

ALASKA

LEGISLATURE COMMITTEE FILES

1991-1992

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SENATE COMMUNITY

& REGIONAL AFFAIRS

CHAPTER 601G

CITIZENS' AIDE

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601G.1 Definitions.

As used in this chapter:

1. "Person" means an individual, aggregate of individuals, corporation, partnership, or unincorporated association.
2. "Agency" means all governmental entities, departments, boards, commissions, councils or institutions, and any officer, employee or member thereof acting or purporting to act in the exercise of official duties, but it does not include:
 - a. Any court or judge or appurtenant judicial staff.
 - b. The members, committees, or permanent or temporary staffs of the Iowa general assembly.
 - c. The governor of Iowa or the governor's personal staff.
 - d. Any instrumentality formed pursuant to an interstate compact and answerable to more than one state.
3. "Officer" means any officer of an agency.
4. "Employee" means any employee of an agency.
5. "Administrative action" means any policy or action taken by an agency or failure to act pursuant to law.

[C73, 75, 77, 79, 81, §601G.1]

601G.2 Office established.

The office of citizens' aide is established.

[C73, 75, 77, 79, 81, §601G.2]

601G.3 Appointment — vacancy.

The citizens' aide shall be appointed by the legislative council with the approval and confirmation of a constitutional majority of the senate and with the approval and confirmation of a constitutional majority of the house of representatives. The legislative council shall fill a vacancy in this office in the same manner as the original appointment. If the appointment or vacancy occurs while the general assembly is not in session, such appointment shall be reported to the senate and the house of representatives within thirty days of their convening at their next regular session for approval and confirmation.

The citizens' aide shall employ and supervise all employees under the citizens' aide's direction in such positions and at such salaries as shall be authorized by the legislative council. The legislative council shall hear and act upon appeals of aggrieved employees of the office of the citizens' aide.

[C73, 75, 77, 79, 81, §601G.3]

601G.4 Citizen of United States and resident of Iowa.

The citizens' aide shall be a citizen of the United States and a resident of the state of Iowa, and shall be qualified to analyze problems of law, administration and public policy.

[C73, 75, 77, 79, 81, §601G.4]

601G.5 Term — removal.

The citizens' aide shall hold office for four years from the first day in July of the year of approval by the senate and the house of representatives, and until a successor is appointed by the legislative council, unless the citizens' aide can no longer perform the official duties, or is removed from office. The citizens' aide may at any time be removed from office by constitutional majority vote of the two houses of the general assembly or as provided by chapter 66. If a vacancy occurs in the office of citizens' aide, the deputy citizens' aide shall act as citizens' aide until the vacancy is filled by the legislative council.

[C73, 75, 77, 79, 81, §601G.5]

601G.6 Deputy — assistant for penal agencies.

The citizens' aide shall designate one of the members of the staff as the deputy citizens' aide, with authority to act as citizens' aide when the citizens' aide is absent from the state or becomes disabled. The citizens' aide may delegate to members of the staff any of the citizens' aide's authority or duties except the duty of formally making recommendations to agencies or reports to the governor or the general assembly.

The citizens' aide shall appoint an assistant who shall be primarily responsible for investigating complaints relating to penal or correctional agencies.

[C73, 75, 77, 79, 81, §601G.6]

84 Acts, ch 1046, §1

plaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the administrative agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

[C73, 75, 77, 79, 81, §601G.13; 82 Acts, ch 1026, §2]

601G.14 Institutionalized complainants.

A letter to the citizens' aide from a person in a correctional institution, a hospital, or other institution under the control of an administrative agency shall be immediately forwarded, unopened to the citizens' aide by the institution where the writer of the letter is a resident. A letter from the citizens' aide to such a person shall be immediately delivered, unopened to the person.

[C73, 75, 77, 79, 81, §601G.14]

601G.15 Reports critical of agency or officer.

Before announcing a conclusion or recommendation that criticizes an agency or any officer or employee, the citizens' aide shall consult with that agency, officer or employee, and shall attach to every report sent or made under the provisions of this chapter a copy of any unedited comments made by or on behalf of the officer, employee, or agency.

[C73, 75, 77, 79, 81, §601G.15]

601G.16 Recommendations to agency.

If, having considered a complaint and whatever material the citizens' aide deems pertinent, the citizens' aide finds substantiating facts that:

1. A matter should be further considered by the agency;
2. An administrative action should be modified or canceled;
3. A rule on which an administrative action is based should be altered;
4. Reasons should be given for an administrative action; or
5. Any other action should be taken by the agency, the citizens' aide shall state the recommendations to the agency. If the citizens' aide requests, the agency shall, within twenty working days notify the citizens' aide of any action taken on the recommendations or the reasons for not complying with them.

If the citizens' aide believes that an administrative action has occurred because of laws of which results are unfair or otherwise objectionable, the citizens' aide shall notify the general assembly concerning desirable statutory change.

[C73, 75, 77, 79, 81, §601G.16]

601G.17 Publication of conclusions.

The citizens' aide may publish the conclusions, recommendations, and suggestions and transmit them to the governor, the general assembly or any of its committees. When publishing an opinion adverse to an administrative agency or official the citizens' aide shall, unless excused by the agency or official affected, include with the opinion any unedited reply made by the agency.

Any conclusions, recommendations, and suggestions so published may at the same time be made available to the news media or others who may be concerned.

[C73, 75, 77, 79, 81, §601G.17]

601G.18 Report to general assembly.

The citizens' aide shall by April 1 of each year submit an economically designed and reproduced report to the general assembly and to the governor concerning the exercise of the citizens' aide functions during the preceding calendar year. In discussing matters with which the citizens' aide has been concerned, the citizens' aide shall not identify specific persons if to do so would cause needless hardship. If the annual report criticizes a named agency or official, it shall also include unedited replies made by the agency or official to the criticism, unless excused by the agency or official affected.

[C73, 75, 77, 79, 81, §601G.18; 82 Acts, ch 1026, §3]

601G.19 Disciplinary action recommended.

If the citizens' aide believes that any public official, employee or other person has acted in a manner warranting criminal or disciplinary proceedings, the citizens' aide shall refer the matter to the appropriate authorities.

[C73, 75, 77, 79, 81, §601G.19]

* 601G.20 Immunities.

No civil action, except removal from office as provided in chapter 66, or proceeding shall be commenced against the citizens' aide or any member of the staff for any act or omission performed pursuant to the provisions of this chapter unless the act or omission is actuated by malice or is grossly negligent, nor shall the citizens' aide or any member of the staff be compelled to testify in any court with respect to any matter involving the exercise of the citizens' aide's official duties except as may be necessary to enforce the provisions of this chapter.

[C73, 75, 77, 79, 81, §601G.20]

601G.21 Witnesses.

A person required by the citizens' aide to provide information shall be paid the same fees and travel allowances as are extended to witnesses whose attendance has been required in the district courts of this state. Officers and employees of an agency shall not be entitled to such fees and allowances. A person who, with or without service of compulsory process, provides oral or documentary information requested by the citizens' aide shall be accorded the same privileges and immunities as are extended to witnesses in the courts of this state, and shall also be entitled to be accompanied and advised by counsel while being questioned.

[C73, 75, 77, 79, 81, §601G.21]

601G.22 Penalties.

A person who willfully obstructs or hinders the lawful actions of the citizens' aide or the citizens' aide's staff, or who willfully misleads or attempts to mislead the citizens' aide in the citizens' aide's inquiries, shall be guilty of a simple misdemeanor.

[C73, 75, 77, 79, 81, §601G.22]

601G.23 Citation.

This chapter shall be known and may be cited as the "Iowa Citizens' Aide Act".

[C73, 75, 77, 79, 81, §601G.23]

CITIZENS' AIDE[210]

(OMBUDSMAN)

Chapter 1 A rescinded and the following chapter 1 B published 9/16/81 and effective 10/21/81, adopted 9/16/81

<p>CHAPTER 1 ORGANIZATION</p> <p>1.1(601G) Function 1.2(601G) Operation</p>	<p>4.5(17A) Statement of reasons 4.6(17A) Petition for rulemaking 4.7(17A) Procedure after petition is filed</p>
<p>CHAPTER 2 PROCEDURES</p> <p>2.1(601G) Intake methods 2.2(601G) Jurisdiction 2.3(601G) Investigations 2.4(601G) Hearings 2.5(601G) Case disposition after investigation 2.6(601G) Review</p>	<p>CHAPTER 5 CONFIDENTIALITY</p> <p>5.1(601G,68A) Public information 5.2(601G) Private information 5.3(601G) Confidential information 5.4(601G) Request for information in citizens' aide/ombudsman files</p>
<p>CHAPTER 3 DECLARATORY RULINGS</p> <p>3.1(17A) General 3.2(17A) Petition for declaratory rulings 3.3(17A) Procedure after petition is filed</p>	<p>CHAPTER 6 PRIVILEGES AND IMMUNITIES</p> <p>6.1(601G) Privileges and immunities</p>
<p>CHAPTER 4 RULEMAKING</p> <p>4.1(17A,601G) Commencing rulemaking 4.2(17A,601G) Oral presentations 4.3(17A) Conferences or consultation 4.4(17A) Adoption</p>	<p>CHAPTER 7 PENALTIES</p> <p>7.1(601G) Penalties</p>
	<p>CHAPTER 8 FORMS</p> <p>8.1(601G) Subpoena form 8.2(601G) Patient waiver form 8.3(601G) General information waiver form</p>

CHAPTER 1 ORGANIZATION

210—1.1(601G) Function. The citizens' aide/ombudsman office was created pursuant to chapter 601G, The Code, and is charged with the responsibility to accept and investigate complaints and render an objective opinion or recommendation on a complaint from a member of the public about an action or inaction of an agency of the state or local government in Iowa, and by doing so, resolving citizens' complaints and improving administrative processes and procedures.

210—1.2(601G) Operation.

1.2(1) Location. The office of the citizens' aide/ombudsman is located at 515 E. 12th Street, Des Moines, Iowa 50319. The phone number is area code (515) 281-3592. Office hours

5.4(5) The citizens' aide/ombudsman will provide open access to the files, at the written request of the governor, the general assembly or standing committee of the general assembly pursuant to Iowa Code section 601G.8.

These rules are intended to implement Iowa Code chapter 601G as amended by 1982 Iowa Acts, chapter 1026.

[Filed 8/26/81, Notice 7/22/81—published 9/16/81, effective 10/21/82]

[Filed 11/5/82, Notice 6/23/82—published 11/24/82, effective 12/29/82]

CHAPTER 6 PRIVILEGES AND IMMUNITIES

210—6.1(601G) Privileges and immunities.

6.1(1) No civil action, except removal from office, as provided in chapter 66, The Code, or proceeding shall be commenced against the citizens' aide/ombudsman or any member of his/her staff for any act or omission performed pursuant to the provisions of this chapter unless the act or omission is actuated by malice or is grossly negligent.

6.1(2) The citizens' aide/ombudsman or any member of his/her staff shall not be compelled to testify in any court with respect to any matter involving the exercise of his/her official duties except as may be necessary to enforce the provisions of chapter 601G, The Code.

[Filed 8/26/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]

CHAPTER 7 PENALTIES

210—7.1(601G) Penalties. Any person who willfully obstructs or hinders the lawful actions of the citizens' aide/ombudsman or a member of the citizens' aide/ombudsman's staff or who willfully misleads or attempts to mislead the citizens' aide/ombudsman in his/her inquiries shall be guilty of a simple misdemeanor. The citizens' aide/ombudsman shall refer all violations of this section to the county attorney in the county where the obstruction or hinderance occurred.

[Filed 8/26/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]

CHAPTER 8 FORMS

210—8.1(601G) Subpoena form. Citizens' aide/ombudsman form number CA/O-1 is a subpoena/subpoena duces tecum form.

210—8.2(601G) Patient waiver form. Citizens' aide/ombudsman form number CA/O-2 is an authorization for medical or hospital information form.

210—8.3(601G) General information waiver form. Citizens' aide/ombudsman form number CA/O-3 is an authorization for release of information form.

[Filed 8/26/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]

HB

140

DATE: 3/18/91

FURTHER: L&C

DATE TURNED INTO OFFICE: _____

C&RA Committee considered CS HB 140 (L&C)

"An Act relating to rate review by the Alaska Public Utilities Commission for solid waste recovery and recycling services of public utilities."

and recommended:

replace with CS CSHB 140 (C&RA)
 or adopt _____ CS _____

same title
 new title
 technical title change (HB only)

attached amendment(s)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____
CEDC 3/27/91

zero fiscal note(s) _____
CEDC SCS

Governor's bill w/fiscal note

SIGNING DO PASS:

Cliff Sturgis
Paul J. Hoff

OTHER RECOMMENDATIONS:

Chair: Signature and Recommendation



Official Business

Alaska State Legislature

House

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

MAR 22 1991

MEMORANDUM

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

From: Representative David Finkelstein *DF*

Date: March 19, 1991

Re: HB 140; "An Act Relating to Rate Review by the Alaska Public Utilities Commission for Solid Waste Recovery and Recycling Services of Public Utilities."

I would like to request that HB 140 be scheduled in your committee.

Waste disposal in Alaska is a major problem. The ecological and economic costs of landfills are rising, and we could soon be facing a crisis. Solid-waste recovery and recycling are important parts of the solution to this problem. HB 140 would allow utilities to include reasonable costs associated with waste recovery and recycling in their rates, which they are not now able to do.

By initiating recycling, consumers will be reducing the need for more landfills and higher landfill fees in the future. In cases where the utility chooses to do so, HB 140 would allow recycling and waste recovery to be treated as normal functions of the utility.




Official Business

Alaska State Legislature

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

MEMORANDUM

To: Senate Community and Regional Affairs Committee

From: Representative David Finkelstein 

Date: April 30, 1991

Re: HB 140; "An Act Relating to Rate Review by the Alaska Public Utilities Commission for Solid Waste Recovery and Recycling Services of Public Utilities."

Waste disposal in Alaska is a major problem. The ecological and economic costs of landfills are rising, and we could soon be facing a crisis. Solid-waste recovery and recycling are important parts of the solution to this problem. HB 140 would allow utilities to include reasonable costs associated with waste recovery and recycling in their rates, which they are not now able to do.

By initiating recycling, consumers will be reducing the need for more landfills and higher landfill fees in the future. In cases where the utility chooses to do so, HB 140 would allow recycling and waste recovery to be treated as normal functions of the utility.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

FISCAL NOTE

Bill No. CSHB 140 (L+C)

Revision Date: _____ Department Affected: Environmental Conservation
 Title: An Act relating to rate review by the BRU: Environmental Quality
Alaska Public Utilities Commission ... Component: Environmental Quality Projects
 Sponsor: Rep. Finkelstein COMPONENT SERIAL
 Requestor: House Labor & Commerce Committee NUMBER 1016

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUND						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Jeff Mach Phone: 465-2671
 Division: Environmental Quality Date: 3/14/91

Approved by Commissioner: *James O. Jensen*
 Agency: Environmental Conservation Date: 3/27

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency (ies).

FISCAL NOTE

No. 1
 Bill Version: C3HB 140(L&C)
 (H) Publish Date: 2/27/91

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Commerce & Economic Deve.
 Title: Deregulation of Refuse BRU: APUC
Utilities Component: _____
 Sponsor: Rep David Finkelstein
 Requestor: Rep David Finkelstein COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact for FY91

Prepared By: Ray W. Underman, Acting Exec. Director Phone: 276-6222
 Division: Alaska Public Utilities Commission Date: 2/15/91
 Approved by Commissioner: [Signature] Exec. Asst.
 Agency: Department of Commerce & Economic Development Date: 2-19-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Municipality of Anchorage



P.O. BOX 198650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4433
TOM FINK,
MAYOR

OFFICE OF THE MUNICIPAL MANAGER

April 30, 1991

Senator Steve Frank, Chairman
Community and Regional Affairs
P.O. Box V
Juneau, Alaska 99811

Re: HB 140, Allow Recycling Cost Recovery in Rates

Dear Senator Frank:


The Municipality of Anchorage is opposed to HB 140. Solid waste collection and disposal, including waste recovery and recycling, is an issue to be decided by local governments, not the Alaska Public Utilities Commission (APUC), whose role is rate setting. Passage of this legislation would have a significant impact upon business and households if the APUC decided to increase rates to fund recycling efforts.

Recycling and recovery should be voluntary on the part of the customers, not mandated. Therefore, we would recommend the following amendment to this legislation:

Page 1, line 8, delete "shall promote" and replace it with "may allow".

Thank you for your consideration of our position. If you have any questions, please feel free to contact me.

Sincerely,


Larry D. Crawford
Municipal Manager

To: Eric

Amendment to HB 140(L. E. C.)

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* Section 1. AS 42.05.431 is amended by adding new subsections to read:

(f) In the establishment of rates of a utility furnishing solid waste material collection and disposal service, the commission shall permit recovery of reasonable, net capital and operating costs relating to solid waste recovery and recycling services after considering the utility's recovery of revenue associated with the service.

(g) In the establishment of rates under this chapter, the commission shall promote solid waste recovery and recycling services.

465-2278 /

h

CERTIFIED REFUSE AND GARBAGE UTILITIES IN ALASKA

Anchorage Refuse, Inc.-Anchorage

Andersen, Incorporated-Nome

Channel Sanitation Corporation-Juneau

Drake's Sanitation, Inc.-Fairbanks

Eagle River Refuse, Inc.-Eagle River

Far North Sanitation Service, Inc.-Fairbanks

Interior Services-Fairbanks

Peninsula Sanitation Company, Inc.-Girdwood, Kenai, Soldotna

Tongass Sanitation-Ketchikan

Wasilla Refuse, Inc.-Wasilla

Williwaw Services, Inc.-Unalaska

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1016 WEST 6TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-5222

February 22, 1991

Representative David Finkelstein
P. O. Box V
Juneau, Alaska 99811
VIA FAX: 465-2444

FEB 25 1991

Dear Representative Finklestein:

As an individual Commissioner on the Alaska Public Utilities Commission, I would like to offer the following comments on HB 140, "An Act relating to rate review by the Alaska Public Utilities Commission for *solid waste recovery and recycling services* of public utilities."

I offer the following rewrite to incorporate some of my individual concerns:

AS 42.05.431 is amended by adding new subsections to read:

(f) The commission shall permit reasonable capital and operating costs and the associated revenues of providing solid waste recovery and recycling services in the establishment of rates of a utility furnishing collection and disposal of waste material service.

(g) The commission shall promote solid waste recovery and recycling services in the establishment of rates under this chapter.

The change to add "and the associated revenues" gives the commission explicit authority to include revenues from these services in the development of rates. It also adds the phrase "the establishment of rates" which more closely parallels other statutory references to ratemaking.

If your goal is to insure the promotion of recycling, I would discourage a change from "shall permit" to "may permit" in the operative language. This change would provide future commissions the discretion to ignore recycling costs in the establishment of rates. Though I expect the current commission would permit reasonable costs to be included in rates under the "may permit" language, I do not know how enthusiastic future commissions may be about including recycling costs in the rates.

Under the "shall permit" language, the commission would still have the "reasonable" standard under which they would review any capital and operating costs. A firm cannot simply go purchase plant, incur expenses and expect to be able to raise rates to cover themselves. Though the commission has not yet heard a rate case directly involving recycling, the commission has a track record of reviewing the facts of individual cases and disallowing portions of plant investment that are not reasonable. Examples typically

Representative Finkelstein

February 22, 1991

include telephone and electric utilities which purchase more capacity than needed. Utilities cannot recover unreasonable costs from the ratepayers. The utilities have the burden of proof to demonstrate to the commission that the costs they incurred were just and reasonable.

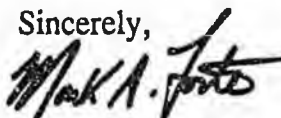
I do not believe the fears of rate escalation due to the start-up of curbside recycling programs are well founded. One, the commission will not allow unreasonable expenditures to be included in rates. Two, the commission is quite concerned about rate shock to ratepayers and will spread any significant **justified** increases over an appropriate transition period. Three, the economics of recycling programs are largely driven by the tipping fee of the landfill. A level comparison between recycling and landfilling suggests that to the extent that the total net cost to recycle is less than the tipping fee, there is a savings. With tipping fees of \$100/ton and above and escalating, particularly in communities in Southeastern Alaska, there is a significant potential for consumers to see long term savings in their bills for waste disposal through the implementation of recycling programs. To the extent the costs of recycling are reasonable when compared to a tipping fee, the commission would be able to include those costs and their associated revenues in the rate.

The nypotheticals which were cited at the teleconference Thursday appeared to ignore the tipping fee and focused on what would happen to rates if the revenue from the sale of a recycled good did not cover the costs of collection. A level comparison would require the commission to go a step further and review whether or not the net cost of the recycling program was reasonable when compared to the costs of landfill disposal.

Finally, I would encourage you to add an additional subsection (g) which gives the commission a tool to promote recycling in the design of rates. A similar provision for the promotion of energy conservation exists as AS 42.05.141(c). I expect that the provision promoting recycling in rate design will be an effective way to help encourage recycling efforts, especially during the critical start-up phase of new adventures (see attachment A: excerpt from "On the Road to Recovery: Seattle's Integrated Solid Waste Management Plan").

If I can be of any assistance, please call me at 276-6222.

Sincerely,



Mark A. Foster,
Commissioner

Attachments

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1018 WEST 6TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501
PHONE: (907) 775-8222

February 12, 1991

The Honorable David Finkelstein
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Representative Finkelstein:

A public meeting was held on February 12, 1990, to discuss the draft of the proposed bill that Representative Brown is sponsoring for the recovery and recycling of solid waste services. The meeting was attended by Commissioners Schröder, O'Tierney, May and Foster. Also participating were members of the Commission Staff (Staff).

It is assumed that if a utility were to request the capital and operating costs associated with the recovery operation that the costs should be prudent and reasonable. In other words, the review of Staff and approval by the Commission in conjunction with the allowing of the costs would fall under AS 42.05.381, Rates to be just and reasonable. In order to avoid any confusion the Commission suggests that the language be amended to substitute the word "reasonable" for the word "the" (preceding capitol) on line 6 of the work draft.

The meeting also focused on a general discussion of the practicality of utilities including the costs as part of a revenue requirement determination. The term "shall" on line 5 of the work draft assumes that it is at the option of the utility to request the costs. If costs were requested in the determination of a revenue requirement, any revenues associated with its operation would be subtracted from the revenue requirement.


The Commission also wanted to make you aware that landfills are not regulated and are typically Municipality operated. If the recycling operation is a landfill service, the costs would not be part of any revenue requirement other than the transportation and separation of the recyclable materials by the utility. However, any revenues that may be received would be used to offset the revenue requirement. For those utilities that have a landfill operation, the operation of the landfill is also not jurisdictional, but the tipping fee cost is determined in the affiliated interest decision as to reasonable cost,

AS 42.05.511(c). If landfill recycling is undertaken, the recycling aspects would be considered in the tipping fee determination.

The public meeting was recorded and is available upon request. Please contact me at 276-6222 if you have any questions or require further assistance.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION



Don Schröer, Chairman

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1016 WEST 5TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-6222

May 2, 1991

Senator Steve Frank
Community and Regional Affairs
P.O. Box V
Juneau, Alaska 99811

RE: HB 140, Rate Review for solid waste recovery and recycling of public utilities

Dear Senator Frank:

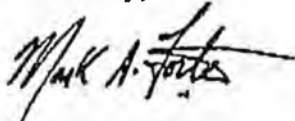
Comments on HB 140 suggest that there may be some confusion regarding what the bill allows and what it requires. It is the Commission's belief that HB 140:

- allows, but does not require, refuse utilities to invest in waste recovery and recycling
- requires the Commission to permit any refuse utility which elects to make such investments to include reasonable costs for waste recovery and recycling in its rates
- requires the Commission to adopt rates which promote, rather than prohibit or discourage, waste recovery and recycling.

Basically, this bill gives refuse hauling firms a statutory basis to recoup reasonable investments and expenses for curbside recycling efforts.

If I can be of any further assistance, please call me at 276-6222.

Sincerely,



Mark A. Foster,
Commissioner

cc: Larry Crawford, Municipality of Anchorage

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
April 26, 1991

1016 WEST 8TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-8222

Rick Solie
c/o Senator Steve Frank
P. O. Box V
Juneau, Alaska 99811
VIA FAX: 465-4714

Dear Mr. Solie:

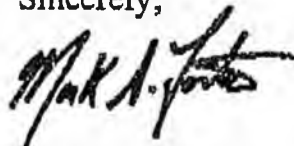
As an individual Commissioner on the Alaska Public Utilities Commission, I would like to offer the following comments on HB 140, "An Act relating to rate review by the Alaska Public Utilities Commission for *solid waste recovery and recycling services* of public utilities."

This bill would permit refuse utilities to include **reasonable** costs for recycling in their rates. With the "reasonable" standard the utilities have the burden of proof to demonstrate to the commission that the costs they incurred were just and reasonable.

For example, if the tipping fee for a landfill were \$40/ton and the cost of collection was \$20/ton, a recycling program that had *net costs* less than \$60/ton would be considered reasonable as it could deliver the utility service to the consumers at the same or a lower rate¹. In short, this bill would provide the garbage utilities an opportunity to specifically recover any reasonable investments and associated expenses in recycling such as containers and trucks as long as it could be shown to be less than the other alternatives.

If I can be of any assistance, please call me at 276-6222.

Sincerely,



Mark A. Foster,
Commissioner

¹If the cost of collection was \$20/ton and the cost of landfilling were \$40/ton the ratepayer would see \$60/ton in their rates. If the *net cost* to collect and recycle were less than \$60/ton the ratepayer would see lower rates. The ratepayer would still be ahead if the cost to collect and recycle were \$65/ton - as long as the commodity was sold for \$5/ton or more, yielding a *net cost* of \$60/ton or less to the utility.

adopted 5/2/91

To: Eric

1

Amendment to HB 140(L & C)

2

* Section 1. AS 42.05.431 is amended by adding new subsections to

3

read:

4

(f) In the establishment of rates of a utility

5

furnishing solid waste material collection and disposal service,

6

the commission shall permit recovery of reasonable, net capital and

7

operating costs relating to solid waste recovery and recycling

8

services after considering the utility's recovery of revenue

9

associated with the service.

10

(g) In the establishment of rates under this chapter,

11

the commission shall promote solid waste recovery and recycling

12

services.

465-2278 /

k

COMMITTEE FOR RECYCLING
P.O. BOX 4387
KODIAK, AK 99615

April 19, 1991

Representative David Finkelstein
House of Representatives
P.O. Box V, Room 15
Juneau, AK 99811

APR 30 1991

Dear Representative Finkelstein:

Reduce. Reuse. Recycle. A simple yet effective plan to deal with our growing solid waste problem.

We are a group of Kodiak Island residents concerned about the worsening solid waste problem in Alaska. We would like to see the State of Alaska take a more active role in enacting legislation similar to that currently mandated at the national level. Many of us are making significant personal efforts to carry out the 3R's: "Reduce, Reuse, Recycle." We are collecting and recycling cans, bottles and paper. We are driving our cars less and trying to find other ways to conserve fuel and energy. We cherish Alaska's wilderness and do not want it destroyed by garbage, overdevelopment or further oil exploration (A.N.W.R.). We would like to see similar efforts and priorities established by our elected leaders.

Solid waste management can no longer be viewed as solely a local issue. In these days of long haul contracts, regional landfills and MARPOL regulations prohibiting dumping at sea, solid waste management is a state-wide issue. Many states have been actively studying the solid waste dilemma and developing solutions that include waste reduction, recycling and composting. Some states have moved aggressively to develop and fund programs to reduce the waste stream. The impetus for new legislation is the lack of available landfill capacity, the "NIMBY" (Not In My Backyard) syndrome, the increasing expense of waste disposal and the environmental consequences of disposals.

Given the above, would you consider the following ideas for implementation into state policy:

1. Recycled paper products - for use in all state government agencies. Government agencies should provide a model for citizens and businesses. This would apply to all units of state and local government, schools and special purpose districts.

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- Set a minimum goal of 25% of the total value of materials and supplies purchased by, say, 1993.
 - Develop a data base to show all available products and vendors who carry them -- to be accessible to all public agencies.
 - Require a higher percentage, say 75%, of all paper purchased by 1995 to be recycled product.
2. Double sided printing - require all correspondence and publications to be printed on both sides of the paper. This would immediately halve paper costs.
 3. Solid waste tax - on non-recyclable items and packaging. This would help cover collection and disposal costs.
 4. Prohibition of non-recyclable packaging - when alternatives are feasible.
 5. "Can and Bottle Bill" - establish deposit system for all beverage containers.
 6. Environmental product ratings - based on environmental soundness; standardized and certifiable. Does the product or its manufacturer pollute the environment or deplete non-renewable resources? Is it reusable? Is it biodegradable?
 7. State financial support for the following:
 - local recycling and environmental projects
 - local solid waste collection efforts
 - solid waste studies, both statewide and individual villages, including medical wastes from rural clinics
 - creation of a State Solid Waste Task Force answerable to Legislators
 - grants to individual villages who show significant recycling and waste reduction efforts
 - education
 8. Sewage sludge - investigate use of municipal sludge on state highway rights of way, grazing lands, etc. Also, use sludge for energy production via anaerobic digestion.
 9. Master composting program - develop and support program to promote backyard and municipal composting of organic wastes (which make up 20% or more of the solid waste stream). Also, use such compost products for soil cover or amendments.
 10. Recycled building materials - study local and state building codes and make changes to encourage less waste, proper disposal and greater use of building materials with recycled content from construction debris. Encourage the use of brick vs. wood in building homes and consider tax incentives for such use. The homes would be warmer, more solid, and reduce the use of wood and pressure on our rapidly dwindling forests.

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11. Alternative paving materials - study and use by Department of Transportation on highways, bike paths, trails, etc. Fresh asphalt is a source of methane, adding to the Greenhouse Effect. Chipped wood waste can be used to create safe surfaces for playgrounds.
12. Waste tire retreading facility - perhaps at a state correctional institute. The tires could be reused on state vehicles or sold to retailers, creating significant revenues for the state.
13. Used oil recycling program - encourage public participation and require high volume retailers to inform the public of availability and nearest collection site for such programs. Recycled motor oil could be used in state vehicles.
14. Tax credits for recycled materials - created as incentives for people to buy and use products manufactured from recycled materials. Also, tax credits could be given for alternative energy utilization such as wind and solar energy. Even if the state's energy needs could be met for only four to six months annually by solar energy during the long summer, it would result in a significant reduction in the use of and dependence on petroleum products.
15. Hazardous waste collection fees - encourage communities to provide opportunities to recycle lube oils, solvents, antifreeze, tires, and hazardous waste materials.
16. Vehicle battery deposits - impose a deposit fee on new lead-acid batteries, refundable when returned for recycling.
17. Municipal recycling programs - required for all communities.
18. State park recycling - placement of additional barrels for glass and aluminum collection at trash pickup sites in both state and national park systems.
19. Waste reduction and recycling goal - establish statewide goals by the year 1992 - say, 20% waste reduction by 1993, 40% by 1994, 60% by 1995, etc.
20. Waste reduction and recycling goal - list of the changes that we long, but hopefully complete, in the state's recycling and waste reduction efforts. We will be attempting to reverse the easy changes. We will be attempting to reverse the years of business development aimed at providing convenience for the consumer. However, we feel these changes are necessary to reverse the trend.

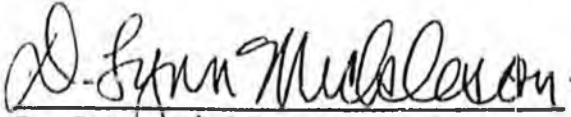
RECYCLED PAPER

CORRECTION

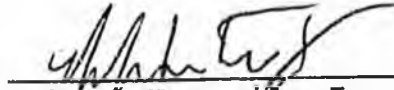
**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Despite its huge size, Alaska will have a significant solid waste problem, probably sooner than later. Communities are already running out of landfill space. We have the chance to do something now about the problem, or wait until a crisis develops. The choice is ours.

Please let us know what you can do about the above proposals.



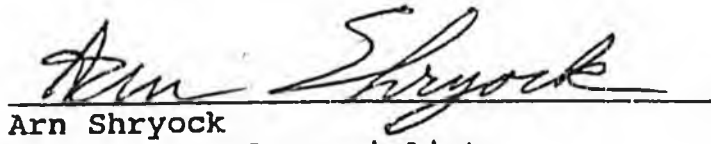
D. Lynn Mickleson, M.D.
Physician



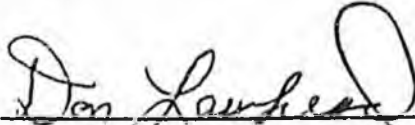
Robert Trouski, Jr.
Environmental Engineer



Marion Stirrup
Photojournalist



Arn Shryock
Environmental Specialist



Don Lawhead
Baler/Landfill Supervisor



Bill Rieth
Civil Engineer



Fred Sorenson
Biologist/Educator

**REDUCE
REUSE
RECYCLE**

:dpr

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19. Waste reduction and recycling goal - establish statewide goals by the year 1992 - say, 20% waste reduction by 1993, 40% by 1994, 60% by 1995, etc.

This is a long, but hopefully complete, list of the changes that we feel necessary in the state's recycling and waste reduction efforts. These are not easy changes. We will be attempting to reverse the effects of 30 years of business development aimed at providing convenience and disposability for the consumer. However, we feel these changes must be made.

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RECYCLING AND SOLID WASTE PETITION
APRIL 22, 1991

THE FOLLOWING INDIVIDUALS AGREE WITH THE PRINCIPLES OF THE ATTACHED LETTER.

NAME

ADDRESS

Brian Himelbloom

P.O. Box 1866 Kodiak, AK 99615

Nancy Lunde RN

Box 622 Kodiak AK 99615

Judith Gartland

2125 Mountain View Dr.
Kodiak, AK 99615

Mary Stewart

201 Kamin...
Kodiak Alaska

Hans W. Tschersich

1423 Baranof St Kodiak 99615

Kristin Shank

4115 Woodland Dr. Kodiak, AK 99615

Ronald F...
F...
F...

P.O. Box 46 Kodiak, AK 99615

Alan Morrison

1512 Mission Rd Kodiak, AK 99615

G.A. ...
...
...

P.O. Box 4254 Kodiak AK 99615

Louise Menke

Box 4267 Kodiak AK 99615

...
...
...

523 Maple St Kodiak, AK 99615

Judith ...
...
...

Box 1124 Kodiak, AK 99615

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APRIL 22, 1991

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ATTACHED LETTER.

NAME

ADDRESS

Heather Peterson

Po Box 1271 Kodiak AK

Romeo Marasigan

1512 Mission Road

Eugene J. S. Sano

2159 Island Cir. Kodiak

Tracy Buckley

1327 Regent Dr.

Christopher Provost

Po Box 4069 Kodiak, AK 99615

Barbara Anthony

210 Hillcrest Kodiak, AK.

Kare Phillips

Box 131 Kodiak AK

Henry Huelah

P.O. BOX 970 - Kodiak AK

James Street

11086 Ujak Dr. Kodiak

Barbara Smitigan

Box 932 Kodiak AK 99615

Jan C. Chatter

Box 3206 Kodiak AK 99615

Paul C. P. P. P.

P.O. BOX 1740 Kodiak, AK 99615

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<u>NAME</u>	<u>ADDRESS</u>
<u>Denny Ray</u>	<u>P.O. Box 251 Kodiak 99615</u>
<u>Russell Ferguson</u>	<u>327 A Lake Louise Dr. Kodiak AK 99615</u>
<u>Emmett J. Ferguson</u>	<u>327 A Lake Louise Dr. Kodiak AK 99615</u>
<u>Donna E. Buckley</u>	<u>1327 Rezanof Kodiak</u>
<u>Janice M. Sasse</u>	<u>20 E AVE, KODIAK, AK 99615</u>
<u>Lauren Madson</u>	<u>12035 Russian Crk. Rd Kodiak 99615</u>
<u>Mikhail G. Dull</u>	<u>PO Box 191647, Kodiak, AK 99619</u>
<u>WILLIAM R. RIETH</u>	<u>P.O. Box 1398, KODIAK, ALASKA 99615</u>
<u>Ann Munoz</u>	<u>1390 Baskins River Rd Kodiak AK 99615</u>
<u>Laurie L. Mudlock</u>	<u>PO Box 151, Kodiak, AK 99615.</u>
<u>Barbara Patti</u>	<u>102 A Ave C Kodiak AK 99615</u>
<u>PSRatti</u>	<u>102 A AVE C Kodiak AK 99615</u>

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<u>NAME</u>	<u>ADDRESS</u>
<u>Jeanne Bergeson</u>	<u>4 E AVE KODIAK AK 99615</u>
<u>Lynn Thompson</u>	<u>Box 94 Kodiak, AK. 99615</u>
<u>Veranda Stone</u>	<u>P.O. Box 5550 Chinitak, AK 99615</u>
<u>Anna Lee Arnett</u>	<u>P.O. Box 2069 Kodiak 99615</u>
<u>Alice K. Knowles</u>	<u>Box 377 Kodiak 99615</u>
<u>Elke Camos</u>	<u>Box 3516 Kodiak 99615</u>
<u>Pierella Branson</u>	<u>1310 PEZANOFF Kodiak AK 99615</u>
<u>Diana Sanders</u>	<u>1218 Malcolm, Jr. Kodiak AK 99615</u>
<u>Marcy Sordlin</u>	<u>Box 1223 KODIAK, AK 99615</u>
<u>Gom Choudhury</u>	<u>1315 LARCH, KODIAK, AK 99615</u>
<u>Basanti Choudhury</u>	<u>4</u>
<u>Patty Heys</u>	<u>207-D C. Ave Kodiak 99615</u>

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ATTACHED LETTER.

NAME

ADDRESS

Lester Zeloff

PO 4296 Kodiak

L. J. Weimer

104 D Ave, #10, Kodiak, AK 99615

Carolyn Nave

P.O. Box 2195 Kodiak 99615

Michael Nave

P.O. Box 2195 Kodiak 99615

Colleen Helligso

SR 2540 Kodiak 99615

Mary Jane Krajnak

Box 606 Kodiak 99615

Justin Huff-John

Box 2661 Kodiak AK 99615

Barbara Budis

1711 Mill Bay #1 Kodiak AK 99615

Sharon Blakeslee

P.O.B. 3696 Kodiak, AK 99615

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NAME

ADDRESS

Sheldon D Curry

1714 Selief #2, Kodiak, AK 99615

Angene Borden

PO Box 2166 Kodiak AK 99615

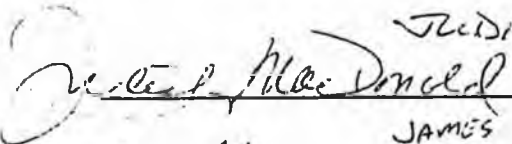
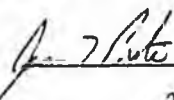
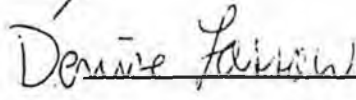
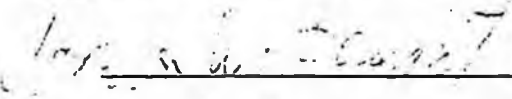
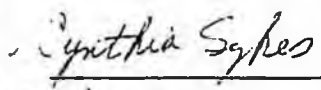
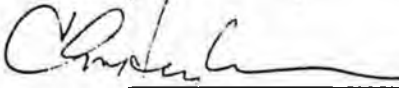
Sarah Thayer

Box 1282 Kodiak 99615

TO OUR LEGISLATORS

We, the undersigned, as residents of the State of Alaska do petition you, our legislators, to enact and provide funding for the following proposed legislation:

- HB 121 - Requires Railbelt utilities to undertake "least cost planning"
- HB 138 - Appropriates funding for recycling and waste reduction
- HB 139 - Establishes recognition awards for pollution prevention and recycling
- HB 140 - Would allow refuse utilities to recover reasonable recycling costs in their rates

<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>	<u>House Dist. #</u>
	JUDITH MACDONALD	8205 MENTRA #3 ANCH AK 99518	9
	JAMES PRATER	6134 EASTWOOD CT ANCH AK 99504	
	Denise Lassau	HC 67 Box 912 Anchorage AK	
	Benedict	P.O. Box 294 Pillingham, AK	#16 99576
	Cynthia Sykes	P.O. Box 68 Talkeetna 99676	
	Christina R. Loren	P.O. Box 190551 Anch. AK 99519	H.D. 15

These bills may be voted on at any time. Petitions need to be returned as soon as possible to the Alaska Center for the Environment - 519 W. 8th Ave., Ste. 201, Anchorage, AK 99501.

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<i>Scott Martine</i>		P.O. Box 770126 Eagle River Al	99577
<i>Eric J. Sirene</i>	ERIC SYRENE	P.O. Box 295 Cordwood, AK	99587
<i>Tom Webber</i>	TOM WEBBER	8155 Craycroft St Anch	99507
<i>Donna Jefferson</i>	DONNA JEFFERSON	BOX 393 TALKEENA, AK	9967
<i>Barbara Krasberg</i>		Box 361 Cordwood	99587
<i>Barbara Jones</i>		7021 Semperis Anchorage	99507

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Signature Printed Name Address House Dist. #

Arif, Steve, Lori Johnston *POB 200302*

Gerald M. Ginty *700 H St Anchorage 99501*

Gene Ferguson *700 H St Anch 99501*
GROUP FERGUSON

Walter E Morgan *Walter E Morgan*
2101 Sunrise Dr. Anch 99508

Richard M. Ginty *700 H St Anch, AK 99501*

BARBARA CORBIT *700 H. St Anchorage, AK 99501*
Barbara Corbett

GREGORY A. LEE
Box 395 Bethel Alaska 99559

Richard A. Leland *Box 1224 Cordova AK 99574*

KE SHANE MURRAY *700 H ST ANCH AK 99501*
KE SHANE MURRAY

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<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>	<u>House Dist. #</u>
<i>Carol L Ramey</i>	Carolyn L. Ramey	403 W. 22 nd Ave #212, Anch	99503
<i>Maureen K. White</i>	MAUREEN K WHITE	5246 Emmanuel Anch	99508 #14
<i>Christine M. Myers</i>	Christine M. Myers	13300 Badger Ln. Anch.	99576
<i>Penelope Cordes</i>	Penelope M. Cordes	6731 Crooked Tree Dr Anch,	99516
<i>Mira Stevens</i>	Mira Stevens	1306 W. 6 th #7 Anch	99508
<i>RASHAD</i>	Rashed	306 W. 6 th #8 Anch	AK
<i>Lloyd Eggen</i>	Lloyd Eggen	6731 Crooked Tree Dr Anchorage AK	
<i>H. Thomas</i>	Heidi Thomas	4300 Arctic #61 Anch	99503
<i>Susan Beeman</i>	Susan Beeman	P.O. Box 242972 Anch.	AK 99504
<i>Steve J. Kendall</i>	Steven J. Kendall	Box 231322 Anch	AK 99523

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Signature Printed Name Address House Dist. #

Denny Thomas Denny Thomas 6301 Bunrysha Anch. 8

Jim Nunn John Nunn 4661 Cascade Cr. Anch AK 9

Marge Edais Marge Edais 4511 Fiker 18-A Anch AK 2

Glen Blum Glen Blum P.O. Box 230974 Anch. AK 10

Constance Katasse Constance Katasse 5000 Kenai Ave Anch. 13

Judith MacDonald JUDITH MACDONALD 8205 MENTRA* B ANCH 99518

Wally Schalkert 12600 TURKIS TURN ST Anch 99516

Erilka Mahaney ERILKA MAHANEV 608 No. Pine Anch 99508

Robert Corman ROBERT CORMAN 7123 Henderson Cr. Anch AK 99505

Cisela F. Hingbly 2085 E. Covek Anch. AK

These bills may be voted on at any time. Petitions need to be returned as soon as possible to the Alaska Center for the Environment - 519 W. 8th Ave., Ste. 201, Anchorage, AK 99501.

199501



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

March 4th, 1991

Representative David Finkelstein
Capitol, Room 15
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Finkelstein:

The Alaska Environmental Lobby would like to take this opportunity to thank you for introducing HB 140. HB 140 will allow the Alaska Public Utilities Commission to consider some costs related to recycling when it reviews and approves rates for public utilities.

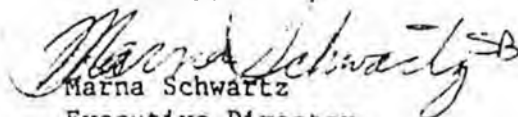
It is economically as well as environmentally wise for the State to make provisions for recycling, as HB 140 would do.

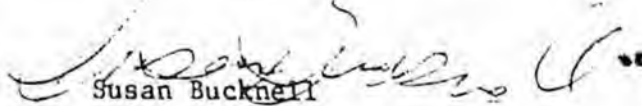
Rate structures for solid waste disposal should reflect longterm costs of disposal. Rates that don't are artificially low. Communities nationwide are being forced to deal with solid waste disposal crises. Many are turning to recycling as part of the solution. Allowing APUC more options in rate structure paves the way for farsighted solid waste management planning in the State of Alaska.

Recycling extends the life of landfills and postpones the time when we need major capital outlays for new solid waste facilities. HB140 has no fiscal note attached, and it will save on waste disposal costs in the future. Therefore, AEL supports the passage of HB140.

Once again, thank you for your effort in introducing this bill.

Sincerely,


Marna Schwartz
Executive Director


Susan Bucknell
AEL Volunteer

Sec. 42.05.140. [Repealed, § 5 ch 113 SLA 1970.]

Article 2. Powers and Duties of the Commission.

Section	Section
141. General powers and duties of the commission	181. Notice and hearing before final orders
151. Regulations and hearing procedures	191. Format of orders
161. Application of Administrative Procedure Act	201. Publication of reports, orders, decisions and regulations
171. Formal hearings	211. Annual report

Collateral references. — 64 Am. Jur. 2d, Public Utilities, §§ 231 — 235, 264 — 275. 73B C.J.S., Public Utilities, §§ 38 — 62.

Sec. 42.05.141. General powers and duties of the commission.

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) require a public utility to file reports and other information and data;

(6) appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial or modification of any petition, application, complaint or other proceeding;

(7) examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state.

(b) The commission shall perform the duties assigned to it under AS 44.83.162.

(c) In the establishment of electric service rates under this chapter the commission shall promote the conservation of resources used in the generation of electric energy. (§ 6 ch 113 SLA 1970; am § 1 ch 33 SLA 1971; am § 43 ch 83 SLA 1980)

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter.

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25 may elect to be exempt from the provisions of this chapter, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281, unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under this chapter when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person.

(k) A utility which furnishes cable television service is exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281

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X                                                                 X
X DELIVERED TO: LIOCMILS                                         X
X                                                                 X
X                                                                 X
X ORIGINAL                                                         X
X SENT:          05/02/91   TIME: 15:39                          X
X FROM:          LIOCMIL                                           X
X SUBJECT:       91-04-193, BL, (S)C&RA, 5/2                     X
X PRINT DATE:    05/02/91   TIME: 15:39                          X
X                                                                 X
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T/C NO:          91-04-193
DATE:           5/2
SPONSOR:        (S)C&RA
SUBJECT:        HB 130, HE 140, SB 25
MODERATOR:      JUDY

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BRIDGE LIST

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1. ANC
2. SEW-CHRIS GATES SB 25
3. LOR
4. KOD
- 5.
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EMAIL:          LIOCMIL
BACK-UP PHONE:  561-1199

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* DELIVER TO: LIOCELS
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* ORIGINAL
* SENT: 05/02/91 TIME: 15:32
* FROM: LIOCKOD
* SUBJECT: 91-04-193, PL#1, S.CRA; S-2-91
* PRINT DATE: 05/02/91 TIME: 15:32
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T/C NO: 91-04-191
DATE: MAY 2, 1991, THURSDAY
SPONSOR: SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE
SUBJECT: HB 130, HB 140, SB 25
MODERATOR: TINA WITTEVEEN
SITE: KODIAK LIO

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PARTICIPANT LIST 1

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*****
HERE TO TESTIFY:

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NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. BOB BRODIE,	KODIAK CITY MAYOR,		SB 25
2. JEROME SELDY,	KODIAK BOROUGH MAYOR,		SB 25

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3. MIKE MILLIGAN, BOROUGH ASSEMBLY MEMBER SB 25
*****

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START TIME: 3:27 PM END TIME:

 *
 * DELIVER TO: LIOCBL5
 *
 * ORIGINAL
 * SENT: 05/02/91 TIME: 15:45
 * FROM: LIOCMIL
 * SUBJECT: 91-04-193; PL#2; (S)C&RA; 5/2
 * PRINT DATE: 05/02/91 TIME: 15:46
 *

SUBJECT LINE TO READ: TC NO., PL FS, SHORT SUBJECT, DATE

TC NO. 91-04-193
 DATE: 5/2
 SPONSOR: (S) C&RA
 SUBJECT: HB 130, HB 140, SB 25
 MODERATOR: JUDY
 SITE: ANCHORAGE

PARTICIPANT LIST

TO TESTIFY

1.	NAMES/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.	MICHAEL MILLS/MUNI OF ANCH			HB 130
2.	MARK FOSTER/APUC			HB 140
3.	TOM TURNER/ANCH RECYC CNT			HB 140

4.	BILL BOBRICK FOR ROGER BAILEY			HB 140
5.				
6.				

TO OBSERVE:

1.	NAME/ REPRESENTING	ADDRESS	PHONE	BILL NO.
1.				
2.				
3.				
4.				
5.				

LOCK UP NUMBER: 561-1127
 EMAIL ADDRESS: LIOCMIL

Survey by Anchorage Recycling Center-Sent to Anchorage
Refuse customers in April 1990:

1. Do you consider a solid waste recycling program a community priority?

YES: 3162/3514 90% NO: 367/3514 10%

2. Do you currently recycle?

YES: 2701/3514 77% NO: 812/3514 23%

3. Would you be willing to separate your recyclables if pick-up occurred at your home?

YES: 3307/3514 94% NO: 207/3514 6%

4. The value of recyclables will not support curbside pick-ups. Will you be willing to pay more than your current refuse bill for curbside pick-up of recyclables?

YES: 1994/3514 57% NO: 1520/3514 43%

5. If yes, how much more?

\$5.00: 1617/3514 46% \$10.00: 291/3514 8%

\$15.00: 75/3514 2% N/A: 1532/3514 44%

6. Should recycling be subsidized by:

Grants: 969/3514 28% Taxes: 673/3514 19%

User: 967/3514 27% None: 1018/3514 29%

N/A: 545/3514 16%

7. What prevents you from recycling more?

Does not pay:	437/3514	13%
Not sure where to take it:	1095/3514	31%
Inconvenient	1894/3514	54%
Not interested	44/3514	1%
N/A	702/3514	20%

8. Do you believe garbage pick-up should be mandatory in Anchorage?

Yes: 1901/3514	54%	NO: 1611/3514	46%
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9. Business using cardboard: Will you put cardboard in a separate dumpster if you receive a 10% rebate on disposal pick-up?

YES: 1139/3514	32%	NO: 2313/3514	66%
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H B

1 4 3

7-LS1338A
Cook
5/7/91

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE G.PHILLIPS

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to general grant land entitlements for municipalities."

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

3 * Section 1. AS 29.65.030(a) is amended to read:

4 (a) The general grant land entitlement of a municipality [INCORPORATED AFTER
5 JULY 1, 1978, THAT DOES NOT QUALIFY FOR AN ENTITLEMENT UNDER AS 29.65.010
6 OR 29.65.020] is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved
7 land within the boundaries of the municipality between the date of its incorporation and two
8 years after that date or [. HOWEVER, A MUNICIPALITY MAY NOT RECEIVE AN
9 ENTITLEMENT UNDER THIS SUBSECTION THAT EXCEEDS] 20 acres per person residing
10 in the municipality on the date of its incorporation, whichever is more. For purposes of this
11 section, the population of a municipality shall be determined by the department in accordance
12 with AS 29.60.020 and 29.60.150.

13 * Sec. 2. AS 29.65.040(e) is amended to read:

14 (e) The time limitations imposed by [(c) AND] (d) of this section for exercising a vested

1 general grant land entitlement do not apply to

2 (1) the portion of an entitlement that cannot be satisfied by that date because of
3 a shortage of land suitable for residential, commercial, and industrial purposes that is vacant,
4 unappropriated, unreserved land;

5 (2) [PAYMENTS FOR LAND DEFICIENCY UNDER AS 29.65.080;

6 (3)] the portion of an entitlement that cannot be satisfied because the land selected
7 by a municipality has been selected by a party entitled to select land owned by the United States
8 or the state; or

9 (3) [(4)] the portion of an entitlement that cannot be satisfied because the land
10 nominated for selection by the municipality is not tentatively approved for patent to the state.

11 * Sec. 3. AS 29.65.050 is amended to read:

12 Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS. (a) The acreage of each
13 municipality's land selections for which patent has been issued under former law [BEFORE
14 JULY 1, 1978,] shall be credited toward fulfillment of the entitlement of that municipality.

15 (b) [ALL APPROVED SELECTIONS UNDER FORMER AS 29.18.190 AND 29.18.200
16 FOR WHICH PATENT HAS NOT BEEN ISSUED TO A MUNICIPALITY ON JULY 1, 1978,
17 SHALL BE REVIEWED BY THE DIRECTOR WITHIN NINE MONTHS AFTER JULY 1,
18 1978. ANY APPROVED SELECTION OF LAND THAT WAS VACANT,
19 UNAPPROPRIATED, OR UNRESERVED ON THE DATE OF SELECTION IS VALID AS OF
20 THE DATE OF THE APPROVAL UNDER FORMER AS 29.18.190, 29.18.200, 29.18.201,
21 29.18.202, AND 29.18.203 AND A PATENT SHALL BE ISSUED TO THE MUNICIPALITY
22 WITHIN THREE MONTHS AFTER APPROVAL BY THE DIRECTOR OF A PLAT OF
23 SURVEY. THE ACREAGE SHALL BE CREDITED TOWARD FULFILLMENT OF THE
24 MUNICIPALITY'S ENTITLEMENT. A MUNICIPALITY IS NOT ENTITLED TO RECEIVE
25 PATENT UNDER THIS CHAPTER TO MORE THAN ITS ENTITLEMENT DETERMINED
26 UNDER AS 29.65.010 - 29.65.030. ANY PRIOR APPROVAL BY THE DIRECTOR OF
27 MUNICIPAL SELECTIONS FOR LAND THAT WAS NOT VACANT, UNAPPROPRIATED,
28 OR UNRESERVED ON THE DATE OF SELECTION SHALL BE RESCINDED, AND
29 PATENT MAY NOT BE ISSUED EXCEPT WHEN DISPOSAL TO A THIRD PARTY BY
30 SALE OR LEASE HAS OCCURRED.] Transfers of land to municipalities under this chapter
31 are subject to AS 38.05.321. Classification actions as reflected on the land status records of the

1 Department of Natural Resources are determinative of land classification status for purposes of
2 this chapter.

3 (c) The director shall approve each selection for patent within nine months of its
4 selection by a municipality, and a patent shall be issued to the municipality for land selected in
5 satisfaction of a general grant land entitlement vested under AS 29.65.030 [AS 29.65.010 -
6 29.65.030] within three months after approval by the director of a plat of survey.

7 * Sec. 4. AS 38.05.321(b) is amended to read:

8 (b) State land classified as agricultural land that has been selected by a municipality
9 under former AS 29.18.190 - 29.18.200 or former AS 29.18.205(e) may be approved by the
10 director for patent under AS 29.65.050(c); however, only rights in the land for agricultural
11 purposes may be transferred and all other interests in the land will remain with the state.
12 Agricultural land approved for patent to a municipality shall be credited, acre for acre, toward
13 fulfillment of that municipality's entitlement under AS 29.65.030 [AS 29.65.010 - 29.65.030] or
14 former AS 29.18.201 - 29.18.203, AS 29.65.010, and 29.65.020. If the director later determines
15 it to be in the best interests of the state to transfer some or all of the additional rights in that
16 approved or patented agricultural land, those rights shall pass without consideration to the
17 municipality in which the land is located. The notice and review provisions of AS 38.05.945 are
18 applicable to conveyance of rights under this section.

19 * Sec. 5. AS 38.05.321(c) is amended to read:

20 (c) The provisions of this section do not apply to

21 (1) state land classified as agricultural land that has been selected by a
22 municipality under the provisions of former AS 29.18.190 - 29.18.200 if the selection is an
23 approved selection before April 1, 1978, and is otherwise valid under [AS 29.65.050(b) OR]
24 former AS 29.18.205(b) or AS 29.65.050(b); or

25 (2) a quitclaim of the interest of the state to the federal government under
26 AS 38.05.035(b)(9).

27 * Sec. 6. AS 29.65.010, 29.65.020, 29.65.040(a), 29.65.040(c), 29.65.060, and 29.65.080 are repealed.

28 * Sec. 7. Within three years after the effective date of this Act, the director of lands shall, for each
29 municipality for which an entitlement was certified before the effective date of this Act, redetermine and
30 recertify the entitlement in accordance with AS 29.65.030(a), as amended in sec. 1 of this Act. If as a
31 result of the recertification the entitlement of a municipality is increased, the municipality may select

1 the amount of land that, when added to land selected under former law or for which a land deficiency
2 payment was received under former AS 29.65.080, equals the increased entitlement. If as a result of the
3 recertification the entitlement is decreased, the entitlement of the municipality under former law remains
4 unchanged.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Hickel Administration Position on HB 143

The Departments of Community and Regional Affairs, Natural Resources, and Fish and Game, support the concept of transferring state land to municipalities to help ensure local and statewide economic health. We believe the formation of additional boroughs should be encouraged. To that end we support the removal of the 20 acre per capita municipal land selection restriction (Section 1 of the bill) for new boroughs and boroughs whose entitlements have not yet been certified (Aleutians East, Lake and Peninsula, Denali). We do not, however, believe the cap should be retroactively removed.

The Hickel Administration municipal grant land entitlement policy assures that additional land will be made available to boroughs that are already formed, as well as new boroughs, above what has already been certified as their statutory entitlement, if a need for the additional land can be demonstrated.

We do not believe that wildlife habitat should become part of the vacant, unreserved, unappropriated land (VUU) from which basic statutory municipal selections can be made.

We believe that keeping some restrictions on the size and shape of parcels is in the public interest. Adjustments to the 4 to 1 ratio should be made on a case-by-case basis, to meet statewide and local needs.

The Department of Natural Resources is the state's land manager and has the expertise to approve or disapprove municipal land selections. The Department of Natural Resources will consult with the Departments of Fish and Game and Community and Regional Affairs when determining whether a municipal land conveyance is in the best interest of the state.

Municipalities may appeal municipal selection decisions of the Director of Land and Water to the Commissioner of Natural Resources, according to the department's standard appeal process.

In line with this philosophy, the Departments recommend the following additions and deletions to HB 143:

1. Add a Section to the bill that requires the Governor to present a policy on municipal selection of state land to the first session of each Legislature. Included with the policy will be information about selections approved and disapproved to date.
2. In Section 1, make it clear that the cap is removed only for boroughs incorporated after July 1, 1987.
3. Delete sections 4, 5, 6, 9, 10, and 11.
4. Modify Section 2 to allow more time for certification and selection by municipalities or the state, if both parties agree.

MUNICIPAL GRANT LAND ENTITLEMENT POLICY

March 12, 1990¹

The Hickel Administration supports the transfer of state land to municipalities to help ensure local and statewide economic health. Accordingly, it is the policy of the State of Alaska that the basic municipal land entitlement shall not be less than 10% of the vacant, unappropriated, unreserved state land within the municipality's boundaries. It is also the policy of the State of Alaska that a municipality be granted additional land, above the municipal entitlement certified under AS 29.65.030 (b), when the municipality demonstrates that additional land is necessary for:

1. A public facility site;
2. Revenue production through sales or leases;
3. The overall economic vitality of the municipality;
4. Local public recreation;
5. Protection of locally unique or important cultural, traditional, archeological, or other public resources;
6. Other important local or statewide needs.

Municipalities may select additional land, above the amount certified under AS29.65.030 (b), from any land classification category, including wildlife habitat, but must demonstrate that the conveyance of land currently classified as non-VUU land is in the public interest. The size and shape of parcels selected by municipalities can be adjusted from the standard 4:1 ratio, as necessary, to meet statewide and local needs and concerns.

The Department of Natural Resources will consult with the Department of Community and Regional Affairs and the Department of Fish and Game when considering whether conveyance of a municipality's land selection is in the best interest of the state.

Municipalities may appeal municipal selection decisions of the Director of Land and Water to the Commissioner of Natural Resources, according to the department's standard appeal regulations.

VUU LAND BASE TRENDS OF UNIFIED HOME RULE MUNICIPALITIES AND BOROUGHS BETWEEN JUL 1978 AND JUNE 1987

<u>Municipality</u>	<u>Incorp</u>	<u>Area Plan</u>	<u>Pop 1987</u>	<u>20 Acres Per Capita</u>	<u>AS 29.65 010 Entitlement</u>	<u>1978 VUU Land Estimates</u>
✓ Muni of Anchorage ¹⁹⁶⁴	1975	none	173,600 - 248,263	4,965,260	3,172,000 44,893	207,453
✓ Fairbanks North Star	1964	Tanana 1985	12,720 - 75,079	1,501,580	859,900 112,000	962,923
✓ Matanuska-Susitna	1964	Susitna 1985	5,700 - 44,280	885,600	114,000 355,210	3,661,947
✓ Kenai Peninsula	1964	none	12,100 - 43,612	872,240	272,000 155,780	1,605,960
✓ City and Boro Juneau ⁶²	1970	none	13,500 - 29,370	587,400	271,200 19,584	4,359
✓ Kodiak Island	1963	none	7,850 - 14,127	282,540	157,000 56,500	451,980
✓ Ketchikan Gateway	1963	none	9,140 - 12,982	259,640	183,200 11,593	2,936
✓ North Slope	1972	none	3,700 - 8,308	166,160	74,000 89,850	unavailable
✓ City and Boro Sitka ⁶³	1971	none	6,100 - 8,160	163,200	122,000 10,500	246
✓ Haines	1968	Haines-Skagway 1979	1,280 - 1,991	39,820	25,000 2,800	10,804
✓ Bristol Bay	1962	Bristol Bay 1984	894 - 1,326	26,520	17,880 2,898	19,380

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Estimated Population of Alaska Boroughs at the Time of Formation

Borough	Year Incorporated	Estimated Population [*]
Aleutians East Borough	1988	2,300
Anchorage Borough	1975	173,600
Bristol Bay Borough	1962	894
Denali Borough	1991	1,750 **
Fairbanks North Star Borough	1964	42,720
Haines Borough	1968	1,280
Juneau Borough	1970	13,560
Kenai Peninsula Borough	1964	12,100
Ketchikan-Gateway Borough	1963	9,160
Kodiak Island Borough	1963	7,850
Lake and Peninsula Borough	1989	1,790
Matanuska-Susitna Borough	1964	5,700
North Slope Borough	1972	3,700
Northwest Arctic Borough	1986	5,890
Sitka Borough	1971	6,100

Alaska Department of Labor, Research & Analysis, Demographics Unit.

* Estimated Populations are interpolated using decennial census statistics.
or are from Alaska Dept of Labor Estimates.

** April 1, 1990 is the most current data available.

**HB 143 (Finance) Relating to General Grant Land Selections
(5/8/91)**

- Sec. 1: POPULATION CAP - removes 20 acres per capita population cap instituted in 1987
- Sec. 2: EXPEDITED ENTITLEMENT - an expedited entitlement can be requested rather than waiting for 2 1/2 years
- Sec. 3: CROSS REFERENCE TO NEW APPEAL PROCEDURE
- Sec. 4: DCRA REVIEW / ADDS STATE VS. MUNICIPAL INTEREST DETERMINATION
- Sec. 5: APPEAL PROCESS ESTABLISHED
- Sec. 6: SIZE AND SHAPE OF PARCEL - when restricting the size and shape of a selection the burden of survey costs on the municipality; and alternatives to preserve access will be considered
- Sec. 7: DCRA CONSULTATION ON REGULATIONS
- Sec. 8: POLICY STATEMENT - returns to the original policy of 10% of vuu lands (without the 20 acre cap)
- Sec. 9: RECERTIFICATION - of existing entitlements and new certifications will be delayed until DNR completes federal land transfers by January 1, 1994
- Sec. 10: POPULATION CAP REMOVAL IS RETROACTIVE TO JUNE 2, 1986
- Sec. 11: EFFECTIVE DATE IMMEDIATELY

CS FOR HOUSE BILL NO. 143 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/15/91
Referred: Rules

Sponsor(s): REPRESENTATIVE MACLEAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to general grant land selections; and providing for an effective date."

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

3 * Section 1. AS 29.65.030(a) is amended to read:

4 (a) The general grant land entitlement of a municipality incorporated after July 1, 1978,
5 that does not qualify for an entitlement under AS 29.65.010 or 29.65.020 is 10 percent of the
6 maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the
7 municipality between the date of its incorporation and two years after that date. [HOWEVER,
8 A MUNICIPALITY MAY NOT RECEIVE AN ENTITLEMENT UNDER THIS SUBSECTION
9 THAT EXCEEDS 20 ACRES PER PERSON RESIDING IN THE MUNICIPALITY ON THE
10 DATE OF ITS INCORPORATION. FOR PURPOSES OF THIS SECTION THE POPULATION
11 OF A MUNICIPALITY SHALL BE DETERMINED BY THE DEPARTMENT IN
12 ACCORDANCE WITH AS 29.60.020 AND 29.60.150.]

13 * Sec. 2. AS 29.65.030(b) is amended to read:

14 (b) Within two years and six months after the date of incorporation of the municipality,

1 the director shall determine the entitlement of each municipality eligible to receive general grant
2 land under (a) of this section and certify the entitlement to the municipality. ~~However, the~~
3 ~~governing body of a city may, by resolution, request the director to certify the entitlement~~
4 ~~to the city on an expeditious basis. The director shall determine and certify the entitlement~~
5 ~~within six months after receipt of the resolution.~~

6 * Sec. 3. AS 29.65.040(c) is amended to read:

7 (c) Land may be selected or nominated for selection by a municipality to satisfy a
8 general grant land entitlement under former AS 29.18.201 and 29.18.202 at any time before
9 October 1, 1980. Land may be selected or nominated for selection by a municipality to satisfy
10 a general grant land entitlement under AS 29.65.010 at any time before October 1, 1990.
11 However, if a municipal selection or nomination or a part of a municipal selection or nomination
12 is rejected by the director, the municipality may, not later than 90 days after receipt of the
13 rejection or final decision on an appeal filed under AS 29.65.050(d), select additional state
14 land as necessary to satisfy its entitlement.

15 * Sec. 4. AS 29.65.050(c) is amended to read:

16 (c) The director shall approve ~~or disapprove~~ each selection for patent within nine
17 months of its selection by a municipality. Before a decision is issued the Department of
18 Community and Regional Affairs shall review the selection and recommend approval or
19 disapproval of it. The director may disapprove a selection only upon a finding that the
20 public interest in retaining state ownership of the land outweighs the municipality's interest
21 in obtaining the land. A [, AND A] patent shall be issued to the municipality for land selected
22 in satisfaction of a general grant land entitlement vested under AS 29.65.010 - 29.65.030 within
23 three months after approval by the director of a plat of survey.

24 * Sec. 5. AS 29.65.050 is amended by adding a new subsection to read:

25 (d) Before disapproving a selection, the director shall notify the municipality in writing
26 of the decision and set out reasons for it. The municipality may submit a written response within
27 30 days after receipt of the notice. Within 30 days after the period for responding has expired,
28 the director shall affirm, modify, or reverse the decision and supply the municipality with written
29 notice of that action. If the selection is disapproved, the municipality may file notice of an
30 appeal with the director. ~~The appeal shall be heard under procedures adopted by regulation of~~
31 ~~the Department of Natural Resources by a municipal land mediation committee composed of a~~

Before issuing a decision

1 person appointed by the ~~commissioner of natural resources~~, a person appointed by the
2 ~~commissioner of community and regional affairs~~, and ~~an elected municipal official appointed by~~
3 the governor. A decision on the appeal shall be submitted to the municipality in writing within
4 30 days after the notice of appeal was filed with the director. A municipality may appeal an
5 adverse decision of the municipal land mediation committee to the superior court under
6 AS 44.62.560 - 44.62.570.

7 * Sec. 6. AS 29.65.070 is amended by adding a new subsection to read:

8 ~~(d) The commissioner of natural resources may [not] restrict the shape of a selection~~
9 ~~[without] considering municipal interests, considering the burden of survey costs to the~~
10 ~~municipality, and evaluating other alternatives to preserve access or uses of statewide concern.~~
11 ~~Restrictions imposed on the shape of a parcel that may be selected may be waived by the director~~
12 ~~if waiver is in the public interest.~~

adopt reqs

13 * Sec. 7. AS 29.65.120 is amended to read:

14 Sec. 29.65.120. ADMINISTRATION. The commissioner of natural resources may, after
15 consultation with the Department of Community and Regional Affairs, adopt regulations in
16 accordance with the Administrative Procedure Act (AS 44.62) necessary to carry out the purposes
17 of this chapter.

18 * Sec. 8. AS 29.65 is amended by adding a new section to read:

19 Sec. 29.65.129. POLICY. Consistent with the best interest of the state, it is the policy
20 of the state to provide a newly formed municipality with a general grant land entitlement that is
21 no less than 10 percent of vacant, unappropriated, unreserved land located within its boundaries.
22 It is the policy of the state to provide for expeditious transfer and patent of land to a municipality
23 in fulfilling its entitlement.

recertification

24 * Sec. 9. Notwithstanding AS 29.65.030(b) as amended in sec. 2 of this Act, the director of lands
25 may not certify ~~an entitlement~~ an entitlement to a municipality until after January 2, 1994. Each entitlement for which
26 certification is delayed under this section shall be certified by the director no later than January 1, 1996.
27 The director shall by January 1, 1996, for each municipality incorporated after June 1, 1986, for which
28 an entitlement was certified before the effective date of this section, redetermine and recertify the
29 entitlement in accordance with AS 29.65.030(a), as amended in sec. 1 of this Act.

30 * Sec. 10. Section 1 of this Act is retroactive to June 2, 1986.

31 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

*Adopted
Adoptans East
NWAB*

SPONSOR STATEMENT

CS FOR HB 143 (FINANCE) GENERAL GRANT LAND SELECTIONS

The purpose of HB 143 is to restore equity in the General Grant Land Entitlement process, to return the emphasis of the program to its original intent of developing independent and strong local governments, and to temper the Department of Natural Resource's (DNR's) broad discretion in determining the process and procedure for transferring general grant land to municipalities.

The Mandatory Borough Act, enacted in 1963, created opportunities for municipalities to acquire state land for their local use. The intent was "to provide maximum local self-government". General grant land provides a means of creating a tax base, of generating revenues through land sales and leases, and a land base for community and public purposes.

The State Constitution was based on the premise that municipalities should be independent and self governing. Clearly, the intent is to provide for strong local governments. It can be argued that the state's best interest is best served by allowing local governments the opportunity to manage and develop their own land base, thereby developing local economies and strengthening the statewide economy.

However, DNR's report (entitled Municipal General Grant Land Entitlements. A State-Municipal Partnership) predetermines that it may not be in the best interests of the state that land in rural Alaska be managed and developed by local governments because the rural character of the state land "is often not well suited for development or other municipal purposes".

Because many areas in remote parts of Alaska are in the very initial stages of development, it is premature to make broad generalizations about the use or character of land in rural Alaska. Furthermore, subsistence is a major influence in the rural economy and therefore could result in large selections of land being held sacrosanct.

Finally, it is important for the legislature to evaluate the municipal entitlement statutes, to include language to provide

for liberal construction of the law, as provided for by the State Constitution and, to make changes which favor the original intent of this program.

POPULATION CAP

Section 1 removes the requirement that a municipality incorporated after July 1, 1978, not receive a general grant land entitlement that exceeds 20 acres per resident; and returns to the former "10 percent of vacant, unappropriated and unreserved land".

A per capita limit on municipal grant land was established at 20 acres, based on the Mat-Su Borough entitlement in 1978. At that time it was the highest per capita entitlement to any municipality.

DNR has suggested that the 20 acre cap is the most generous entitlement formula because it represents the highest per capita entitlement given to any municipality. While this may at first seem a fair and equitable justification, it is neither, given the very broad range of values of lands. Urban area lands are often worth three times the rural acreage. A more equitable distribution of land would be based on a 'value' determination, not a per capita determination which is discriminatory to sparsely populated areas. Since establishing values of lands is such a difficult, if not impossible effort in rural selections, it makes more sense to rely upon the historical 10 percent of available land formula.

It should be noted that had the Matanuska-Susitna Borough been restricted to the 20 acre cap based on the population on the date of incorporation, (which is the way current law reads), their entitlement would have been no more than 216, 680 acres, not the 355, 210 acre entitlement they received in 1978.

Legislative records for the 1978 legislation allude to a number of considerations that influenced final acreage determinations, but little, if no, information is available which describe the need to limit entitlements to municipalities using a population cap.

Finally, the population cap was put into effect in 1987, and only after urban areas organized leaving rural areas with

greater restrictions and less available land on which to base their future growth and development.

STATE INTEREST VS. MUNICIPALITY'S INTEREST

Section 4 of the bill requires that before the Division of Lands acts on a selection, the Department of Community and Regional Affairs must review the selection and recommend approval or disapproval. A selection may be disapproved only upon a finding that the public interest in retaining state ownership of the land outweighs the municipality's interest in obtaining the land. A decision to disapprove would be subject to a new appeal process which specifically evaluates state and municipal interests.

This process does not exclude DNR's usual practice of consulting with resource agencies to evaluate municipal land selections. It assures, however, that the agency established by the Constitution to advise and assist local governments is inherently involved in this process.

Most municipalities received entitlements as part of the 1978 statutes. At that time they played a greater role in determining their municipal land selections by influencing both legislative and regulatory provisions. For example, these municipalities negotiated a compromise in the 1978 legislation which required a municipality's consent for classification over 3,200 acres; established a joint planning process where DNR and municipalities jointly considered state and municipal interests; and which provided the state and municipalities to jointly determine what areas would be available for selection.

Through efforts to expedite the land disposal process, the provisions which required consent and joint planning were dropped and replaced with a one-year deadline for both the state and municipalities to determine selectable lands. There was no need for a special appeal process because DNR and municipalities were constrained by the one year period. That is, DNR had little time to decide state interests and new classifications within this one-year period had little potential to negatively affect these municipalities. As a result of dropping consent and joint planning, however, DNR was left with greater discretion and responsibility for making policy decisions with

little or no mechanism for oversight by the newer municipalities.

DNR exercises tremendous discretion in deciding the rules by which justifications are reviewed for municipal purposes and for evaluations of selections for state interest. Municipalities have little say in the award process, have no ability to work with DNR to jointly determine land classifications, and have no appeal process which evaluates these land selections for municipal interests.

MUNICIPAL LAND MEDIATION COMMITTEE / APPEAL PROCESS

Section 5 provides for a notification process to be made to municipalities and, for an appeal process by a municipal land mediation committee composed of a person appointed by the commissioner of DNR, an appointee by the commissioner of C&RA, and an elected municipal official. An adverse decision of the committee may be appealed to the superior court.

This section is necessary to insure that the municipalities' interests are protected in the land selection process. As stated above, the ability of new municipalities to influence the municipal land selection process has been greatly diminished. DNR exercises tremendous discretion in deciding the rules by which justifications are reviewed for municipal purposes and for evaluations of these selections for state interest. An appeal section should be included to insure the public interest is served. It should be noted that the public interest is served when municipal interest is considered.

Drafters of the early municipal entitlement program clearly intended for municipalities to play a role in the decision making process. This requirement will restore parity between the two philosophically differing agencies.

SIZE AND SHAPE OF PARCELS

Section 6 of the bill requires that the commissioner may not impose restrictions on the shape of a parcel and land selected by a municipality without considering the burden of survey costs to the municipality, and evaluating other alternatives to preserve access or uses of statewide concern.

DNR currently uses a 4:1 width to depth ratio as a standard policy for limiting the size of municipal land selections. The length of any parcel cannot be more than four times its width.

DNR has suggested a ratio of 4 to 1 because it is the same one they use for their mineral leasing program. It does not logically follow that a rule used for leased lands is one which should be used for lands which become the management responsibility of a municipality. It is cumbersome and unwieldy for efficient land selection processes and can quadruple the cost of surveying.

Furthermore, DNR has imposed this stipulation because "it would not serve the state's best interest to convey long narrow tracts that could block public access to adjacent state land and interfere with sound management". However, the state's interest in protecting public access could easily be granted by reserving easements on municipal land selections.

DNR has also stated that regulations require municipal selections to be compact and that they will implement a 4 to 1 ratio on the erroneous premise that rural land development should meet the same standards of compact development on urban land.

On the contrary, rural land selections, by definition, should have greater flexibility to meet changing and diverse needs of sparsely populated communities spread out over vast areas. Rural selections should not be restricted by the same guidelines used for urban selections.

DNR REGULATIONS

Section 7 requires the Commissioner of Natural Resources to consult with the Department of Community and Regional Affairs prior to adopting regulations necessary to carry out the General Grant Land program.

DNR has developed elaborate regulations to carry out the municipal land entitlement program. Although these regulations deeply affect the municipal statutes (Title 29), the Department of Community and Regional Affairs has no vested authority in the promulgation of those regulations.

Fish and Game statutes for example have similar provisions in Title 16 which require DNR to consult ADF&G before adopting regulations which govern public use areas managed by DNR.

POLICY STATEMENT

Section 8 adds a statement of policy to the general grant land entitlement program.

The 1987 legislation included a reference that the entitlement for the Northwest Arctic Borough was a partial entitlement and that the governor would submit recommendations to the legislature for additional general grant land entitlements for the the Northwest Arctic and other newly formed municipalities, consistent with a general grant land entitlement policy.

The policy statement in HB 143 clarifies that the intent of the legislature is that no less than 10 percent of vacant, unappropriated, or unreserved land will be provided to newly formed municipalities; and that the transfer of such land will be prompt and efficient.

In addition, the state has 20 million acres of land still to select of its entitlement under the Statehood Act and it is important, as a policy matter, to encourage full and expeditious transfers of land. Because the municipal entitlement program was created as an incentive for borough formation and was based on a 10% formula, it is only reasonable to return to its original intent. This will still leave the state with 90% of its land base.

NEW CERTIFICATION'S AND RECERTIFICATION'S OF ENTITLEMENTS

Section 9 provides that the director of lands may not certify any new entitlements to a municipality until after January 2, 1994. This will enable the Department of Natural Resources to complete the transfer of 20 million acres of land from the federal government without the burden of meeting deadlines for municipal certifications. Each certification which has been delayed shall be certified by no later than January 1, 1996.

The director will also recertify entitlements for municipalities incorporated after June 1, 1986 to determine final entitlement lands that may be selected as a result of this legislation. The recertification will also be delayed until January 1, 1996.

SECTIONAL ANALYSIS

CS FOR HB 143 (FINANCE) GENERAL GRANT LAND SELECTIONS

"An Act relating to general grant land selections; and providing for an effective date"

Section 1:

Deletes the limitation on the size of a general grant land entitlement for a municipality based on population. Returns to the former "10 percent of vacant, unappropriated or unreserved land".

Section 2:

Permits the governing body of a city to request expeditious certification of its entitlement by resolution and requires the entitlement to be certified within six months after receipt of the resolution.

Section 3:

Adds a cross reference to the new appeal procedure added under section 5 of the bill.

Section 4:

Requires the director of the division of lands to disapprove a selection only upon a finding that the public interest in retaining state ownership of the land outweighs the municipality's interest in obtaining the land. The Department of Community and Regional Affairs is required to review each selection and recommend approval or disapproval of it to the director.

Section 5:

Before disapproving a selection, the director is required to notify the municipality. The municipality may submit a written response and, if the selection is disapproved, file notice of an appeal. The appeal will be heard by a municipal land mediation committee and the decision of that committee may be appealed by the municipality to the superior court.

Section 6:

When placing restrictions on the shape of a selection consideration must be given to the burden of survey costs on

the municipality, alternatives to preserve access, and other municipal interests.

Section 7:

Requires the commissioner of natural resources to consult with Department of Community and Regional Affairs prior to adopting regulations necessary to carry out the general grant land entitlement program.

Section 8: Adds a statement of policy to the general grant land entitlement program.

Section 9:

Requires the director of lands to delay entitlements until after January 2, 1994. Entitlements which have been delayed will be certified by January 1, 1996. Requires the director to redetermine and recertify the entitlement of each municipality incorporated after June 1, 1986 in accordance with the new provisions of the bill, by January 1, 1996.

Section 10:

Makes section 1 of the bill retroactive to June 2, 1986.

Section 11:

The bill has an immediate effective date.

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Hickel Administration Position on CS HB 143 (Finance)

General Grant Land Selections for Municipalities.

The Departments of Community and Regional Affairs, Natural Resources, and Fish and Game, support this bill, but believe some clarifying adjustments related to appeal procedures, the shape of a selection and the delay of certification may be needed. We firmly support municipal land transfers as a basis for local government self-determination. The delay in new entitlement certifications until 1994 will allow the state to freely complete its final land selection project before additional lands are transferred to local governments.

FISCAL NOTE

No. 3

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill Version: Hb 143

(H) Publish Date: 3/15/91

Revision Date: 3-14-91

Department Affected: Fish and Game

Title: Municipal Land Grant Selections

BRU: Habitat

Component: Habitat

Sponsor: Representative MacLean

Requestor: _____

COMPONENT SERIAL NO.

	4	8	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: no impact on current year

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Frank Rue, Director

Phone: 465-4105

Division: Division of Habitat

Date: 3/14/91

Approved by Commissioner: CARL ROSIER by M. MacLean

Date: 3/14/91

Agency: Department of Fish and Game

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 143

Revision Date: _____ Department Affected: Community & Regional Affairs
 Title: "An Act..general grant land selections...." BRU: Local Government Assistance
 Component: Local Government Support

Sponsor: Rep MacLean

Requestor: _____

COMPONENT SERIAL NO.

	6	7	5
--	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708

Division: Administrative Services Date: 2/28/91

Approved by Commissioner: *[Signature]*

Agency: Community & Regional Affairs Date: 2/28/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Munn Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 19, 1991

SUBJECT: General Grant Land Selections (HB 143)

TO: Representative Eileen MacLean

FROM: Tamara Brandt Cook
Director *TBC*

You have supplied me with a document labeled "Hickel Administration Position on HB 143" which contains the suggestion that removal of the 20 acre per person cap under Section 1 of the bill be limited to boroughs incorporated after July 1, 1987. You have informed me that, if this were done, the Northwest Arctic Borough would not qualify for any additional general grant land. You have asked whether this suggestion comports with legislative intent expressed in Section 11, Ch. 34, SLA 1987. That section provides

The general grant land entitlement authorized for the Northwest Arctic Borough under AS 29.65.030(a), as amended in sec. 2 of this Act, is a partial entitlement for the borough. After completion of the Northwest Area Plan prepared under AS 38.34.065, the governor shall submit to the legislature recommendations for additional general grant land entitlements for the Northwest Arctic Borough consistent with the general grant land entitlement policy developed by the governor. The governor shall also submit recommendations for additional general grant land entitlements for other newly-formed municipalities consistent with the general grant land entitlement policy developed by the governor.

Clearly, the language of that section reflects an intent on the part of the legislature that additional general grant land be made available to the Northwest Arctic Borough. Since the change advocated in the position paper to HB 143 will have the effect of limiting the provision that makes additional land entitlements available so that it will not apply to the Northwest Arctic Borough, it appears that the legislative intent that the borough receive additional land will no longer be accomplished through HB 143 if this change is adopted. That intent could, of course, be accomplished through some other legislation in a different way.

Representative Eileen MacLean

March 20, 1991

Page 2

You have also asked whether the change advocated in the position paper comports with the "Municipal Grant Land Entitlement Policy" dated March 12, 1990, a copy of which you supplied me with. The policy actually consists of two parts that are relevant to this issue. First, it is stated to be policy that the basic municipal land entitlement shall not be less than 10% of the vacant, unappropriated, unreserved state land within the municipality's boundaries--an amount greater than the amount certified to the Northwest Arctic Borough under existing AS 29.65.030. However, the second part of the policy appears to modify the first by stating that a municipality be granted land in addition to that certified under AS 29.65.030(b) (presumably a reference to existing law) only upon demonstrated need for land for specific purposes. The policy contains no recommendation that the 20 acre per capita cap be removed for either new or existing municipalities. The relationship between the first part of the policy (that municipalities receive 10% of the land) and the second part (that they receive additional land only upon demonstrated need) is unclear. However, it may be that, under this policy, the governor will recommend additional land for the Northwest Arctic Borough (and, presumably others) only if the borough demonstrates the required need.

Because the position paper recommends retaining the provision removing the 20 acre per resident cap, it comports with the first prong of the "Municipal Grant Land Entitlement Policy". However, to the extent that the position paper advocates limiting application of a provision that would make additional land available without a demonstration of need, it comports with the second prong of the policy. This demonstrates the ambiguity inherent in the policy itself. Note, additionally, that nothing in the position paper will help implement the second prong of the policy - that of making some additional land available if need is demonstrated. It suggests no mechanism for that.

TBC:lmb
91-087.lmb



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE GAIL PHILLIPS

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

Steve -

Attached is some of the info I've put together on HB 143!

I've included the amendment I offered on the floor. I've requested a bill that will address virtually the same points, and I plan to work during the interim to put together all the detailed info and how it will impact all municipalities.

Please give me a call if you have any questions. I'd appreciate the bill not being scheduled until we can get this equality issue settled.

Thanks much -
Gail

Failed House
20/20

7-LS0174NG.3
Cook
05/02/91

Revised
AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE G.PHILLIPS

TO: CSHB 143(FINANCE)

Page 1, lines 4 - 12:

Delete all material and insert:

(a) The general grant land entitlement of a municipality [INCORPORATED AFTER JULY 1, 1978, THAT DOES NOT QUALIFY FOR AN ENTITLEMENT UNDER AS 29.65.010 OR 29.65.020] is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date or [. HOWEVER, A MUNICIPALITY MAY NOT RECEIVE AN ENTITLEMENT UNDER THIS SUBSECTION THAT EXCEEDS] 20 acres per person residing in the municipality on the date of its incorporation, whichever is more. For purposes of this section the population of a municipality shall be determined by the department in accordance with AS 29.60.020 and 29.60.150."

Page 3, after line 23:

Insert a new bill section to read:

"* Sec. 9. AS 29.65.010, 29.65.020, and 29.65.080 are repealed."

Renumber the following bill sections accordingly.

Page 3, line 27:

Delete "January 1, 1996"

Insert "January 1, 1998"

Delete "incorporated after June 1, 1986,"

Page 3, line 28:

Delete "section"

Insert "Act"

Page 3, line 29, after "Act."

Insert "If as a result of the recertification the entitlement of a municipality is increased, the municipality may select the amount of land that, when added to land selected under former law or for which a land deficiency payment was received under former AS 29.65.080, equals the increased entitlement. If as a result of the recertification the entitlement is decreased, the entitlement of the municipality as determined under former law remains unchanged."

Page 3, after line 29:

Insert a new bill section to read:

"* Sec. 11. By February 1, 1992, the revisor of statutes shall submit a bill to the Rules Committees of each house making technical corrections to adjust references to AS 29.65.010, 29.65.020, and 29.65.080, repealed in sec. 9 of this Act."

Page 3, line 30:

Delete all material.

Renumber the following bill section accordingly.



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE GAIL PHILLIPS

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

MEMORANDUM

TO: Representative Cliff Davidson, Chairman
House Resources Committee

FROM: Representative Gail Phillips

DATE: April 2, 1991

RE: HB 143

We spent a considerable amount of time on this bill in Community and Regional Affairs Committee. I feel there are several serious problems with this piece of legislation that I would like to bring to your attention.

1) Section 1 (a): I feel this amended version causes inequality in the process of land entitlement. Before 1978, there was an established procedure for making land entitlement; the procedures were amended to prohibit greater than a 20 acre per capital allotment after that date. Now, with the establishment of new municipalities, this bill would change the allotment back to the 10% factor rather than 20 acres per capita.

We cannot keep changing the laws whenever it would appear a change may be more or less beneficial. I would like to see Section 1 amended thusly: (a) move to amend to allow organized municipal land selections to be retroactive to Statehood, allowing any past-organized municipality or any future-organized municipality to a general land grant entitlement of either 10% of vacant, unappropriated, unreserved land or 20 acres per capita, whichever is more beneficial to that municipality.

2) Section 3 (c) (also Section 7): These sections appear to be trying to dilute and/or subvert the responsibility of DNR for land decisions by adding the provision that the Department of Community and Regional Affairs must review the actions taken by DNR. To date DNR is the lead agency on land policy; this bill would appear to alter the basic responsibility of state land management.

3) Section 9 (also Section 10 (c)): Wildlife habitat areas would be added to the allowed selectable lands under this amended version. I can see terrific problems that could arise by allowing a municipality control over the wildlife in that area; would this

circumvent the control Fish and Game has for managing this function? Would the municipalities be able to establish their own rules and prohibit others from having access to wildlife, whether for subsistence purposes or other? I think this could create far more problems than benefits.

4) Section 6 (d): This section prohibits regulations that place restrictions on the shape of a parcel that may be selected by a municipality. This causes concern because it allows a community to select only prime river valleys, etc., and not have to include unproductive land that wouldn't be of benefit to anyone else. This amendment could also cause access problems. I think this section needs careful consideration.

When we first began hearing this bill, we were given conflicting opinions by the Administration. I sent a note, asking that they clarify their position, and the attached is the Administration's response. I have also included all the Department's answers to my questions, for your discussions of this bill.

Thank you for your consideration of my concerns.

survey. The cost of the survey shall be borne by the municipality. If land selected by a municipality has been surveyed at the time of its selection, the boundaries shall conform to the public land subdivisions established by the approved survey.

(b) The director may approve municipal selections of land that have been tentatively approved or patented to the state by the federal government but may not issue patent to a municipality until the land has first been patented to the state. After approval of a selection by the director, but before patent to a municipality, the municipality may execute conditional leases and make conditional sales only with the consent of the director. Conditional sales and conditional leases made before July 1, 1978, do not require the consent of the director.

(c) Nothing in this chapter affects a valid existing claim, location, or entry under the laws of the state or the United States whether for homestead, mineral, right-of-way, or other purposes. Nothing in this chapter affects the rights of an owner, claimant, locater, or entryman to the full use and enjoyment of the land so occupied. (§ 17 ch 74 SLA 1985)

Sec. 29.65.080. Payment for land deficiency. (a) The Alaska municipal land account is established in the general fund for the following purposes:

(1) providing payment to the boroughs and unified municipalities designated in AS 29.65.010 for a deficiency of land physically suitable for residential, commercial, or industrial purposes; or

(2) providing payment to the boroughs and unified municipalities designated in AS 29.65.010 for certain general grant lands selected by the state and conveyed to a Native corporation under the provisions of the Alaska Native Claims Settlement Act.

(b) A municipality shall receive payment for its land deficiency from the municipal land account. A municipality is eligible to receive payment for land deficiency if, after July 1, 1980, the amount of land selected by a municipality that is physically suitable for residential, commercial, or industrial purposes amounts to less than one-third acre per capita. Any entitlement under AS 29.65.010 that is less than one-third acre per capita will, for the purposes of this subsection, be considered a land deficiency. An unselected remaining entitlement will, for the purpose of deficiency payment under this subsection, be considered as land physically suitable for residential, commercial, or industrial purposes. A municipality eligible under this subsection is entitled to receive a payment for land deficiency equal to \$1,000 per acre for a number of acres equal to the difference between one-third of the population of the municipality less the number of acres physically suitable for residential, commercial or industrial purposes that has been selected by the municipality. For the purpose of this subsection,

*entitlements
by focus is (narrow); B...
interim...
entitlements*

the population of the municipality shall be the population determined in accordance with AS 29.65.060(f). No payment may be made to a municipality under this subsection in excess of \$9,000,000.

(c) If a municipality selected vacant, unappropriated, unreserved land on or before December 18, 1971, to which the state had received tentative approval or patent, and that land was also selected by a Native corporation organized under the Alaska Native Claims Settlement Act (P.L. 92-203), and title to that land is ultimately vested in that Native corporation, the municipality may, at its option, request payment for land deficiency from the municipal land account. The acceptance of payment under this subsection by a municipality constitutes a relinquishment of any other right, title, or claim to the land by that municipality. The total payment to a municipality under this subsection may not exceed \$1,000 per acre to a maximum of 8,000 acres.

(d) The governor shall annually submit to the legislature a request for an appropriation to the municipal land account for the municipalities that have elected to receive payments under (b) and (c) of this section. The request for appropriation shall distinguish between amounts necessary to make payments for land deficiency under (b) of this section and those required to make payments for land deficiency under (c) of this section.

(e) For purposes of fulfilling entitlements under this section, the legislature is authorized to appropriate

(1) not more than \$4,000,000 per fiscal year, and not more than \$12,000,000 in total, for the purpose of paying entitlements under (b) of this section;

(2) not more than \$1,000,000 per fiscal year, and not more than \$8,000,000 in total, for the purpose of paying entitlements under (c) of this section.

(f) If an annual appropriation is not sufficient to meet the amount due to all municipalities that have elected to accept payment for land deficiency under (b) or (c) of this section, the governor shall apportion the appropriation among the municipalities in proportion to the payment calculated for each municipality for that year. When a distribution of payments is made under (c) of this section, the remaining entitlement of a municipality to which payment is made shall be reduced in an amount equal to the number of acres for which payment was received. An appropriation made under this section is in addition to other grants and entitlements authorized to eligible municipalities.

(g) Payments authorized by this section may not be made to a municipality eligible for an entitlement under AS 29.65.020 or 29.65.030.

(h) Payments made under this section shall be used by a municipality that levies property taxes to reduce the levy in proportion to the amount of state payments received by the municipality for a given fiscal year. The governing body of each municipality shall furnish a

*ANC got
\$14,000,000*

Sec. 29.60.440. Limitation. AS 29.60.400 — 29.60.440 do not require that a recipient of a grant for a feasibility study must proceed with construction of the project, regardless of whether the project is determined to be feasible. (§ 16 ch 74 SLA 1985)

Chapter 63. Special Assessments and Service Areas.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 65. General Grant Land.

Section	Section
10. Determination of entitlement of boroughs and unified municipalities	70. Selection and conveyance procedure
20. Determination of entitlement for cities	80. Payment for land deficiency
30. Determination of entitlement for newly incorporated municipalities	90. Authorization for land exchanges
40. Status of entitlements	100. Public purpose and expansion needs
50. Fulfillment of land entitlements	110. Election of benefits
60. School and mental health land	120. Administration
	130. Definitions
	140. Application

Cross references. — For statement of purpose of ~~1978 Act that~~ enacted the provisions from which this chapter derived, see § 1, ch. 180, SLA 1978 in the Temporary and Special Acts.

Sec. 29.65.010. Determination of entitlement of boroughs and unified municipalities. (a) The general grant land entitlement of each of the municipalities in this section is the amount set out opposite each:

- (1) Municipality of Anchorage — 44,893 acres;
- (2) City and Borough of Juneau — 19,584 acres;
- (3) City and Borough of Sitka — 10,500 acres;
- (4) Bristol Bay Borough — 2,898 acres;
- (5) Fairbanks North Star Borough — 112,000 acres;
- (6) Haines Borough — 2,800 acres;
- (7) Kenai Peninsula Borough — 155,780 acres;
- (8) Ketchikan Gateway Borough — 11,593 acres;
- (9) Kodiak Island Borough — 56,500 acres;
- (10) Matanuska-Susitna Borough — 355,210 acres;
- (11) North Slope Borough — 89,850 acres.

(b) This section is a continuation of the provisions of former AS 29.18.201 and does not grant additional entitlements. (§ 17 ch 74 SLA 1985)

These are the Boroughs I've identified that would be affected.

MEMORANDUM

State of Alaska
Community and Regional Affairs

TO: Gary Gustafson, Director
Division of Land and Water
Management
Department of Natural Resources

DATE: March 23, 1990


FILE NO. 0407C/MR/ds

TELEPHONE NO. 563-1073

THRU:

SUBJECT: Comments on draft
policy for municipal
general land grants

FROM:


Marty Rutherford, Director
Municipal and Regional
Assistance Division
Dept. of Community and Regional Affairs

Thank you for the opportunity to comment on the draft governor's policy paper related to the municipal general grant land program. We appreciated meeting with you and your staff and have given your draft policy paper and background report considerable thought and study. We found it difficult to comment on these products separately and eventually decided that one paper which develops the basis for the policy and then makes recommendations would be more comprehensive. With this thought in mind, we developed the enclosed stand-alone document which reiterates some background information, describes the current setting, and then offers some recommendations.

We welcome the opportunity to continue the dialogue on the governor's policy paper and would recommend another meeting at your convenience.