request the State appropriate sixty million dollars to perform deferred maintenance of existing facilities, provide matching funds for U. S. Army Corps of Engineers projects, and fund new harbor development.

Please convey our position to your members as you discuss the State-wide Proposal. We are aware that funds are limited and other programs may have a higher priority. We are the operators of facilities that are twenty to forty years old; facilities that are the property of the citizens of our State; facilities that are of great importance to our/your local economy.

Please support us in our efforts.

Sincerely,



A. D. Ensley II, President  
Alaska Association of Harbormasters  
and Port Administrators

President: R. B. Stiles  
1227 West 9th Ave, Suite 201  
Anchorage, Alaska 99501  
Tel. (907) 276-6868  
Fax. (907) 276-2395



## Alaska Coal Association

Secretary: Charles P. Boddy  
122 First Avenue, Suite 302  
Fairbanks, Alaska 99701  
Tel. (907) 452-2625  
Fax. (907) 451-6543

Senator Drue Pearce

Subject: Port Authority Legislation

Dear Senator Pearce,

Attached please find a resolution in support of the enactment of legislation enabling the establishment of local and regional Port Authorities. This resolution was passed by the Alaska Coal Association at our annual meeting in November of 1991.

We believe that the establishment of local and, more importantly, regional Port Authorities is essential to the health and growth of the coal industry in the State of Alaska.

While Alaska is rich in natural resources, in state markets for coal, timber and minerals are small to non-existent. In state sources of capital needed to develop these resources are equally small. Thus, developers and producers of Alaska's natural resources must pursue external markets and sources of capital. A critical concern of both customer and capital markets is the inadequate transportation and port infrastructure of Alaska.

Development of transportation systems and port facilities is, for the most part, a function and responsibility of the public sector. While transportation systems are developed largely in response to a general public need, ports are developed in response to more specific needs. Development of ports in Alaska is, at best, a uncoordinated and marginally effective effort of various public and private sector entities. We believe that legislation enabling the establishment of Port Authorities has the potential for significantly increasing the effectiveness of port development.

Given that, in many circumstances, an area served by a port would encompass multiple local political subdivisions it is essential that legislation enabling the establishment of Port Authorities allow for both local and regional authorities.

Development of adequate transportation and port infrastructure is a long term and evolving process. We believe that legislation such as SB 352 is essential to this long term process. Such legislation sends a clear message to both customer and capital markets that Alaska is not only committed to fostering the development of its natural resources; but is equally committed to the development of the transportation and port infrastructure systems needed to get these resources to market.

President: R. B. Stiles  
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## Alaska Coal Association

### RESOLUTION

WHEREAS, the people of Alaska find themselves with many opportunities in maritime and aviation commerce, international trade, tourism, fisheries, oil and mineral development, timber development, transportation, and other industries in Alaska;

WHEREAS, ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska;

WHEREAS, the future development of ports in Alaska will require the expenditure of large sums of money and the close cooperation of the State of Alaska, its regions, and political subdivisions in the encouragement of the investment of capital and the formulation and execution of the necessary physical plans;

WHEREAS, it is confidently believed that a better coordination of ports, harbors, transportation and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefiting the people of Alaska;

WHEREAS, the foregoing are best accomplished through the enactment of legislation expressly authorizing the formation of local or regional port authorities, defining the purposes, jurisdictions, powers, and duties of such authorities, and authorizing the issuance of self-liquidating revenue bonds by them to finance acquiring, constructing, equipping, maintaining and operating of their ports;

WHEREAS, The foregoing can best be accomplished through the cooperation of one or more regions and communities in Alaska by and through one or more joint and common port authorities;

NOW THEREFORE BE IT RESOLVED, that the undersigned urges the Alaska legislature to proceed with all due speed to enact legislation expressly to allow and to provide the structure for the formation of local and regional port authorities within Alaska and that once enacted, the legislation be signed into law by the governor of the State of Alaska.

Passed by the members of the Alaska Coal Association on November 6, 1991.

Differences between (S)Tran CS and CS presented to (S)C&RA.

The section labeled "Conveyance of other land to Port Authority" was deleted from the Senate Transportation version: pg. 3, line 15-18. The functions contained in this section were added to section 6 of the "Powers" section in the new CS; pg. 3, line 27-30. This eliminated some duplication. The rewording of this section also addresses the intent of argument number 4 of Julius Brecht's written testimony.

Added the words "and declaration of taking" to pg. 4, line 13 after the word domain of the new CS. This addresses a wish from AML for more clarity in this section.

Added a section to the new CS that limits personal liability of a board member or employee because of the execution or issuance of bonds, new CS pg. 7, line 16-18. This was added at the request of Representative Baker.

Added the words "and special assessments" on page 7, line 30 after the word taxes in the new CS. This was added at the request of Julius Brecht.

Changes to the development plan section mandate the submittal of a development plan to the governing body and prohibit the construction or acquisition of a "project" unless approved by the governing body. See page 8, line 13-19. Project is later defined in the bill to include a "...port, dock, and administrative facilities, including property necessary in connection with the operation of a port." This was requested by Senator Pearce.

The bylaws and regulations section, Sec. 29.35.690, of the new CS was rewritten to a shorter form while maintaining the same intent (New CS page 9, line 14-15 versus Trans CS page 9, line 13-16). This was requested by AML.

The public disclosure of information section of the trans CS (page 9, line 31 through page 10, lines 1-7) was replaced with a new section saying that an authority is subject to public records laws (page 9, line 30-31). This is an effort to simplify the bill and to also address a concern of AML.

The claims section in the new CS (page 10, line 20-22) was rewritten to a shorter form while retaining the same intent. This was requested by AML.

7-LS1768P  
Luckhaupt  
4/21/92

CS FOR SENATE BILL NO. 352 ( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS PEARCE, Collins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the establishment of port authorities by municipalities; relating to  
2 public corporations of a municipality; and providing for an effective date."

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

4 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. (a) The legislature finds that

5 (1) the development of ports for waterborne and other commerce is vital to attainment  
6 of an efficient and effective transportation network in the state;

7 (2) the development of ports is vital to the economic well-being of the state and of the  
8 future development of industry in the state;

9 (3) article X, sec. 13, Constitution of the State of Alaska, authorizes municipalities to  
10 make agreements for cooperative or joint administration of functions or powers and, under that authority,  
11 two or more municipalities may by agreement establish an authority;

12 (4) bond holders are not familiar with the state constitution and the authority granted to  
13 municipalities under the state constitution;

14 (5) it is in the interest of the state to provide port authorities with the power to issue

1 revenue bonds when permitted by a municipality in a port authority enabling ordinance.

2 (b) It is the policy of the state and, in the interest of promoting the health, security, and general  
3 welfare of all of the people of the state, a public purpose to provide a means for establishing a more  
4 efficient transportation system and to encourage economic growth in the state, including the development  
5 of its natural resources, by making it clear that municipalities are authorized to create municipal port  
6 authorities with the power to acquire, construct, and operate ports for waterborne and other commerce  
7 and to borrow money for the same.

8 \* Sec. 2. AS 29.35 is amended by adding new sections to read:

9 ARTICLE 9. PORT AUTHORITIES.

10 Sec. 29.35.600. PURPOSE OF AUTHORITIES. The purpose of a port authority is to  
11 provide for the development of a port or ports for waterborne and other commerce within the  
12 territory of the authority.

13 Sec. 29.35.605. ESTABLISHMENT OF PORT AUTHORITIES. (a) A port authority  
14 may be created by one of the following means:

15 (1) the governing body of a municipality may create by ordinance a port authority  
16 as a public corporation of the municipality;

17 (2) the governing bodies of two or more municipalities may create by parallel  
18 ordinances adopted by each of the governing bodies a port authority as a public corporation of  
19 the municipalities.

20 (b) One or more municipalities may join an authority established under (a)(1) or (2) of  
21 this section upon the adoption of parallel ordinances by the governing bodies of each affected  
22 municipality.

23 (c) A port authority created under this section is a body corporate and politic and an  
24 instrumentality of the municipality or municipalities creating it but having a separate and  
25 independent legal existence.

26 (d) Creation of a port authority under AS 29.35.600<sup>\*</sup> - 29.35.730 is an exercise of a  
27 municipality's transportation system powers.

28 (e) The enabling ordinance by which a port authority is established must specify the  
29 powers, boundaries, and limitations of the port authority.

30 (f) An ordinance creating a port authority may require approval by the voters of the  
31 municipality or municipalities participating in the authority in order for the authority to be

1 established.

2 Sec. 29.35.610. DISSOLUTION OF A PORT AUTHORITY. (a) The enabling  
3 ordinance by which a port authority is created must provide for the manner by which a port  
4 authority may be dissolved.

5 (b) If an authority ceases to exist, its assets shall be distributed to the municipalities that  
6 participated in the authority in proportion to the difference between their contributions to the  
7 authority and any outstanding debt or obligation of that municipality to the authority, provided  
8 that any obligation to bondholders then outstanding shall first be satisfied in full.

9 Sec. 29.35.615. MUNICIPAL PROPERTY. (a) A municipality may transfer and  
10 otherwise convey or lease real property, and any improvements to it, to an authority for use by  
11 the authority for the purposes set out in the ordinance adopted under AS 29.35.605.

12 (b) A municipality may transfer and otherwise assign or lease personal property to an  
13 authority for use by the authority for the purposes set out in the ordinance adopted under  
14 AS 29.35.605.

15 Sec. 29.35.620. POWERS. If provided in the enabling ordinance, an authority may

16 (1) sue and be sued;

17 (2) have a seal and alter it at pleasure;

18 (3) acquire an interest in a project as necessary or appropriate to provide financing  
19 for the project, whether by purchase, gift, or lease;

20 (4) lease to others a project acquired by it and upon the terms and conditions the  
21 authority may consider advisable, including, without limitation, provisions for purchase or  
22 renewal;

23 (5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber  
24 in any manner by mortgage or by creation of another security interest, real or personal property  
25 owned by it, or in which it has an interest, including a project, when, in the judgment of the  
26 authority, the action is in furtherance of the authority's purposes;

27 (6) accept gifts, grants, or loans, under the terms and conditions imposed under  
28 the gift, grant, or loan, and enter into contracts, conveyances or other transactions with a federal  
29 agency or an agency or instrumentality of the state, a municipality, private organization, or other  
30 person;

31 (7) deposit or invest its funds, subject to agreements with bondholders;

- 1 (8) purchase or insure loans to finance the costs of projects;
- 2 (9) provide for security within the boundaries of the authority;
- 3 (10) enter into loan agreements with respect to one or more projects upon the
- 4 terms and conditions the authority considers advisable;
- 5 (11) acquire, manage, and operate projects as the authority considers necessary
- 6 or appropriate to serve the authority's purposes;
- 7 (12) assist private lenders to make loans to finance the costs of projects through
- 8 loan commitments, short-term financing, or otherwise;
- 9 (13) charge fees or other forms of remuneration for the use or possession of
- 10 projects in accordance with the agreements described in this section, other agreements relating
- 11 to the projects, covenants, or representations made in bond documents relating to the projects,
- 12 or regulations of the authority relating to the projects;
- 13 (14) exercise the powers of eminent domain and declaration of taking within its
- 14 physical boundaries under AS 29.35.030 to acquire land or materials for authority purposes;
- 15 (15) regulate land use within the boundaries of the authority;
- 16 (16) defend and indemnify a current or former member of the board, employee,
- 17 or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney
- 18 fees, incurred by or imposed upon that person in connection with civil or criminal action in
- 19 which the person is involved as a result of the person's affiliation with the authority if the person
- 20 acted in good faith on behalf of the authority and within the scope of the person's official duties
- 21 and powers;
- 22 (17) purchase insurance to protect and hold harmless its employees, agents, and
- 23 board members from an action, claim, or proceeding arising out of the performance, purported
- 24 performance, or failure to perform in good faith, of duties for, or employment with the authority
- 25 and to hold them harmless from expenses connected with the defense, settlement, or monetary
- 26 judgments from that action, claim, or proceeding; the purchase of insurance is subject to the
- 27 discretion of the board; insurance purchased under this paragraph may not be considered
- 28 compensation to the insured person; and
- 29 (18) protect its assets, services, and employees by purchasing insurance or
- 30 providing for certain self-insurance retentions; an authority may also maintain casualty, property,
- 31 business interruption, marine, boiler and machinery, pollution liability, and other insurance in

1 amounts reasonably calculated to cover potential claims against the authority or a municipality  
2 for bodily injury, death or disability, and property damage that may arise from or be related to  
3 authority operations and activities.

4 Sec. 29.35.625. BONDS OF A PORT AUTHORITY; SUPERIOR COURT  
5 JURISDICTION. (a) If authorized by the enabling ordinance, an authority may borrow money  
6 and may issue bonds on which the principal and interest are payable

7 (1) exclusively from the income and receipts of, or other money derived from,  
8 the project financed with the proceeds of the bonds;

9 (2) exclusively from the income and receipts of, or other money derived from,  
10 designated projects or other sources whether or not they are financed, insured, or guaranteed in  
11 whole or in part with the proceeds of the bonds; or

12 (3) from its income and receipts generally or a designated part or parts of them.

13 (b) All bonds may be sold at public or private sale in the manner, for the price or prices,  
14 and at the time or times that the authority may determine.

15 (c) Before issuing bonds, an authority shall provide for consideration by lease or  
16 agreement at least sufficient, in the judgment of the authority, to pay the principal and interest  
17 on the bonds as they become due and to create and maintain the reserves for the payment that  
18 the authority considers necessary or desirable and meet all obligations in connection with the  
19 lease or agreement and all costs necessary to service the bonds, unless the lease or agreement  
20 provides that the obligations are to be met or costs are to be paid by a party other than the  
21 authority.

22 (d) Bonds shall be authorized by resolution of the authority, be dated, and shall mature  
23 as the resolution may provide, except that a bond may not mature more than 40 years from the  
24 date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the  
25 form, either coupon or registered, carry the registration privileges, be executed in the manner, be  
26 payable in the medium of payment, at the place or places, and be subject to the terms of  
27 redemption that the resolution or a subsequent resolution may provide.

28 (e) All bonds issued under this section, regardless of form or character, are negotiable  
29 instruments for all of the purposes of AS 45.01 - AS 45.09 (Uniform Commercial Code).

30 (f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings  
31 relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise

1 enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or  
2 security of a holder of the authority's bonds or by a trustee for or other representative of the  
3 holders.

4 Sec. 29.35.630. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued under  
5 AS 29.35.625 are securities in which all public officers and public bodies of the state and its  
6 political subdivisions, all insurance companies, trust companies, banks, investment companies,  
7 executors, administrators, trustees, and other fiduciaries may properly and legally invest funds,  
8 including capital in their control or belonging to them. The bonds may be deposited with a state  
9 or municipal officer of an agency or political subdivision of the state for any purpose that the  
10 deposit of bonds of the state is authorized by law.

11 Sec. 29.35.635. VALIDITY OF PLEDGE. The pledge of revenue of an authority to the  
12 payment of the principal or interest on bonds or notes of the authority is valid and binding from  
13 the time the pledge is made, and the revenue is immediately subject to the lien of the pledge  
14 without physical delivery or further act. The lien of a pledge is valid and binding against all  
15 parties having claims of any kind against the authority irrespective of whether those parties have  
16 notice of the lien of the pledge.

17 Sec. 29.35.640. CREDIT OF STATE OR A MUNICIPALITY NOT PLEDGED. (a) The  
18 state and municipalities participating in an authority are not liable for the debts of that authority.  
19 Bonds issued under AS 29.35.625 are payable solely from the revenue of the authority and do  
20 not constitute a

21 (1) debt, liability, or obligation of the state or a municipality; or

22 (2) pledge of the faith and credit of the state or a municipality.

23 (b) An authority may not pledge the credit or the taxing power of the state or its  
24 municipalities. A bond issued under AS 29.35.625 must contain on its face a statement that

25 (1) the authority is not obligated to pay it or the interest on it except from the  
26 revenue pledged for it; and

27 (2) the faith and credit of the taxing power of the state or of a political  
28 subdivision of the state is not pledged to the payment of it.

29 Sec. 29.35.645. PLEDGES OF THE STATE AND MUNICIPALITIES. The state and  
30 municipalities participating in the authority pledge to and agree with the holders of bonds issued  
31 under AS 29.35.625 and with the federal agency, if any, that loans or contributes funds in respect

1 to a project of the authority, that the state and the municipalities participating in the authority will  
2 not limit or alter the rights and powers vested in the authority by its enabling ordinance or other  
3 law so that it is unable to fulfill the terms of a contract made by the authority with those holders  
4 or that federal agency, or in any way impair the rights and remedies of those holders or that  
5 federal agency until the bonds, together with the interest on them and interest on unpaid  
6 installments of interest, and all costs and expenses in connection with an action or proceeding  
7 by or on behalf of those holders or that federal agency, are fully met and discharged. An  
8 authority is authorized to include this pledge and agreement of the state and the municipalities  
9 participating in the authority, insofar as it refers to holders of bonds of the authority, in a contract  
10 with those holders, and insofar as it relates to a federal agency, in a contract with that federal  
11 agency.

12 Sec. 29.35.650. LIMITATION OF LIABILITY. A liability incurred by an authority shall  
13 be satisfied exclusively from the assets or revenue of the authority. A creditor or other person  
14 does not have a right of action against the state or a municipality participating in an authority  
15 because of a debt, obligation, or liability of an authority.

16 Sec. 29.35.655. LIMITATION ON PERSONAL LIABILITY. A board member or  
17 employee of an authority is not subject to personal liability or accountability because of the  
18 execution or issuance of bonds.

19 Sec. 29.35.660. FIDELITY BOND. An authority shall obtain a fidelity bond in an  
20 amount determined by the board for board members and each executive officer responsible for  
21 accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure  
22 in office of the bonded person.

23 Sec. 29.35.665. NO TAXING AUTHORITY. An authority may not levy an income or  
24 other tax.

25 Sec. 29.35.670. EXEMPTION FROM TAXATION. (a) An authority exercising the  
26 powers granted by the enabling ordinance under AS 29.35.600 - 29.35.730 is in all respects for  
27 the benefit of the people of the municipalities participating in the authority and the people of the  
28 state in general, for their well-being and prosperity, and for the improvement of their social and  
29 economic condition. The real and personal property of an authority and its assets, income, and  
30 receipts are exempt from all taxes and special assessments of the state or a political subdivision  
31 of the state.

1 (b) Bonds issued by the authority under AS 29.35.625 are issued for an essential public  
2 and governmental purpose; therefore, the bonds, interest and income from them, and all fees,  
3 charges, funds, revenue, income, and other money pledged or available to pay or secure the  
4 payment of the bonds or interest on them are exempt from taxation except for inheritance,  
5 transfer, and estate taxes.

6 (c) Notwithstanding the provisions of (a) of this section, an authority and the  
7 municipalities participating in the authority may enter into agreements under which the authority  
8 agrees to pay the participating municipalities payments in lieu of taxes on real and personal  
9 property of the authority that is within the taxing jurisdiction of the municipality.

10 (d) Nothing in this section creates a tax exemption with respect to the interests of a  
11 business enterprise or other person, other than the authority, in property, assets, income, or  
12 receipts, whether or not financed under AS 29.35.600 - 29.35.730.

13 Sec. 29.35.675. DEVELOPMENT PLAN: In the enabling ordinance establishing the  
14 authority under AS 29.35.605 the authority shall be

15 (1) required to submit a development plan to the governing body of the  
16 municipality or municipalities participating in the authority; and

17 (2) prohibited from undertaking the construction or acquisition of a project unless  
18 the project appears in a development plan submitted to and approved by the governing body of  
19 the municipality or municipalities participating in the authority.

20 Sec. 29.35.680. ADMINISTRATION OF PORT AUTHORITIES; BOARD. (a) An  
21 authority shall be governed by a board of directors, which shall exercise the powers of the  
22 authority. The enabling ordinance establishing the authority under AS 29.35.605 must specify  
23 the number, qualifications, manner of appointment or election, and terms of members of the  
24 board.

25 (b) The board shall appoint a chief executive officer of the authority who serves at the  
26 pleasure of the board. The board shall fix the compensation of the chief executive officer.

27 Sec. 29.35.685. CONTINUATION OF COLLECTIVE BARGAINING AGREEMENTS;  
28 APPLICATION OF AS 23.40.070 - 23.40.260. (a) A collective bargaining agreement for  
29 employees of the state or its political subdivisions who are transferred to an authority under  
30 AS 29.35.600 - 29.35.730 shall remain in effect for the term of the agreement or for a period of  
31 one year, whichever is longer, and shall be binding on the authority unless the parties agree to

1 the contrary before the expiration of the agreement. A labor-management negotiation impasse  
2 declared after a transfer of employees under this subsection but before the negotiation of a new  
3 collective bargaining agreement shall be resolved as provided in the collective bargaining  
4 agreement, except that if the collective bargaining agreement does not provide for a resolution,  
5 then as provided in AS 23.40.070 - 23.40.260.

6 (b) Employees of the state or a political subdivision of the state transferred to an  
7 authority shall retain, for a period of one year following the date of transfer or for the duration  
8 of a collective bargaining agreement transferred under (a) of this section, whichever is greater,  
9 all rights of participation in fringe benefit programs available to the employees on the day before  
10 the transfer, or in programs substantially equivalent.

11 (c) AS 23.40.070 - 23.40.260 apply to employees of an authority established under  
12 AS 29.35.500 - 29.35.730 unless all municipalities participating in the authority are exempt under  
13 sec. 4, ch. 113, SLA 1972.

14 Sec. 29.35.690. BYLAWS AND REGULATIONS. (a) A board shall adopt bylaws and  
15 appropriate regulations to carry out its functions and the purposes of the enabling ordinance.

16 (b) A board shall adopt bylaws as soon after the establishment of the authority as  
17 possible and may from time to time, amend those bylaws. The bylaws may contain any  
18 provision not in conflict with law for the management of the business of the authority and for  
19 the conduct of the affairs of the authority, including

20 (1) the time, place, and manner of calling, conducting, and giving notice of  
21 meetings of the board and committees of the board, if any;

22 (2) the compensation of directors, if any;

23 (3) the appointment and authority of committees of the board, if any;

24 (4) the appointment, duties, compensation, and tenure of officers, directors, chief  
25 executive officer, and other employees, if any;

26 (5) procedures for adopting regulations;

27 (6) procedures for adopting bylaws;

28 (7) procedures for making annual reports and financial statements; and

29 (8) other matters for the conduct of business by the board.

30 Sec. 29.35.695. AUTHORITY SUBJECT TO PUBLIC RECORDS LAW. An authority  
31 established under AS 29.35.605 is subject to AS 09.25.110 - 09.25.220.

1           Sec. 29.35.700. ANNUAL REPORT. Within 90 days following the end of the fiscal year  
2 of an authority, the board shall distribute to the mayor and governing body of each municipality  
3 participating in the authority a report describing the operations and financial condition of the  
4 authority during the preceding fiscal year. The report may include suggestions for legislation  
5 relating to the structure, powers, or duties of the authority or operation of facilities of the  
6 authority. The report must itemize the cost of providing each category of service offered by the  
7 authority and the income generated by each category.

8           Sec. 29.35.705. AUDITS. (a) The board shall have the financial records of an authority  
9 audited annually by an independent certified public accountant.

10           (b) An authority shall make all of its financial records available to an auditor appointed  
11 by a municipality participating in the authority for examination.

12           Sec. 29.35.710. REMEDIES. A holder of bonds or notes or coupons attached to the  
13 bonds issued by an authority under AS 29.35.625, and a trustee under a trust agreement or  
14 resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or  
15 resolution, either at law or in equity, may

16           (1) enforce all rights granted under AS 29.35.600 - 29.35.730, the trust agreement  
17 or resolution, or another contract executed by the authority; and

18           (2) compel the performance of all duties of the authority required by  
19 AS 29.35.600 - 29.35.730 or the trust agreement or resolution.

20           Sec. 29.35.715. CLAIMS. For the purpose of judicial and regulatory proceedings by and  
21 against an authority, an authority and its board members and employees enjoy the same rights,  
22 privileges, and immunities as a municipality and municipal officers.

23           Sec. 29.35.720. CONFLICTING LAWS INAPPLICABLE. If provisions of  
24 AS 29.35.600 - 29.35.730 conflict with other provisions of this title, the provisions of  
25 AS 29.35.600 - 29.35.730 prevail.

26           Sec. 29.35.725. DEFINITIONS. In AS 29.35.600 - 29.35.730, unless the context  
27 otherwise requires,

28           (1) "authority" means a port authority established under AS 29.35.605;

29           (2) "board" means the board of directors of an authority;

30           (3) "bonds" includes bonds, bond anticipation notes, notes, refunding bonds, or  
31 other forms of indebtedness of the authority;

1 (4) "bylaws" or "bylaws of the authority" means the guidelines adopted by and  
2 amended by the board from time to time in accordance with AS 29.35.600 - 29.35.730;

3 (5) "port" means a facility of commerce located within the state;

4 (6) "project" means a port, dock, and administrative facilities, including property  
5 necessary in connection with the operation of a port;

6 (7) "project cost" or "cost of a project" means all or any part of the aggregate  
7 costs determined by an authority to be necessary to finance the construction or acquisition of a  
8 project, including without limitation to the cost of acquiring real property, the cost of constructing  
9 buildings and improvements, the cost of financing the project, including, without limitation,  
10 interest charges before, during, or after construction or acquisition of the project, costs related  
11 to the determination of the feasibility, planning, design, or engineering of the project and, to the  
12 extent determined necessary by the authority, administrative expenses, the cost of machinery or  
13 equipment to be used in the operation or rehabilitation of a port, and all other costs, charges,  
14 fees, and expenses that may be determined by the authority to be necessary to finance the  
15 construction or acquisition;

16 (8) "real property" or "land" means any interest in real property, including tidal  
17 and submerged land, and any right appurtenant to the interest, and without limitation, interests  
18 less than full title such as easements, uses, leases, and licenses;

19 (9) "regulation" means a standard of general application or the amendment,  
20 supplement, revision, or repeal of a standard adopted by an authority to implement, interpret, or  
21 make specific the law enforced or administered by it or to govern its procedure.

22 Sec. 29.35.730. SHORT TITLE. AS 29.35.600 - 29.35.730 may be referred to as the  
23 Municipal Port Authority Act.

24 \* Sec. 3. AS 21.76.010(a) is amended to read:

25 (a) Municipalities and their public corporations, city and borough school  
26 districts, and regional educational attendance areas may enter into cooperative agreements with  
27 each other for the purpose of establishing, operating, or participating in joint insurance  
28 arrangements through which the participating members agree to pool contributions in order to  
29 either assume risks from losses to the participants on a group basis or purchase coverage for the  
30 participants on a group basis.

31 \* Sec. 4. AS 29.45.030(a) is amended to read:

1 (a) The following property is exempt from general taxation:

2 (1) municipal property, including property held by a public  
3 corporation of a municipality, or state property, except that

4 (A) a private leasehold, contract, or other interest in the property is taxable  
5 to the extent of the interest;

6 (B) notwithstanding any other provision of law, property acquired by an  
7 agency, corporation, or other entity of the state through foreclosure or deed in lieu of  
8 foreclosure and retained as an investment of a state entity is taxable; this subparagraph  
9 does not apply to federal land granted to the University of Alaska under AS 14.40.380  
10 or 14.40.390, or to other land granted to the university by the state to replace land that  
11 had been granted under AS 14.40.380 or 14.40.390;

12 (C) an ownership interest of a municipality in real property located outside  
13 the municipality acquired after December 31, 1990, is taxable by another municipality;  
14 however, a borough may not tax an interest in real property located in the borough and  
15 owned by a city in that borough;

16 (2) household furniture and personal effects of members of a household;

17 (3) property used exclusively for nonprofit religious, charitable, cemetery,  
18 hospital, or educational purposes;

19 (4) property of a nonbusiness organization composed entirely of persons with 90  
20 days or more of active service in the armed forces of the United States whose conditions of  
21 service and separation were other than dishonorable, or the property of an auxiliary of that  
22 organization;

23 (5) money on deposit;

24 (6) the real property of certain residents of the state to the extent and subject to  
25 the conditions provided in (e) of this section;

26 (7) real property or an interest in real property that is exempt from taxation under  
27 43 U.S.C. 1620(d), as amended; \*

28 (8) property of a political subdivision, agency, corporation, or other entity of the  
29 United States to the extent required by federal law; except that a private leasehold, contract, or  
30 other interest in the property is taxable to the extent of that interest.

31 \* Sec. 5. AS 38.05.810 is amended by adding a new subsection to read:

1 (i) Subject to AS 38.05.820, the commissioner shall lease state land, including tideland,  
2 to a port authority established under AS 29.35.600 - 29.35.730, if the state land is within the  
3 physical boundaries of the authority and is needed by the authority for purposes provided in  
4 AS 29.35.600 - 29.35.730. A lease of state land under this section may be for less than the  
5 appraised market value.

6 \* Sec. 6. AS 44.85.410(3) is amended to read:

7 (3) "municipal bond" means a bond or note or evidence of debt that constitutes

8 (A) a general obligation bond that is a direct and general obligation of a  
9 political subdivision of the state, all the taxable property within which is subject to  
10 taxation to pay the bond, note or evidence of debt, and the interest without limitation, as  
11 to rate or amount generally to the extent permitted by law or to avoid a default as  
12 provided for second class cities under AS 29.45.590;

13 (B) a revenue bond, except a revenue bond for electrical generation  
14 purposes other than diesel-powered generation, issued by a municipality or a port  
15 authority that [WHICH] pledges the revenue of a revenue-producing capital  
16 improvement and that [WHICH] is payable solely from the revenue of the  
17 revenue-producing capital improvement;

18 (C) a general obligation bond or revenue bond combined or additionally  
19 secured;

20 (D) a bond of a borough issued as a general obligation of a service area  
21 under AS 29.47.440 or former AS 29.58.340; or

22 (E) an obligation of a municipality secured only by

23 (i) special assessments on benefited property;

24 (ii) tax increments and a letter of credit or equal security; or

25 (iii) a lease for equipment or building improvements if the state is

26 not a lessee;

27 \* Sec. 7. This act takes effect immediately under AS 01.10.070(c).

The following amendments will be offered by the Alaska Municipal League to CSSB 352( ) dated 4/21/92.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 352 ( ) DRAFT DATED 4/21/92

Page 2, line 14, following "by":

Insert ", but not limited to,"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 352 ( ) DRAFT DATED 4/21/92

Page 7, line 30:

Delete "and special assessments"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 352 ( ) DRAFT DATED 4/21/92

Page 9, line 15, following "regulations":

Insert "consistent with the enabling ordinance"

Page 9, line 15:

Delete "the purposes of the enabling ordinance"

Insert "purposes"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 352 ( ) DRAFT DATED 4/21/92

Page 11, line 20, following "to" through line 21:

Delete all material.

Insert "govern its operations consistent with the enabling ordinance."

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 352 ( ) DRAFT DATED 4/21/92

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

Insert "relating to municipal bonds and the Alaska Municipal Bond Bank Authority;"

Page 13, following line 26:

Insert a new subparagraph to read:

"(F) a bond of a borough issued as a general obligation of the area of the borough lying outside all cities under AS 29.47.440:"

# DIVISION OF LEGAL SERVICES

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FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

April 22, 1992

**SUBJECT:** Port Authorities - SB 352 (Work Order No. 17-LS1768\P)

**TO:** Senator Drue Pearce  
Attn: Ken Erickson

**FROM:** Jerry Luckhaupt *JLB*  
Legislative Counsel

Disregarding for the moment SB 352, you have asked if a municipality could create or participate in a port authority by a cooperative agreement or some other procedure other than by an ordinance? It is my opinion that a municipality could create or participate in a port authority by a cooperative agreement pursuant to AS 29.35.010(13). That section provides that a municipality may cooperate with another municipality, the state, or the federal government in the performance of any power or function that the municipality is authorized to perform. An ordinance approving the cooperative agreement or otherwise approving the municipality's participation in the agreement would not necessarily be required. If the cooperative agreement would "establish, alter, or abolish a municipal department" or could be construed to be undertaking an action for which an ordinance is required under AS 29.25.010(a), then an ordinance would be required in addition to the cooperative agreement.

SB 352 does not necessarily restrict municipalities to only forming a port authority as provided in the bill draft. For example, AS 29.35.605(a) in the bill draft, does not provide that a port authority may only be created by one of the following means. Therefore, general law municipalities probably are not restricted from forming a port authority in another manner. Further, the bill does not contain a provision that AS 29.35.600 - 29.35.725 is a limitation on the powers of a home rule municipality. Therefore, home rule municipalities are certainly not restricted from forming a port authority in another manner. (See AS 29.10.200)

SB 352 provides a structure for municipalities to avail themselves of if they want to create a port authority. It provides various forms of authority that are not currently available (such as, the port authority being able to issue its own revenue bonds). If a municipality wishes to avail itself of the structure provided by AS 29.35.600 -

Senator Drue Pearce

April 22, 1992

Page 2

29.35.725, then it must do so by ordinance. This is a policy choice for the legislature. By requiring an ordinance the legislature may be attempting to provide a certain level of public involvement in the decision-making process before this statutory structure may be utilized. The requirement of an ordinance means that there will be a certain minimum amount of public notice and involvement in the decision to create or participate in a port authority, while a municipality's creation or participation in a port authority by cooperative agreement does not necessarily require any public notice or involvement in the decision at all.

If you have further questions, please contact me at your convenience.

GPL:pl:gc  
92-279.plm

# Municipality of Anchorage



OFFICE OF THE MAYOR

P.O. BOX 196650  
ANCHORAGE, ALASKA 99519-6650  
(907) 343-4431

*TOM FINK,*  
MAYOR

April 3, 1992

Senator Steve Frank, Chair  
Committee on Community and  
Regional Affairs  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Frank:

It is my understanding that SB 352, relating to Port Authorities, is scheduled to be heard by your committee on April 7, 1992. I would like to share with you and the members of the committee my observations regarding this legislation.

Generally, I am opposed to "authorities". When Alaska's Constitution was drafted, we had the benefit of mistakes made in other states where overlapping jurisdictions made it almost impossible for the average citizen to understand them. The Constitutional Convention wisely chose a different path, and vested all local government powers in cities and boroughs. See Article X, Section 2, Alaska Constitution and the comments of Delegates Rosswog and V. Rivers in the Proceedings of the Alaska Constitutional Convention at 2610 to 2617.

In contrast to the direction favored by the Constitutional Convention, the legislation authorizing port authorities is essentially legislation to permit the establishment of another layer of government at a time the State and the community is already dominated by government. I seriously doubt the ability of this new layer of government to deliver port services more efficiently or more effectively.

The Port of Anchorage was established and designed to serve the interests of this community to the best of its ability. I believe that it is serving this purpose very well. To abolish or significantly alter the Port of Anchorage by becoming part of a port "authority" with other communities necessarily involves compromising the interests of the Port with the interests of these other communities.

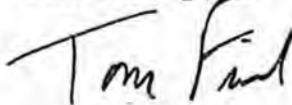
Senator Steve Frank  
Page 2

To the extent that other communities have a need for port facilities and functions, and there is economic justification for those facilities, I encourage them to take the necessary steps to develop them. We welcome competition and the benefits that competition would bring to the public, but believe that each facility should make sense o its' own.

Finally, it should be kept in mind that the national experience with "authorities" has not been all that successful. These organizations tend to be fiscally wasteful, unaccountable to the public and vulnerable to conflict of interest problems.

Based on these concerns and problems, I oppose the establishment of port authorities. To the extent that clear benefits to this community can be demonstrated from the establishment of a port authority, I would re-examine this view. Based on what is known about the proposal at this time, I think that burden would be a difficult one.

Sincerely,



Tom Fink  
Mayor

cc: Senator Hoffman  
Senator Pearce  
Senator Sturgulewski  
Senator Zharoff

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**TESTIMONY OF J. J. BRECHT**  
**BEFORE THE**  
**SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**  
**ON**  
**COMMITTEE SUBSTITUTE SENATE BILL 352 (TRANSPORTATION)**

Anchorage, Alaska  
April 23, 1992

Good afternoon. My name is Julius J. Brecht, and I am an attorney in private practice with the law firm of Wohlforth, Argetsinger, Johnson and Brecht, with offices in Anchorage, Alaska. I wish to thank the committee for the opportunity to offer this written testimony to the record on Committee Substitute Senate Bill 352 (Transportation).

In the way of further introduction of myself and the bill before you, I am the former Director of the Alaska Division of Banking and Securities and practice law in the corporate, finance, and securities areas. I have resided in Anchorage since leaving the division in 1980. I have been involved with various civic and professional groups studying issues of importance to Alaska. Over the past year, I have chaired an ad hoc committee composed of representatives of the Matanuska-Susitna Borough, the Municipality of Anchorage, and several private individuals including myself. We call ourselves the Port Authority Committee.

The common interest of the committee members has been the consensus that port authorities offer an opportunity to support and encourage economic development in an area as yet essentially untapped in Alaska. It is true that Alaska has many harbors and ports. However, with limited exception, these present facilities are woefully under utilized and with limited exception are not in a position to compete in a world marketplace even though Alaska has many resources to offer in that marketplace.

The first charge of the committee was to prepare a resolution to encourage individuals and organizations in Alaska to support the introduction and enactment of legislation providing for the establishment of port authorities in Alaska. It soon became apparent subsequent to the preparation of that resolution that precious time was being lost in waiting for a draft of such legislation to be produced. I personally volunteered to prepare a first draft of the legislation. That first draft was introduced as SB 352, a precursor of what is before you today.

The resolution prepared by the Port Authority Committee notes that the people of Alaska find themselves with many opportunities in waterborne and other commerce and other industries in Alaska. The resolution further states that ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska. In some respects, Alaska can have the greatest natural resource wealth in a number of areas. However, without the infrastructure to get it to market, it is, in large respect, worthless and, in any case, it contributes very little to the economic base in this state. The net result is that we become even more dependent upon existing sources of economic activity, e.g., oil, and even more dependent upon government to "spend" its way out of problems.

An alternative means for economic development and a proven use in other states and countries is the establishment of port authorities and the development of ports in Alaska.

The SB 352 is an attempt to allow for the establishment of such port authorities. Please note that the legislation permits, but does not require, the formation of port authorities.

Briefly, the mechanism set forth in the bill is to allow one or more municipalities to form a port authority by the adoption of parallel ordinances. The port authority would be formed as a public corporation and instrumentality of the municipality or municipalities creating it. It will have separate legal existence from those municipalities. The bill sets out various powers that a port authority may have. One very critical power will be the authority to issue revenue bonds. However, the bill expressly provides that neither the faith and credit of the state nor

of the municipalities participating in a port authority will be involved in the issuance of such bonds or other obligations of the port authority.

The bill provides for the establishment of port authorities by local government and not by the state. The bill then does not provide for simply establishing another state program which would be in competition with other state programs for shrinking state revenues in the future. That is, the bill will allow access by a port authority to the revenue bond marketplace separate from that of the state revenues. Furthermore, the particular project which is the subject of the revenue bonds will have to be economically feasible in order to be sold in that marketplace.

The bill provides for a structure of a port authority including the appointment of a board of directors by the governing bodies of the municipalities participating in the port authority. That board of directors will, in turn, hire an executive director to carry out the directives and manage the day-to-day operations of the port authority.

The bill expressly provides that the port authority will have no taxing authority.

The bill, in essence, provides that one or more municipalities may contract with one another to establish a port authority and carry out economic development within that port authority.

My specific comments as to the changes that have been made to SB 352 as embodied in CSSB352 (Transportation) are as follows:

1. Section 600                      The term "territory" should be changed to "boundary" or its equivalent as done elsewhere in the bill.
2. Section 605(a)(1),(2)        The phrase "of the municipality" should be deleted. Otherwise, fitting the bonds offered by a port authority under one of the exemptions under federal tax law and securities law may be awkward.

3. Section 605(f)

After the word "may" there should be added "notwithstanding (a)(1), (2) of this section." Otherwise one might assumed (f) requires a vote of the people in all cases. My understanding is that the intent of Section 605 is in part to provide that a municipality may choose (provided it is allowed to do so under its municipal code) to either put the establishment of a port authority to a vote of the people or to adopt a port authority ordinance by a vote of the governing body of the municipality.

4. Section 625(8)  
(6)

The phrase "regarding them" should be deleted, the word "conveyances" should be added after the word "contracts." Furthermore, what does the phrase "other source" mean? Does it include a private individual? It should. It should be made clear that (8) allows a port authority to enter into any form of contract or agreement to carry out its responsibilities under the enabling ordinances, including the conveyancing of land to and the accepting of land from, and the sale or other transfer of personal property to or from the port authority, as well as the leasing of either real or personal property to or from the port authority.

5. Section 630(c)

Leave this subsection as it is. It accommodates a deal where the proceeds of a bond offering are to be used to construct a structure as well as a deal where the cash flow from the ongoing operation of a port authority can be pledged to collateralize the bonds.

6. Section 670(a)

In comparing this section to its precursor in SB 352, I note that the phrase "and special assessments" has been deleted after the word "taxes." I suggest that special assessments be added to Section 670(a).

7. Section 675

The precursor of this section in SB 352 described briefly the contents of the development plan. The present section 675 not only does not describe the contents of a development plan, it makes the establishment of a development plan in the enabling ordinance discretionary. The development plan is a very important aspect of a proposed development of a port authority and should be placed before the municipalities participating in the establishment of the port authority. The logical way to present this would be in the enabling ordinance submitted to the governing body for adoption. It should be noted that (2) of Section 675 appears unduly restrictive. If a port authority must go back to the governing body for each and every improvement done to the property within the boundaries of a port authority, the development process can be extremely time consuming and costly. My thought is that the development plan may be set forth in less specific terms as a part of the initial ordinance and adopted by the governing body. Thereafter, the port authority would have the flexibility of adjusting the development plan to fit its ongoing needs. So long as the port authority stayed within the general guidelines set out in its

development plan, it would not need to go back to the governing body for approval, confirmation or ratification of adjustments to that development plan.

8. Section 3 of the Bill This section of the Bill amends AS 21.78.010(a) to include "public corporations" of municipalities. This addition raises the same questions as were addressed pertaining to section 605(a)(1),(2). See item 2 above.
9. Section 4 of the Bill This section of the Bill amends AS 29.45.030(a) in a similar way to the provisions discussed in Item 8 above. Similarly, the reference to "public corporations" should be dropped.

Some of the comments displayed above are technical in nature. See Items 1 and 3. However, other comments are substantive and should be seriously taken into consideration. See Items 2, 4, 5, 8 and 9. Others involve policy decisions for your consideration. See Items 6 and 7.

I would be most pleased to respond to any questions which you may have regarding the bill, the resolution, or the concept of port authorities. Thank you again for the opportunity to submit testimony before this body.

DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE  
JUNEAU, ALASKA 99801-7098  
PHONE: (907) 465-3900

April 23, 1992

The Honorable Drue Pearce  
Alaska State Senator  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Pearce:

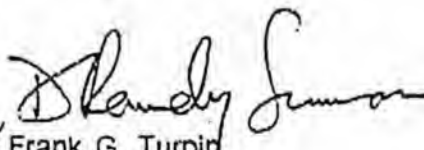
Your staff requested that we provide our comments on a proposal to require legislative approval before any state asset could be transferred to a port authority.

We are opposed to an amendment to Senate Bill 352 to require specific legislative review and approval prior to the transfer to or operations of any State asset by a port authority. This requirement would cause additional complications and delays for port authorities. It would also reduce the ability of the State to act in an expeditious manner to assist local government. Carried to the extreme, it appears that even the transfer of a piece of State surplus equipment would require legislative approval.

If there are some selected facilities that are so critical to the overall economy of the state, such as the Anchorage and Fairbanks International Airports, that they deserve policy consideration by the entire legislature those facilities should be identified. We don't believe that each and every asset reaches this policy level. If there are concerns with the process for transfer of an assets from the State to a political subdivision the legislature could consider changing the current statutes to identify a new process.

If you should require any additional information concerning this subject please feel free to contact my staff or myself.

Sincerely,

  
Frank G. Turpin  
Commissioner

cc: Ron Lind, Director, Plans, Programs and Budget  
Katy McHugh, Legislative Liaison, Office of the Commissioner  
D. Randy Simmons, Deputy Commissioner

# DIVISION OF LEGAL SERVICES

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Juneau, Alaska 99801-2101

### MEMORANDUM

April 23, 1992

**SUBJECT:** Port Authorities - SB 352 (Work Order No. 7-LS1768\M)

**TO:** Senator Steve Frank  
Attn: Sara Fisher

**FROM:** Jerry Luckhaupt, *JLB*  
Legislative Counsel

You have asked if the disposition by sale or other manner of alienation of a state asset, such as the international airports or the Alaska Marine Highway System, by the executive branch would require an act of the legislature. It is my opinion that the disposition of a state asset by the executive branch requires statutory authorization by the legislature.

The executive branch of state government only has the powers and authority granted by the constitution and the legislature. Absent an explicit or implicit grant of authority by one of those two sources, an asset, whether it be real or personal property, may not be disposed of by the executive branch. The legislature has authorized the disposition of state assets in various contexts, including public lands and interests therein, see AS 38.50, and surplus property, see e.g., AS 44.68.110, 36.30.010(b)(4), and 16.40.010. The legislature has also authorized the Department of Transportation and Public Facilities at any time to dispose of all or a part of property, airports, and navigational facilities described in AS 02.15.070(a). AS 02.15.070(b). Conceivably this provision could authorize the disposal of the Anchorage and Fairbanks International Airports. Otherwise, absent statutory authority to dispose of the asset, the asset may not be disposed of by the executive branch.

Of course, the executive branch could also contract or cooperatively agree with some other entity, including a port authority, for the other entity to take over operation of a state asset, such as, the international airports or the Alaska Marine Highway System, if constitutional or statutory authority exists. A number of provisions would seem to authorize this arrangement. See e.g., art. X, § 13, and art. XII, § 2, of the Alaska Constitution; and AS 44.42.020(a)(6).

If you have further questions, please contact me at your convenience.

JPL:gc  
92-317.glc

YES

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 352 ( ) DRAFT DATED 4/21/92

Page 3, following line 1:

Insert a new subsection to read:

"(g) Nothing in AS 29.35.600 - 29.35.725 prevents a municipality or municipalities from creating or participating in a public corporation, including a port authority, in any form or manner not prohibited by law. However, the provisions of AS 29.35.600 - 29.35.725 only apply to and may only be utilized by a port authority created under this section."

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 352 ( ) DRAFT DATED 4/21/92

*adopt*

Page 9, line 15, following "regulations":

Insert "consistent with the enabling ordinance"

Page 9, line 15:

Delete "the purposes of the enabling ordinance"

Insert "purposes"

S B

370

# Alaska State Legislature

Senate District L

Al Adams

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

Official Business

TO: Senator Steve Frank, Chair  
Senate Community and Regional Affairs Committee

FROM: Senator Al Adams *ADA*

RE: Senate Bill 370, "An Act relating to the involuntary dissolution of Native corporations; and providing for an effective date."

DATE: January 29, 1992

This is to request a hearing on the above legislation which has been referred to the Senate Community and Regional Affairs Committee. The issue that prompted introduction of this bill rose from a Native corporation in my Senate district that has unknowingly been dissolved and cannot conduct business. According to the Department of Commerce, Banking, Securities and Corporations division, this is not an isolated circumstance.

The bill is almost an exact duplicate of a temporary act that passed the Legislature in 1982. It creates a one year window period for involuntarily dissolved Native corporations to become reinstated. The reinstatement would be subject to the appropriate fees and penalties that accompany other corporate reinstatements. As per a letter attached to the Alaska Federation of Natives, I have asked its cooperation in contacting already dissolved corporations or those in an impending status to remedy this problem.

The Department of Commerce is in full support of this bill and I appreciate your consideration of a committee hearing.

Enclosed as background material are:

- Bill copy
- Fiscal note
- Temporary act of 1982
- Position paper by the Department of Commerce
- Letter from the Department of Commerce listing affected corporations or potentially affected ones
- Letter to the Alaska Federation of Natives requesting assistance

Please contact my aide Martha Stewart if you have questions or concerns. Thank you.



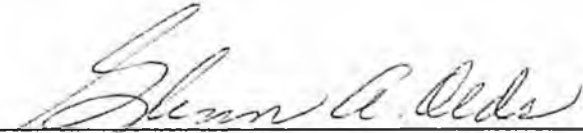
**SB 370: An Act relating to the involuntary dissolution of Native corporations; and providing for an effective date.**

The Department of Commerce and Economic Development, Division of Banking, Securities and Corporations, has no objection to the proposed legislation.

The department supports this legislation in recognition that corporate status for Native villages and regions is specifically called for in the terms and conditions of the Alaska Native Claims Settlement Act. The department acknowledges the unique inalienability of the ownership of Native Alaskans as shareholders in Native corporations.

The department concurs that corporations affected by SB 370 should pay the appropriate fees that would have been effective had they not allowed themselves to become delinquent, plus any penalties allowable under AS 10.06.633(e).

The department encourages the involvement of the regional corporations and other Native associations, such as the Alaskan Federation of Natives, in assisting the smaller village corporations in meeting their filing requirements.

  
\_\_\_\_\_  
Glenn A. Olds, Commissioner

Date: 1/25/92

01/24/92

17:14

11

P.01

## STATE OF ALASKA

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES AND CORPORATIONS

January 24, 1992

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110807  
JUNEAU, ALASKA 99811-0807  
Banking & Securities: (907) 465-2634  
Corporation Section: (907) 465-2630ANCHORAGE  
Corporation Information: (907) 583-2161

Post-It <sup>™</sup> brand fax transmittal memo 7871		# of pages	2
To	Martha Stewart	From	Mike Managle
Co.	Sen Adams Off.	Co.	Corps Section
Dept.		Phone #	2570
Fax #	463-4867	Fax #	3257

Martha Stewart  
Senator Al Adams  
P.O. Box V  
Juneau, AK 99811

Dear Ms. Stewart:

RE: Reinstatement of ANSCA corporations

As conveyed by Larry Carroll, I have reviewed the proposed legislation and have no objections to the bill as drafted. As soon as a final draft is prepared we will prepare a position paper in support of the bill.

We would like to have some commentary entered into record encouraging the AFN and the regional native corporations to take a more active role in assisting the village corporations in meeting their reporting requirements.

The following native corporations would be subject to the proposed bill:

Atxam Corporation-	Involuntarily Dissolved	10/13/89
Tihteet'Aii, Inc.	" "	10/13/89
Nunapiglluraq Corporation	" "	10/13/89
Kugkaktlik, Ltd.	" "	10/13/89
Oscarville Native Corporation	" "	10/13/89
Tulkisarmute, Inc.	" "	10/13/89
Neets'ai Corporation	" "	12/02/81
Venetie Indian Corporation	" "	12/02/81
Kitol, Inc.	" "	05/20/90
Nunivak Limited	" "	10/13/89

To illustrate the filing problem that the native corporations have, the following is a list of corporations which are either dissolved but within the reinstatement period, or active corporations not currently in compliance.

Newtok Corporation, Inc.	Involuntarily Dissolved	10/14/91
Cully Corporation	" "	10/14/91
Togiak Natives, Ltd.	" "	10/14/91
Twin Hills Native Corporation	" "	10/14/91
White Mountain Native Corp	" "	10/14/91
Ohog Incorporated	" "	10/14/91
The Grouse Creek Corporation	" "	10/14/91

01.24/92

17:18

11

P.02

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

### DIVISION OF BANKING, SECURITIES AND CORPORATIONS

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110807  
 JUNEAU, ALASKA 99811-0807  
 Banking & Securities: (907) 465-2534  
 Corporation Section: (907) 465-2530

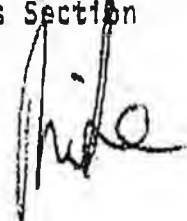
ANCHORAGE  
 Corporation Information: (907) 583-2161

The following corporations are not dissolved, but they are not in compliance with the statutory reporting requirements. If they become six months delinquent, they too will become involuntarily dissolved.

Corporation Name	Scheduled dissolution date
Belkofski Corporation	08/01/92
Brevig Mission Native Corp	" " " 08/01/92
Chenega Corporation	" " " 08/01/92
Eklutna, Inc.	" " " 08/01/92
Isanotski Corporation	" " " "
Mendas Chax-aq Native Corp	" " " "
Gana-A' Yoo, Limited	" " " "
The King Cove Corporation	" " " "
Paimiut Corporation	" " " "
Pitka's Point Native Corporation	" " " "
Seldovia Native Association, Inc.	" " " "
Tanacross, Inc.	" " " "
Klukwan Corporation	" " " "
Gold Belt Incorporated	" " " "
Shee Atika, Inc.	" " " "
The Aleut Corporation	" " " "
Arctic Slope Native Corporation	" " " "
Koniag, Inc.	" " " "
Bristol Bay Native Corporation	" " " "
Calista Corporation	" " " "
Chugach Corporation	" " " "
Cook Inlet Region Inc	" " " "
Sealaska Corporation	" " " "

Please feel free to give me a call if you have any questions regarding this list.

Michael Monagle, Supervisor  
 Corporations Section



# Alaska State Legislature

Senate District L

Al Adams



Official Business

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

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OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

January 24, 1992

Julie Kitka, President  
Alaska Federation of Natives  
1577 C Street, Suite 100  
Anchorage, Alaska 99501

Dear Julie:

This session I will introduce legislation pertaining to Native corporations that have been involuntarily dissolved. This is being done on behalf of Nunapigiiuraq Corporation in my district. Apparently if corporations fail to file information with the Department of Commerce past a two year window for delinquent filings, the corporation is dissolved, at least in the state's bureaucratic mind.

In seeking information from the Department of Commerce about other corporation's that might be affected, I was provided with the enclosed list. I am writing to determine if there is anything the Alaska Federation of Natives can do to assist these corporations in completing their filing.

The bill which will be introduced January 27th is enclosed for your review. It is similar to a bill that passed in 1982 that created a one year window period for these involuntarily dissolved ANCSA corporations to become reinstated. I expect the bill to pass but am concerned about the remaining corporations who might have no knowledge of this opportunity.

At a minimum, if I were provided with the names and addresses of those corporations in my Senate district I would be glad to assist them. I would also appreciate a brief letter of support from AFN to augment passage of the bill.

I appreciate any efforts you can extend in this matter and as always, it is a pleasure working with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Al Adams".

Senator Al Adams

CHAPTER 54

AN ACT RELATING TO BUSINESS CORPORATIONS, REINSTATEMENT OF CERTAIN DISSOLVED ALASKA NATIVE CLAIMS SETTLEMENT ACT VILLAGE CORPORATIONS TO CORPORATE STATUS; AND PROVIDING FOR AN EFFECTIVE DATE.

(SCSHB 386 (ELLS))

As it enacted by the Legislature of the State of Alaska:

Secs. 1, 2. Permanent laws. See Table of Disposition of Acts.

Sec. 3. (a) Notwithstanding the provisions of AS 10.05.519(d), a village corporation organized under the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688) that has been involuntarily dissolved by the commissioner under AS 10.05.519 and that has failed to apply for reinstatement during the period prescribed by AS 10.05.519(d) may be reinstated under AS 10.05.519(d) within one year of May 28, 1982. Any such reinstated corporation has all of the rights, privileges, liabilities, and obligations that would have applied to it if the corporation had never been dissolved, and all corporate actions taken during the period of dissolution are considered to be as valid as if dissolution had never occurred.

(b) A corporation formed by a Native village (as defined in P.L. 92-203) before May 28, 1982 to replace an involuntarily dissolved village corporation and having the same name as the dissolved corporation shall, upon payment of any amounts that would be required for the reinstatement of the dissolved corporation, succeed to all of the rights, privileges, liabilities, and obligations that would have applied to the dissolved corporation upon its reinstatement.

Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

Approved May 27, 1982  
Effective May 28, 1982

Editor's notes. -- Present subsections 3(a) and (b) were enacted as AS 10.05.005(e) and (f) but were changed by the revisor of statutes under the authority of AS 01.05.031.

winding up and dissolution of the corporation unless payment is made for the shares within the time specified by the decree. If the purchasing parties do not make payment for the shares within the time specified, judgment shall be entered against the purchasing parties and the surety or sureties on the bond for the amount of the expenses, including attorney fees, of the moving parties. A shareholder aggrieved by the action of the court may appeal.

(d) If the purchasing parties desire to prevent the winding up and dissolution, they shall pay to the moving parties the value of their shares as provided under this section less an allowance for the costs of the appraisal as the court shall determine. In the case of an appeal, the purchasing parties shall pay to the moving parties the value of the shares and costs of appraisal as fixed on appeal. On receiving payment or the tender of payment as determined by the court, the moving parties shall transfer their shares to the purchasing parties.

(e) For the purposes of this section, "shareholder" includes a beneficial owner of shares who has entered into an agreement under AS 10.06.425(a). (§ 1 ch 166 SLA 1988; am § 49 ch 82 SLA 1989)

**Cross references.** — For effect of the enactment of this section on Alaska Rule of Civil Procedure 65, see sec. 25, ch. 166, SLA 1988 in the Temporary and Special Acts.

**Effect of amendments.** — The 1989 amendment, effective July 1, 1989, substituted "AS 10.06.425(a)" for "AS 10.06.425" at the end of subsection (e).

**Sec. 10.06.633. Involuntary dissolution by the commissioner: grounds, procedure, reinstatement.** (a) A corporation may be dissolved involuntarily by the commissioner if

(1) the corporation is delinquent six months in filing its biennial report or in paying its biennial corporation tax or a penalty;

(2) the corporation has failed for 30 days to appoint and maintain a registered agent in the state;

(3) the corporation has failed for 30 days after change of its registered office or registered agent to file in the office of the commissioner a statement of the change;

(4) the corporation has failed for two years to complete dissolution under a certificate of election under AS 10.06.608 to dissolve;

(5) a vacancy on the board of the corporation is not filled within six months or the next annual meeting, whichever occurs first;

(6) a misrepresentation of material facts has been made in the application, report, affidavit, or other document submitted under this chapter; or

(7) the corporation is 90 days delinquent in filing notice of change of an officer, director, alien affiliate, or five percent shareholder, as required by this chapter.

(b) A corporation may not be dissolved under this section unless the commissioner has given the corporation written notice of its delin-

quency, failure, or noncompliance by certified mail addressed to its registered office, registered agent, president, or secretary at the last known address as shown by the records of the commissioner. If the corporation fails, within 60 days after the notice is sent by certified mail, to contest the alleged neglect, omission, delinquency, or noncompliance by a written request for a hearing before the commissioner or fails to correct the asserted neglect, omission, delinquency, or noncompliance it may be dissolved under (d) of this section.

(c) If, following a hearing, the commissioner determines the presence of neglect, omission, delinquency, or noncompliance providing grounds for involuntary dissolution under this section, the corporation may appeal to the superior court by filing with the clerk of the court a notice of appeal setting out a copy of the notice given by the commissioner under (b) of this section together with a copy of a timely demand for a hearing by the corporation, and a copy of an affirmation by the commissioner of an intention to dissolve under (d) of this section. The matter shall be tried de novo by the superior court, and the court shall either sustain the commissioner or direct the commissioner to take action the court considers proper.

(d) If a corporation has given cause for involuntary dissolution and has failed to correct the neglect, omission, delinquency, or noncompliance as provided in this section, and there has been no order of the superior court, the commissioner shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved, the date, and the reason for which it was dissolved. The original certificate of dissolution shall be placed in the department files and a copy of it mailed to the corporation at its registered office or in care of its registered agent, president, or secretary at the last known address, as shown by the records of the commissioner. Upon the issuance of the certificate of involuntary dissolution the existence of the corporation ceases, except as otherwise provided in this section, and its name shall be available to and may be adopted by another corporation no less than six months after the dissolution.

(e) A corporation dissolved under this section may be reinstated within two years from the date of the certificate of involuntary dissolution if it is established to the satisfaction of the commissioner that in fact there was no cause for the dissolution, or if the neglect, omission, delinquency, or noncompliance resulting in dissolution has been corrected and payment made of double the amount delinquent along with the amount the corporation would have paid had it not been dissolved during the two-year period. Reinstatement may not be authorized if the same or a deceptively similar corporate, reserved, or registered name is currently on file with the commissioner, unless the corporation being reinstated amends its articles of incorporation to change its name to conform with the provisions of this chapter.

(f) Nothing in this section relieves a corporation reinstated under this section from penalty or forfeiture of its powers in a case of failure to pay subsequently accruing licenses and taxes imposed by a law of the state.

(g) An action arising out of a contract assigned by a corporation dissolved under this section may be brought in the name of the assignee. The fact of assignment and of purchase by the plaintiff shall be set out in the complaint or other process. The defense may avail itself of any defense the defense might have availed itself of in a suit upon the claim by the corporation had it not been dissolved under this section.

(h) Service of process on a corporation dissolved under this section shall be made in the same manner prescribed by law as if the corporation had not been dissolved. (§ 1 ch 166 SLA 1988; am § 50 ch 82 SLA 1989)

**Cross references.** — For effect of the enactment of this section on Alaska Rules of Appellate Procedure 204 and 609, see secs. 26 and 27, ch. 166, SLA 1988 in the Temporary and Special Acts.

**Effect of amendments.** — The 1989

**Sec. 10.06.635. Commissioner's authority to bring action for involuntary dissolution; grounds; relief.** (a) In addition to other remedies provided by law, a corporation may be dissolved involuntarily by a decree of the superior court in an action filed by the commissioner when it is established that the corporation has

- (1) procured its certificate of incorporation through fraud;
- (2) continued to exceed or abuse the authority conferred upon it by law;

(3) seriously violated a statute regulating corporations; or  
(4) violated a provision of law by an act or default that under the law is a ground for forfeiture of corporate existence.

(b) The court may order dissolution or other or partial relief as it considers just and expedient. The court also may appoint a receiver under AS 10.06.643 for winding up the affairs of the corporation or may order that the corporation be wound up by its board subject to the supervision of the court. (§ 1 ch 166 SLA 1988)

**Sec. 10.06.638. Jurisdiction and process for commissioner's action.** (a) An action for the involuntary dissolution of a corporation under AS 10.06.635 shall be commenced by the commissioner in the superior court.

(b) Summons shall issue and be served as in civil actions. If no registered agent or office is found to serve, the commissioner shall publish notice as in civil cases in a newspaper published in the judicial

district where the registered office of the corporation is situated, containing a notice of the pendency of the action, the title of the court, the title of the action, and the date on or after which default may be entered. The commissioner may include in one notice the names of any number of corporations against which actions are pending in the same court.

(c) The commissioner shall mail a copy of the notice to an office of the corporation, if one is known, within 10 days after the first publication of the notice.

(d) Notice shall be published at least once each week for two successive weeks, and the first publication may begin after the summons has been returned.

(e) Unless a corporation is served with summons, a default may not be taken against the corporation earlier than 30 days after the first publication of notice. (§ 1 ch 166 SLA 1989)

**Revisor's notes.** — A reference to AS 10.06.635 was substituted for a reference to AS 10.06.633 in (a) of this section in 1989 to correct a manifest error in ch. 166, SLA 1988.

**Cross references.** — For effect of the enactment of this section on Alaska Rule of Civil Procedure 4, see sec. 28, ch. 166, SLA 1988 in the Temporary and Special Acts.

**Sec. 10.06.640. Appointment of provisional director; deadlock.** (a) If the ground for the complaint for involuntary dissolution of the corporation is a deadlock in the board as set out in AS 10.06.628(h)(2), the court may appoint a provisional director.

(b) A provisional director shall be an impartial person, who is neither a shareholder nor a creditor of the corporation, nor related according to the common law by consanguinity or affinity within the third degree to a director of the corporation or to a judge of the court by which the provisional director is appointed. A provisional director has all the rights and powers of a director until the deadlock in the board is broken or until the provisional director is removed by order of the court or by approval of the outstanding shares.

(c) Unless otherwise agreed the compensation of the provisional director shall be fixed by the court. (§ 1 ch 166 SLA 1988)

**Sec. 10.06.643. Appointment of receiver: application, hearing and notice, security, qualifications, powers, compensation.** (a) If, at the time of the filing of a complaint for involuntary dissolution under AS 10.06.628 or at any time after the filing, the court has reasonable grounds to believe that unless a receiver of the corporation is appointed the interests of the corporation and its shareholders will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff and after a hearing upon notice to the corporation as the court may direct, the court may appoint a receiver to take over and manage the business and affairs of the corporation

**Sec. 10.06.935. Waiver of notice.** If notice is required to be given to a shareholder or director of a corporation under the provisions of this chapter or under the provisions of the articles or bylaws of the corporation, a waiver of the notice in writing signed by the person entitled to notice, whether before or after the time stated for notice, is equivalent to the giving of notice. (§ 1 ch 166 SLA 1988)

#### Article 13. General Provisions.

Section	Section
950 Powers of commissioner	963 Severability
953 Regulations	965 Reservation of power
955 Application to existing corporations	968 Signature
958 Provisions construed as restatements and continuations	970 Rules of construction and interpretation
960 Corporations organized under Alaska Native Claims Settlement Act	990 Definitions
	995 Short title

**Sec. 10.06.950. Powers of commissioner.** The commissioner has the power and authority reasonably necessary to enable the commissioner to administer this chapter and to perform the duties imposed upon the commissioner by this chapter. (§ 1 ch 166 SLA 1988)

**Sec. 10.06.953. Regulations.** To the extent provided by explicit reference in this chapter, the department shall adopt regulations referred to in this chapter in accordance with the Administrative Procedure Act (AS 44.62). (§ 1 ch 166 SLA 1988)

**Sec. 10.06.955. Application to existing corporations.** (a) This chapter applies to a domestic corporation organized under former AS 10.05 (the Alaska Business Corporation Act), and to the extent provided in AS 10.06.010, 10.06.020, 10.06.160, 10.06.233, 10.06.433(g), 10.06.435, 10.06.450(d), and 10.06.705 — 10.06.870 to a foreign corporation authorized to do or doing business in this state.

(b) The existence of a corporation formed or existing on the date of enactment of this chapter is not affected by the enactment of this chapter or by any change in the requirements for the formation of corporations. (§ 1 ch 166 SLA 1988)

**Cross references.** — See also §§ 7 and 9, ch. 166, SLA 1988; § 10, ch. 166, SLA 1988, as amended by § 57, ch. 50, SLA 1989; and §§ 57 and 58, ch. 82, SLA 1989 in the Temporary and Special Acts.

**Sec. 10.06.958. Provisions construed as restatements and continuations.** If a provision of this chapter is substantially the same as a statutory provision in former AS 10.05 existing on the effective date of this chapter, it shall be construed as a restatement and continuation, and not as a new enactment. (§ 1 ch 166 SLA 1988)

**Sec. 10.06.960. Corporations organized under Alaska Native Claims Settlement Act.** (a) A corporation organized under 43 U.S.C. 1601 — 1629e as amended (Alaska Native Claims Settlement Act) shall be incorporated under and is subject to this chapter except

(1) each corporation shall issue without further consideration the number of shares of common stock that may be necessary to comply with the requirements of the act and all stock so issued is considered fully paid and nonassessable when issued;

(2) unless otherwise provided in the articles of incorporation, the capital

(A) is considered the consideration for the initial issuance of shares; and

(B) of a corporation organized under the act includes the (i) land or interests in it conveyed to the corporation by the United States under the act, except that which is required to be conveyed under 43 U.S.C. 1613(c)(1), (3), and (4), entered at its fair value to the corporation upon receiving the conveyance of it; and

(ii) money, when received under 43 U.S.C. 1605 and 43 U.S.C. 1608, that is retained by the corporation and that is not immediately distributed or required to be distributed under 43 U.S.C. 1606(j).

(b) Notwithstanding the provision of AS 10.06.305 — 10.06.390, payment from the money of a corporation organized under the act that is required by the language of the act to be distributed to shareholders or to other corporations so organized is not a distribution to its shareholders as defined in AS 10.06.990.

(c) Notwithstanding the provisions of AS 10.06.546, a plan of merger, consolidation, or exchange in which each participating corporation either (1) was organized under the act, within the same one of the 12 regions of Alaska established under the act, or (2) resulted from the prior merger, consolidation, or exchange of other similarly organized corporations within the same region, is approved if it receives the affirmative vote of the holders of at least a majority of the outstanding shares of each corporation. If a class of shares of a corporation specified in this subsection is entitled to vote as a class, the plan of merger, consolidation, or exchange is approved if it receives the affirmative vote of the holders of at least a majority of the outstanding shares of each class of shares entitled to vote as a class and of the total outstanding shares. Notwithstanding AS 10.06.574 — 10.06.582, a plan of merger, consolidation, or exchange approved under this section

before December 19, 1991, may not include a right of shareholders to dissent.

(d) A director or officer of a corporation organized under the act is not personally liable to the contract creditors specified in AS 10.06.490 except as otherwise provided by law.

(e) Notwithstanding the provision of AS 10.06.502 — 10.06.510, a corporation organized under the act may amend its articles by a vote of the board of directors in order for the corporation to comply with the mandatory requirements of the act.

(f) Notwithstanding the other provisions of this chapter, a corporation organized under the act is governed by the act to the extent the act is inconsistent with this chapter, and the corporation may take any action, including amendment of its articles, authorized by the act, and the action is considered to be approved and adopted if approved under the act. An amendment approved under the act and delivered to the commissioner under AS 10.06.512 shall be filed by the commissioner under AS 10.06.910, and a certificate of amendment shall be issued.

(g) Notwithstanding AS 10.06.358, if there are no retained earnings, the directors of a corporation organized under the act may declare and pay distributions in cash or property out of its net profits for the fiscal year in which the distribution is declared and for the preceding fiscal year, except when the corporation is insolvent under AS 10.06.360. For the purposes of this subsection, a corporation's debts include the amounts it is required to distribute under 43 U.S.C. 1606(i) and 43 U.S.C. 1606(j). The directors may determine the net profits derived from the exploitation or liquidation of wasting assets without consideration of the depletion of those assets resulting from lapse of time, consumption, liquidation, or exploitation, of the assets, and a distribution declared from those net profits shall be described, concurrently with distribution of the net profits to shareholders, as a distribution from wasting assets without consideration of the depletion of the assets. In this subsection, "wasting assets" means timber resources and subsurface estates.

(h) Notwithstanding AS 10.06.358, the directors of a corporation organized under the act may, from time to time, distribute to its shareholders in partial liquidation a portion of the corporation's assets out of capital, in cash or property, except that a distribution

(1) may not be made at a time when the corporation is insolvent under AS 10.06.360;

(2) may not be made unless the articles of incorporation authorize the board to make the distribution or the distribution is authorized by the affirmative vote of the holders of at least two-thirds of the outstanding shares;

(3) when made, shall be identified as a distribution in partial liquidation and the amount per share shall be disclosed to the shareholders concurrently with the distribution.

(i) In this section, "act" means 43 U.S.C. 1601 — 1629c (Alaska Native Claims Settlement Act). (§ 1 ch 166 SLA 1988; am §§ 53, 54 ch 82 SLA 1989)

**Revisor's notes.** — In 1989, the word "and" was inserted preceding "the corporation may take" in the first sentence of subsection (d).

**Cross references.** — For other provisions relating to corporations organized under the Alaska Native Claims Settlement Act, see the editor's note under AS 10.06.504.

**Effect of amendments.** — The 1989 amendment, effective July 1, 1989, substituted "43 U.S.C. 1601 — 1629c as amended" for "43 U.S.C. 1601 — 1629a" near the beginning of subsection (a); substituted "the act" for "43 U.S.C. 1601 — 1629c" throughout subsections (a) — (h), and added subsections (i) — (j).

**Sec. 10.06.963. Severability.** If a provision of this chapter is held invalid, the invalidity does not affect other provisions of this chapter that can be given effect without the invalid provision. (§ 1 ch 166 SLA 1988)

**Sec. 10.06.965. Reservation of power.** The legislature reserves the right to alter, amend, suspend, or repeal in whole or in part this chapter at pleasure, or a certificate of incorporation or the authority to do business in this state, of a domestic or foreign corporation, whether or not existing or authorized on the effective date of this chapter. (§ 1 ch 166 SLA 1988)

**Sec. 10.06.968. Signature.** "Signature" includes a mark when the signer cannot write. The signer's name shall be written near the mark by a witness who shall write the witness' own name near the signer's name. A signature by mark can be acknowledged or can serve as a signature to a sworn statement. (§ 1 ch 166 SLA 1988)

**Sec. 10.06.970. Rules of construction and interpretation.** Unless a provision or the context otherwise requires, the following general provisions and rules of construction govern this chapter:

(1) title, chapter, article, and section headings do not affect the scope, meaning, or intent of the provisions of this chapter;

(2) when, by the provisions of this chapter, a power is granted to, or a duty imposed upon, a public officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized, under law, by the officer, unless this chapter expressly provides otherwise;

(3) when a notice, report, statement, or record is required or authorized by this chapter, it shall be made in writing in a manner reason-

STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY

AGENCY ROUTING SLIP

TO: Sen. Frank's Office - Sara  
Cap #417

Remarks: This is all we have on HB 386, 1982:  
- Senate L+C bill file + tape log (there is a  
tape if you want to hear it)  
- all versions of the bill  
(There is nothing from House L+C which  
was its sponsor.)

FROM: Leg. Library - Mary Date: 2-5-92

LAA/Legal Svcs

12/15/85 D

5/2/81 - 6/15/81) House Labor + Commerce Committee

V. Hurlbert, Chair

J. Fuller, Vice Chair

T. Hardener

HISTORY OF LEGISLATION

D. Cudde

T. Martin

07/29/82

RO1-33F-3040

PAGE 0211

X HB 386 AN ACT RELATING TO BUSINESS CORPORATIONS, REINSTATEMENT OF CELESTINE DISSOLVED ALASKA NATIVE CLAIMS SETTLEMENT ACT VILLAGE CORPORATIONS TO CORPORATE STATUS; AND PROVIDING FOR AN EFFECTIVE DATE

AMENDED TITLE: SCS CSW(RLS)

PRIME SPONSORS: LABOR & COMMERCE

BY REQUEST

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
03/24/81	01	0677	FIRST READING -- COMMITTEE REPORTS	05/20/81	08	1153	FIRST READING -- COMMITTEE REPORTS
04/16/81	02	0965	L&C -- DP04	04/26/82	09	1046	L&C -- DP05
05/18/81	03	1477	POSTPONED UNTIL 05/19/81 BY UNAN CONSENT	05/04/82	10	1132	RLS -- CS03, OTHER03 TAKEN UP IMMEDIATELY
05/19/81	04	1498	SECOND READING	05/04/82	11	1139	SECOND READING
05/17/81	05	1498	ADVANCED TO 3RD READING BY UNAN CONSENT	05/04/82	12	1139	RLS CS ADOPTED BY UNAN CONSENT
05/19/81	06	1498	THIRD READING	05/04/82	13	1139	ADVANCED TO 3RD READING BY UNAN CONSENT
05/19/81	07	1498	PASSED BY DIV 38-00-02	05/04/82	14	1139	THIRD READING
05/10/82	17	1769	CONCURRED IN SENATE AMS BY DIV 37-00-03	05/04/82	15	1140	PASSED BY DIV 20-00-00
05/10/82	18	1769	EFFECTIVE DATE VOTE SAME AS PASSAGE	05/04/82	16	1140	EFFECTIVE DATE VOTE SAME AS PASSAGE
05/13/82	19	1837	TRANSMITTED TO GOVERNOR				
** 05/27/82	20	2124	SIGNED BY GOVERNOR-CH0054, EFF 05/28/82				

HB 387 AN ACT RELATING TO THE ESTABLISHMENT OF RENT REGULATION AND CONTROL IN EMERGENCY SITUATIONS; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSORS: MALONE

CO-SPONSORS: CLOCKSIN

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
** 03/24/81	01	0677	FIRST READING -- COMMITTEE REPORTS LABOR & COMMERCE JUDICIARY RULES				

Introduced: 3/24/81  
Referred: Labor & Commerce

1 IN THE HOUSE

BY THE LABOR AND COMMERCE  
COMMITTEE BY REQUEST

2 HOUSE BILL NO. 386

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to business corporations."

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

8 \* Section 1. AS 10.05.141 is amended to read:

9 Sec. 10.05.141. NOTICE OF SHAREHOLDERS' MEETINGS. Written or  
10 printed notice stating the place, day and hour of the meeting and, in  
11 case of a special meeting, the purpose for which the meeting is called,  
12 shall be delivered not less than 10 nor more than 60 [50] days before  
13 the date of the meeting, either personally or by mail, by or at the  
14 direction of the president, the secretary, or the officer or persons  
15 calling the meeting, to each shareholder of record entitled to vote at  
16 the meeting. If mailed, the notice is considered delivered when depos-  
17 ited in the United States mail addressed to the shareholder at his  
18 address as it appears on the stock transfer books of the corporation,  
19 with postage prepaid.

20 \* Sec. 2. AS 10.05.144 is amended to read:

21 Sec. 10.05.144. CLOSING OF TRANSFER BOOKS AND FIXING RECORD  
22 DATE. (a) To determine the shareholders entitled to notice of or to  
23 vote at a meeting of shareholders or an adjournment of a meeting, or  
24 entitled to receive payment of a dividend, or in order to make a deter-  
25 mination of shareholders for any other proper purpose, the board of  
26 directors of a corporation may provide that the stock transfer books  
27 shall be closed for a stated period not exceeding 60 [50] days. If the  
28 stock transfer books are closed to determine shareholders entitled to  
29 notice of or to vote at a meeting of shareholders, they shall be closed

Original Sponsor: Labor and Commerce  
Committee by Request

Offered: 5/4/82

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 386 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to business corporations, reinstatement  
7 of certain dissolved Alaska Native Claims Settlement  
8 Act village corporations to corporate status; and  
9 providing for an effective date."

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

11 \* Section 1. AS 10.05.141 is amended to read:

12 Sec. 10.05.141. NOTICE OF SHAREHOLDERS' MEETINGS. Written or  
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17 direction of the president, the secretary, or the officer or persons  
18 calling the meeting, to each shareholder of record entitled to vote at  
19 the meeting. If mailed, the notice is considered delivered when deposited  
20 in the United States mail addressed to the shareholder at his  
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27 receive payment of a dividend, or in order to make a determination of  
28 shareholders for any other proper purpose, the board of directors of a  
29 corporation may provide that the stock transfer books shall be closed

1 the rights, privileges, liabilities and obligations that would have  
2 applied to it if the corporation had never been dissolved, and all cor-  
3 porate actions taken during the period of dissolution shall be deemed to  
4 be as valid as if dissolution had never occurred.

5 (2) Any corporation formed by a Native village (as defined in P.L.  
6 92-203) prior to the effective date of this legislation to replace any  
7 involuntarily dissolved village corporation and having the same name as  
8 the dissolved corporation shall, upon payment of any amounts that would  
9 be required for the reinstatement of the dissolved corporation, succeed  
10 to all of the rights, privileges, liabilities, and obligations that  
11 would have applied to such dissolved corporation upon its reinstatement.

12 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
13 070(c).

# **CORRECTION**

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

# **CORRECTION**

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

Introduced: 3/24/81  
Referred: Labor & Commerce

1 IN THE HOUSE

BY THE LABOR AND COMMERCE  
COMMITTEE BY REQUEST

2 HOUSE BILL NO. 386

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

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14 direction of the president, the secretary, or the officer or persons  
15 calling the meeting, to each shareholder of record entitled to vote at  
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24 entitled to receive payment of a dividend, or in order to make a deter-  
25 mination of shareholders for any other proper purpose, the board of  
26 directors of a corporation may provide that the stock transfer books  
27 shall be closed for a stated period not exceeding 60 [50] days. If the  
28 stock transfer books are closed to determine shareholders entitled to  
29 notice of or to vote at a meeting of shareholders, they shall be closed

1 for at least 10 days immediately preceding the meeting.

2 (b) Instead of closing the stock transfer books, the bylaws, or  
3 in the absence of an applicable bylaw the board of directors, may fix  
4 in advance a date as the record date for the determination of share-  
5 holders. This record date shall be not more than 60 [50] days and, in  
6 case of a meeting of shareholders, not less than 10 days before the  
7 date on which the particular action requiring the determination of  
8 shareholders is to be taken. If the stock transfer books are not  
9 closed and no record date is fixed for the determination of shareholders  
10 entitled to notice of or to vote at a meeting of shareholders, or  
11 shareholders entitled to receive payment of a dividend, the date on  
12 which notice of the meeting is mailed or the date on which the resolu-  
13 tion of the board of directors declaring the dividend is adopted is, as  
14 the case may be, the record date for the determination of shareholders.  
15 When a determination of shareholders entitled to vote at a meeting of  
16 shareholders is made, the determination applies to an adjournment of  
17 the meeting except where the determination has been made through the  
18 closing of the stock transfer books and the stated period of closing  
19 has expired.

Original Sponsor: Labor and Commerce  
Committee by Request

Offered: 5/4/82

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 386 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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16 the date of the meeting, either personally or by mail, by or at the  
17 direction of the president, the secretary, or the officer or persons  
18 calling the meeting, to each shareholder of record entitled to vote at  
19 the meeting. If mailed, the notice is considered delivered when deposited  
20 in the United States mail addressed to the shareholder at his  
21 address as it appears on the stock transfer books of the corporation,  
22 with postage prepaid.

23 \* Sec. 2. AS 10.05.144 is amended to read:

24 Sec. 10.05.144. CLOSING OF TRANSFER BOOKS AND FIXING RECORD DATE.  
25 (a) To determine the shareholders entitled to notice of or to vote at a  
26 meeting of shareholders or an adjournment of a meeting, or entitled to  
27 receive payment of a dividend, or in order to make a determination of  
28 shareholders for any other proper purpose, the board of directors of a  
29 corporation may provide that the stock transfer books shall be closed

X

1 for a stated period not exceeding 60 [50] days. If the stock transfer  
2 books are closed to determine shareholders entitled to notice of or to  
3 vote at a meeting of shareholders, they shall be closed for at least 10  
4 days immediately preceding the meeting.

5 (b) Instead of closing the stock transfer books, the bylaws, or  
6 in the absence of an applicable bylaw the board of directors, may fix  
7 in advance a date as the record date for the determination of share-  
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10 date on which the particular action requiring the determination of  
11 shareholders is to be taken. If the stock transfer books are not  
12 closed and no record date is fixed for the determination of shareholders  
13 entitled to notice of or to vote at a meeting of shareholders, or share-  
14 holders entitled to receive payment of a dividend, the date on which  
15 notice of the meeting is mailed or the date on which the resolution of  
16 the board of directors declaring the dividend is adopted is, as the case  
17 may be, the record date for the determination of shareholders. When a  
18 determination of shareholders entitled to vote at a meeting of sharehol-  
19 ders is made, the determination applies to an adjournment of the meeting  
20 except where the determination has been made through the closing of the  
21 stock transfer books and the stated period of closing has expired.

22 \* Sec. 3. AS 10.05.005 is amended by adding a new subsection to read:

23 (c)(1) Notwithstanding the provisions of AS 10.05.519(d), any vil-  
24 lage corporation organized under the Alaska Native Claims Settlement Act  
25 (P.L. 92-203; 85 Stat. 688) which has been involuntarily dissolved by  
26 the commissioner under AS 10.05.519 and which has failed to apply for  
27 reinstatement during the period prescribed by AS 10.05.519(d) may be  
28 reinstated under AS 10.05.519(d) within one year of the effective date  
29 of this legislation. Any such reinstated corporation shall have all of  
X

1 the rights, privileges, liabilities and obligations that would have  
2 applied to it if the corporation had never been dissolved, and all cor-  
3 porate actions taken during the period of dissolution shall be deemed to  
4 be as valid as if dissolution had never occurred.

5 (2) Any corporation formed by a Native village (as defined in P.L.  
6 92-203) prior to the effective date of this legislation to replace any  
7 involuntarily dissolved village corporation and having the same name as  
8 the dissolved corporation shall, upon payment of any amounts that would  
9 be required for the reinstatement of the dissolved corporation, succeed  
10 to all of the rights, privileges, liabilities, and obligations that  
11 would have applied to such dissolved corporation upon its reinstatement.

12 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
13 070(c).

# STATE OF ALASKA

JAY E. BRIDGES GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D  
JUNEAU, ALASKA 99811  
Phone: 465-2800

November 19, 1981

Honorable Boh Mulcahy  
Chairman  
Senate Labor and Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on each of HB 386, CSMB 524 (L&C) and SB 606.

Fiscal notes are enclosed.

Our position on HB 306, an act relating to business corporations, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the substantive intent of the bill. The Department objects procedurally because a draft revision of AS 10.05 has been completed under the direction of the Code Revision Committee. Parties interested in HB 386 should contact John W. Abbott, Attorney at Law and Chairman, Code Revision Commission, 601 W. 5th, Suite 220, Anchorage, Alaska 99501 (907/276-3222), or Catherine Walsh, Secretary, Code Revision Committee, Juneau, Alaska 99811 (907/465-4878).

Our position on CSMB 524 (L&C), an act relating to small loans, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the bill.

Essentially, CSMB 524 (L&C) allows for interest adjustments on small loans, on an annual basis, if the Anchorage consumer price index exceeds 10% in any calendar year. This automatic rate adjustment should make it unnecessary to constantly initiate rate adjustments by legislative action.

On SB 606, an act relating to ownership of financial institutions by out-of-state bank holding companies, this Department and the Division of Banking and Securities, although not necessarily advocating interstate banking, do support the full legislative process in determining the needs of the state, its citizens, and a sound financial community. We opposed the special interest activity noted on this subject last session.

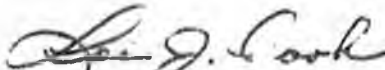
photocopies of  
materials in 1981-82  
Senate Labor +  
Commerce Committee  
bill file re: HB 386

November 19, 1981

SB 606 is acceptable inasmuch as it 's not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended into the bill, there may be serious problems in regulations and enforcement ability by the Department.

Sincerely,



Lois J. Cook  
Acting Deputy Commissioner

LJC/wfs 5/5

Enclosures

# ALASKA INTERSTATE COMPANY

510 L STREET-SUITE 411

ANCHORAGE, ALASKA 99501

(907) 578-8600

RICHARD F. BARNES

VICE PRESIDENT

October 29, 1981

Hon. Bob Mulcahy, Chairman  
Senate Labor and Commerce Committee  
Box 246  
Kodiak, Alaska 99615

Dear Senator Mulcahy:

Enclosed is a copy of a bill that was introduced at our request last March in the House Labor and Commerce Committee. If the House acts on the matter this next season we will need your help on the Senate side to pass the legislation.

The measure extends the statutory period for delivering shareholder notices and soliciting proxies from fifty to sixty days. The sixty-day period is now standard in most states.

Like other Alaska corporations, we face a hectic period soliciting a sufficient number of proxies to represent a quorum at shareholder meetings. This timing problem is compounded by shares held in "street name" at brokerage houses, which must forward the information to the respective owners.

If the bill does come before your committee, we would appreciate favorable consideration of its merit. If you desire additional information or need testimony on the issue, we would be pleased to work with you. I have discussed this legislation with Terry Martin, Chairman of the House Labor and Commerce committee. He indicated that the bill (HB 386) may be acted on early in the session and sent to the Senate.

Our primary Alaskan operation provides natural gas service to homes and businesses in the Kenai Peninsula Borough and the Municipality of Anchorage. I have included a copy of last year's annual report describing the gas company and our other operations, for your information.

Very truly yours,

*R. F. Barnes*

Encs.

cc: Hon. Terry Martin



Official Business

# Alaska State Legislature

## Senate

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

SB 386: (by the House Labor and Commerce Committee)

Amends two sections of AS 10.05, the Alaska Business Corporation Act. Chapter relates to corporations which provide small business investments through participation in the Federal Small Business Investment Act of 1958. Bill amends Sec. 141, "Notice of Share holder's Meetings," to require notice to be delivered not less than 10 nor more than 60 (currently 50) days before the date of the meetings. Also amends Sec 144, "Closing of Transfer Books and Fixing Record date," to allow the board of directors of a corporation to provide that the stock transfer books be closed for a stated period not exceeding 60 days (currently 50 days). Instead of closing the stock transfer books, the bylaws or the Board may fix in advance a date as the record date for the determination of shareholders. Bill amends section to state that record date must not be more than 60 days (currently 50 days) and, in case of a meeting of shareholders, not less than 10 days before the date on which the particular action requiring the determination of the shareholders is to be taken. No effective date.

tenth of all the shares entitled to vote at the meeting, or the other officers or persons provided in the articles of incorporation or the bylaws. (§ 26 ch 126 SLA 1957)

ALR reference. — Power of directors to change time for stockholders' meetings, 2 ALR 89; 8 ALR 478.

Sec. 10.05.141. Notice of shareholders' meetings. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose for which the meeting is called, shall be delivered not less than 10 nor more than 30 days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at the meeting. If mailed, the notice is considered delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage prepaid. (§ 27 ch 126 SLA 1957)

ALR and C.J.S. reference. — Validity of action taken at stockholders' meeting as affected by lack of notice, 51 ALR 243. Informality of notice as affecting action taken at meeting, 51 ALR 241. 18 C.J.S. Corporations § 544.

Sec. 10.05.144. Closing of transfer books and fixing record date. (a) To determine the shareholders entitled to notice of or to vote at a meeting of shareholders or an adjournment of a meeting, or entitled to receive payment of a dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period not exceeding 60 days. If the stock transfer books are closed to determine shareholders entitled to notice of or to vote at a meeting of shareholders, they shall be closed for at least 10 days immediately preceding the meeting.

(b) Instead of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw the board of directors, may fix in advance a date as the record date for the determination of shareholders. This record date shall be not more than 60 days and, in case of a meeting of shareholders, not less than 10 days before the date on which the particular action requiring the determination of shareholders is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring the dividend is adopted is, as the case may be, the record date for the determination of shareholders. When a determination of shareholders entitled to vote at a meeting of shareholders is made, the

determina where the the stock pired. (§ 2

Sec. 10. meeting of stock trans of the share ment of the dress of an kept on file ject to insu nees hours shall also meeting an ing the mee evidence n list or trans

(b) Fail not affect 126 SLA 19

Sec. 10. An officer o fails to pre period of 1 the meeting shareholder of the dema

Sec. 10.0 entitled in the quorum at a quorum c vote at the of the majo tited to vot unless the quired by the laws. (§ 30

Sec. 10.00 regardi- v o mitted to a text that th

determination applies to an adjournment of the meeting except where the determination has been made through the closing of the stock transfer books and the stated period of closing has expired. (§ 28 ch 126 SLA 1957)

**Sec. 10.05.147. Voting list.** (a) At least 10 days before each meeting of shareholders, the officer or agent having charge of the stock transfer books for shares of a corporation shall make a list of the shareholders entitled to vote at the meeting or an adjournment of the meeting, arranged in alphabetical order, with the address of and the number of shares held by each. The list shall be kept on file at the registered office of the corporation and is subject to inspection by a shareholder at any time during usual business hours for a period of 10 days prior to the meeting. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of a shareholder during the meeting. The original stock transfer books are prima facie evidence as to who are the shareholders entitled to examine the list or transfer books or to vote at a meeting of shareholders.

(b) Failure to comply with the requirements of this section does not affect the validity of the action taken at the meeting. (§ 29 ch 126 SLA 1957)

**Sec. 10.05.150. Liability for violation of § 147 of this chapter.** An officer or agent having charge of the stock transfer books who fails to prepare the list of shareholders, or keep it on file for a period of 10 days, or produce and keep it open for inspection at the meeting, as provided in § 147 of this chapter, is liable to a shareholder suffering damage because of the failure, to the extent of the damage. (§ 29 ch 126 SLA 1957)

**Sec. 10.05.153. Quorum of shareholders.** Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, constitutes a quorum at a meeting of shareholders. However, in no event may a quorum consist of less than one-third of the shares entitled to vote at the meeting. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter is the act of the shareholders, unless the vote of a greater number or voting by classes is required by this chapter or the articles of incorporation or the by-laws. (§ 30 ch 126 SLA 1957)

**Sec. 10.05.156. Voting of shares.** (a) Each outstanding share, regardless of class, is entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of a class are limited or

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 386  
 Title An Act Relating to Business Corporations  
 Requested by Senate Labor and Commerce Committee Date November 9, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Consumer Protection  
 BRU, Program, or Subprogram(s) Affected Corporations  
 (Note: if more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
<b>TOTAL</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER (Specify Fund Source)		0	0	0	0	0

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE November 12, 1981 PREPARED BY William F. Kirkpatrick  
 AGENCY Department of Commerce & Economic Development  
 Original. Legislative Finance PHONE 465-2321  
 cc. Budget and Management  
 Prime Sponsor (First Legislator Named)

SENATE LABOR AND COMMERCE COMMITTEE  
Senator Bob Mulcahy, Chair

Minutes and Tapes Inventory  
1982

<u>TAPE #</u>	<u>DATE</u>	<u>BILL NUMBER AND SIGNIFICANT INFORMATION</u>
17	1/22/82	AIDA overview.
18	1/25/82	HB 252, SB 548.
#	1/27/82	HB 159, HB 659. Joint meeting with the House Labor and Commerce Committee. Available in STAIRS through SLAB and HLAB.
19	2/8/82	SB 513, SB 590, SB 611.
20	2/10/82	SB 648, SB 663, SB 700.
21	2/26/82	SB 757.
22	3/1/82	SB 614, SB 665, SB 701, SB 746.
23	3/4(3)/82	SB 749, SB 750, SB 752, HB 524. In STAIRS, date of meeting is recorded as 3/4/82, however, the tape, tape log and inventory sheet all indicate 3/3/82. (Date in STAIRS needs to be changed).
24	3/10/82	SB 669, SB 670, SB 757, SB 771, SB 783, SB 798, SB 801.
25	3/15/82	SB 606, SB 756.
26	3/17/82	SB 630, SB 648, SB 801, SB 831.
27	3/19/82	SB 684.
28	3/24/82	SB 684. (work session)
29	4/7/82	SB 539, SB 749, SB 750, SB 841, SJR 38, HB 524.
30	4/12/82	SB 816, SB 874.
31	4/16/82	HB 684, HB 685.
32	4/19/82	HE 159.
33	4/23/82	HB 386, HB 697, HB 726, HB 835.
34	5/3/82	HB 694, HB 697, HB 835.

# TAPE LOG 1982

Tape No. Thirty-three (33)

committee: Senate Labor & Commerce

date 4/23/82 to

bill numbers: HB 386 | CSHB 726 | CSHB 835 | CSHB 697 | | | |

other information: Those Present: Senators Anderson, Rodey, Fahrenkamp, Ziegler and Mulcahy

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
4/21/82 3:10	004		Meeting called to order by Chairman Mulcahy.
	018	CSHB 726	Brought up by Chairman Mulcahy.
	030		Ms. Judy Knight with the Dept. of Labor called to testify.
	171		Ms. Knight excused.
	182		Mr. Gary Jenkins, representing NFIB called to testify.
	244		Mr. Jenkins excused.
	248		Mr. Dave Stancliff, representing Representative Barnes called to testify.
	311		Mr. Stancliff excused.
	315	CSHB 835	Brought up by Chairman Mulcahy.
	321		Ms. Judy Knight with the Dept. of Labor called to testify.
	350		Ms. Knight excused.
	352		Mr. Phil Holdsworth representing the Alaska Miners Assn. called to testify.
	416		Mr. Holdsworth excused.
	418		Ms. Jeane Kline representing the Alaska General Contractors called to testify.
	456		Ms. Kline excused.
	458		Mr. Jim Robinson, President, AFL-CIO called to testify.
	479		Mr. Robinson excused.
	482	CSHB 697	Brought up by Chairman Mulcahy.
	499		Mr. Fred Muller, Deputy Commissioner of the Dept. of Administration called to testify.
	555		Mr. Muller excused.
	559		Ms. Terry Cramer with the Blue Ribbon Commission called to testify.
	641		Ms. Cramer excused.
	643		Ms. Cherie Shelley representing APEA called to testify.
	682		Ms. Shelley excused.
	684		Mr. Bill Mailer representing Representative Bylsma called to testify.



SEARCH - QUERY  
0004 HB ADJ 386

LAB042382 DOCUMENT# 1 OF 16

CHAMBER = S  
SOURCE = SLAB  
DATE = 820423  
YEAR = 82  
TIME = 1510

DOCUMENT TEXT

SENATE LABOR & COMMERCE  
STANDING COMMITTEE  
APRIL 23, 1982  
3:10 P.M.

MEMBERS PRESENT: SENATOR BOB MULCAHY, CHAIRMAN  
SENATOR NELS ANDERSON  
SENATOR PAT RODEY  
SENATOR BETTYE FAHRENKAMP  
SENATOR BOB ZIEGLER

HB 726 "AN ACT PROVIDING FOR AN EXEMPTION FROM THE  
ALASKA DEVELOPMENT SECURITY ACT; AND PROVIDING  
FOR AN EFFECTIVE DATE."

HB 386 "AN ACT RELATING TO BUSINESS CORPORATIONS."

HB 835 "AN ACT RELATING TO HEALTH AND SAFETY."

HB 697 "AN ACT RELATING TO APPOINTMENT OF NONPERMANENT  
EMPLOYEES FOR CERTAIN WORK ASSIGNMENTS; AND  
PROVIDING FOR AN EFFECTIVE DATE."

WITNESS:

MS. JUDY KNIGHT  
DEPARTMENT OF LABOR  
SEALASKA BUILDING, JUNEAU, AK 99801  
465-2700

POSITION STATEMENT: EXPLAINED THAT THE DEPARTMENT HAD NO OPPOSITION  
TO THE LEGISLATION; PROPOSED A COMMITTEE  
SUBSTITUTE TO HB 726 WHICH WOULD CONTAIN  
CONFORMITY ISSUES FOR UNEMPLOYMENT INSURANCE  
SHE ALSO SUPPORTED HB 835.

WITNESS:

GARY JENKINS  
NATIONAL FEDERATION OF PROFESSIONAL ENGINEERS

STATEMENT: URGED SUPPORT OF HB 726, AND PROPOSED AMENDMENTS WHICH WOULD ALTER THE LANGUAGE TO THAT FOUND IN THE WORKER'S COMPENSATION ACT."

FOR

S:  
NOLEFF, AIDE  
DNA BARNES

JUNEAU, AK 99811

STATEMENT: SUPPORTED LEGISLATION INTRODUCED BY REP. BARNES.

ITTEE  
CTION

SS:  
L. HOLDSWORTH  
MINERS ASSOCIATION  
ESS PROVIDED EXCEPT JUNEAU, AK.  
E PROVIDED.

STATEMENT: SUPPORTS HB 835 WITH THE DELETION OF THE SECTION PERTAINING TO NINE RESCUE TEAMS.

SS:  
KLINE, LOBBYIST  
TION OF GENERAL CONTRACTORS  
ESS PROVIDED EXCEPT JUNEAU, AK  
E PROVIDED.

TEE  
D.

STATEMENT: SUPPORTED HB 835 AND URGED ITS PASSAGE.

TEE  
D.

SS:  
ROBINSON

TEE  
D

, ANCHORAGE, AK  
E PROVIDED.

STATEMENT: SUPPORTED HB 835 BUT URGED A POSSIBLE AMENDMENT PERTAINING TO THE MEMBERSHIP OF THE COUNCIL.

EF  
AND  
VICIOUS

SS:  
D MULLER  
ENT OF ADMINISTRATION  
, JUNEAU, AK 99811

STATEMENT: DISCUSSED THE CONCEPT OF NON-PERMANENT EMPLOYEES IN TEMPORARY POSITIONS, AND THE LOCAL HIRE AMENDMENT.

WITH

SS:  
CRANER, ADMINISTRATIVE ASSISTANT  
SSION COMMISSION  
E COMPANY AK 99811

ALLED

STATEMENT: DISCUSSED THE CONCEPT OF NON-PERMANENT HIRE AND SUPPORTED AK AMENDMENT WHICH WOULD ALLOW FOR LOCAL HIRE

BY,

CALLED TO TESTIFY.

NUMBER 311

MR. STANCLIFF WAS EXCUSED.

NUMBER 315

CHAIRMAN MULCAHY BROUGHT HB 835 BEFORE THE COMMITTEE.

NUMBER 324

MS. JUDY KNIGHT, DEPARTMENT OF LABOR, WAS CALLED TO TESTIFY.

NUMBER 350

MS. KNIGHT WAS EXCUSED.

NUMBER 352

MR. PHIL HOLDSWORTH, ALASKA MINER'S ASSOCIATION, WAS CALLED TO TESTIFY.

NUMBER 416

MR. HOLDSWORTH WAS EXCUSED.

NUMBER 418

MS. JEANNE KLINE, ALASKA GENERAL CONTRACTORS, WAS CALLED TO TESTIFY.

NUMBER 456

MS. KLINE EXCUSED.

NUMBER 458

MR. JIM ROBINSON, PRESIDENT OF AFL/CIO, WAS CALLED TO TESTIFY.

NUMBER 479

MR. ROBINSON WAS EXCUSED.

NUMBER 482

CHAIRMAN MULCAHY BROUGHT HB 697 BEFORE THE COMMITTEE.

NUMBER 499

MR. FRED MULLER, DEPUTY COMMISSIONER OF THE DEPARTMENT OF ADMINISTRATION, WAS CALLED TO TESTIFY.

NUMBER 555

MR. MULLER WAS EXCUSED.

NUMBER 559

MS. TERRY CRAMER, AIDE TO BLUE RIBBON COMMISSION, WAS CALLED TO TESTIFY.

NUMBER 641

MS. CRAMER WAS EXCUSED.

NUMBER 643

MS. CHERIE SHELLEY, ALASKA PUBLIC EMPLOYEES ASSOCIATION, WAS CALLED TO TESTIFY.

NUMBER 662

MS. SHELLEY WAS EXCUSED.

NUMBER 664

MR. BILL MAILER, AIDE TO REP. BYLSHA, WAS CALLED TO TESTIFY.

NUMBER 722

MR. MAILER WAS EXCUSED.

NUMBER 733

CHAIRMAN MULCAHY BROUGHT HB 366 BEFORE THE COMMITTEE.

51 OCT 72

CORPORATIONS, WAS CALLED TO TESTIFY.

NUMBER 736

MR. HUTCHINSON WAS EXCUSED.

NUMBER 737

SENATOR ANDERSON MADE A MOTION TO MOVE HR 386 WITH INDIVIDUAL RECOMMENDATIONS. HEARING NO OBJECTIONS THE MOTION WAS ADOPTED. ALL MEMBER SENATORS SIGNED "DO PASS".

NUMBER 739

MEETING WAS ADJOURNED BY CHAIRMAN MULCAHY AT 3:46 P.M.

END OF DOCUMENT

S B

3 7 4





Official Business

**COMMITTEE:**

SENATE COMMUNITY & REGIONAL AFFAIRS

**DATE:**

FEB 18. 1992

**SIGN-IN**

**Subject of meeting:**

SB 374 INVESTMENT POOLS FOR PUBLIC ENTITIES

PLEASE PRINT!

NAME

ADDRESS

(MAILING) & (ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

ROD R. MORGAN	Dept of Revenue	461 2-00	Revenue	N
Brian Andrews	DOR	5-2300	Revenue	Y
Scott Burgess		6-1325	AML	Y
LP Carroll	Commerce	465 2521	Banking / Securities	AT THE CHAIRS PLEASED
Marque Odland	Dept of Law	-3600	Law	Y asked