

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8851 SENATE COMMUNITY & REGIONAL AFFAIRS

1
2
3
4
5

- (1) provide transportation systems;
- (2) license, impound, prohibit cruelty to. and dispose of animals;
- (3) provide air pollution control under AS 46.14.400;
- (4) provide water pollution control;
- (5) license day care facilities.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: CS HB 386 (JUD)

Revision Date: 3/14/96 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to cruelty to animals and the BRU: none
provision of food and water to confined... Component: none
 Sponsor: Rep. Grussendorf
 Requestor: House Judiciary COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES () Revenue Code						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 95) impact: \$ none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This legislation would have no fiscal impact on the department

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708
 Division: Director, Administrative Services Date: 3/14/96
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 3/14/96
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 386 (JUD)

Revision Date: <u>3/14/96</u>	Dept. Affected: <u>Department of Law</u>
Title: <u>"...cruelty to animals and the power of first and second class boroughs to prohibit cruelty to animals."</u>	BRU: <u>Criminal Division</u>
Sponsor: <u>Representative Grussendorf</u>	Component: <u>Criminal Division</u>
Requester: <u>Representative Grussendorf</u>	COMPONENT SERIAL NO. <u>2085</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends Alaska laws relating to cruelty to animals in two ways. First, the bill amends AS 11.61.140 to lower the legal standard of conduct from one who acts intentionally to one who acts knowingly and inflicts severe physical pain or prolonged suffering on an animal. Similarly, the bill lowers the legal standard of conduct from one who acts recklessly to one who acts with criminal negligence and neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe physical pain or prolonged suffering of the animal. These changes have the effect of making cruelty to animal cases easier to prove and, consequently, they will not have a fiscal impact.

Second, the bill amends AS 29.35 to authorize first and second class boroughs to enact ordinances prohibiting cruelty to animals. Providing this authority will allow local governments to deal with a problem that is primarily one of local concern.

Prepared by: <u>Richard I. Peques, Director</u>	Phone: <u>465-3672</u>
Division: <u>Administrative Services Division</u>	Date: <u>3/14/96</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>3/14/96</u>
Agency: <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: CSHB 386(JUD)

Revision Date: March 18, 1996

Dept. Affected: Public Safety

Title: Cruelty to Animals

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Representative Grussendorf

Requestor: H. Rules

COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

During 1995, the Alaska State Troopers investigated 20 cruelty to animal cases. This bill would change the mental states required in some of the sub-sections in the cruelty to animals statute. Those changes have the potential of increasing the number of cases the division would have to investigate, however that impact should be negligible.

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: March 18, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 3/18/96
 Agency: Ronald L. Otte, Department of Public Safety

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Alaska State Legislature

REPRESENTATIVE
BEN GRUSSENDORF
1221 HALIBUT POINT ROAD
SIKKA, ALASKA 99536
(907) 747-0450

WHILE IN JUNE AU
STATE CAPITOL
JUNE AU, ALASKA 99501-1102
(907) 465-3824



FINANCE COMMITTEE

DISTRICT 2
KUPREANOF
PETERSBURG
SIKKA
WILHOELL

House of Representatives

TO: Senator Torgerson
FROM: Representative Grussendorf
DATE: March 27, 1996
RE: CSHB 386 (JUD) "An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."

I would appreciate your consideration in scheduling a hearing for CSHB 386 (Jud) in your committee. This bill was introduced in response to concerns regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many acts of obvious neglect and cruelty across the state which courts have been unable to prosecute because the language in the statute is too difficult to prove. One district attorney has testified that the current language, which reads "intentionally inflicts severe and prolonged physical pain or suffering on an animal," is "unprosecutable." He said, "a dead animal is your only evidence." CSHB 386 offers prosecutors a more workable statute.

CSHB 386 also gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate." Without this legislation, boroughs need an expensive vote of the people to enact an ordinance to prohibit cruelty to animals. CSHB 386 does not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.

Thank you for your consideration in scheduling a hearing for this bill.

Alaska State Legislature

REPRESENTATIVE
BEN GRUSSENDORF
1221 HALIBUT POINT ROAD
SITKA, ALASKA 99833
(907) 747-8450

FINANCE COMMITTEE

DISTRICT 2
KUPREANOF
PETERBURG
SITKA
WHANCELL

WHILE IN JUNEAU
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 485-3824



House of Representatives

SPONSOR STATEMENT CSHB 386 (JUD)

"An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."

This bill was introduced in response to concerns expressed by constituents regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many cases of obvious neglect and cruelty across the state which have been difficult to prove because of the current statutory language. One district attorney has testified that the language which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal" is "unprosecutable." He said, "a dead animal is your only evidence." This bill offers prosecutors a more workable statute. The following descriptions explain the changes CSHB 386 would make:

- Changes "intentionally" to "knowingly" which lowers the state of mind the state must prove in prosecuting a case. This would help in cases of starving animals. An owner's actions may not have been intentional, but a reasonable person would "know" that a lack of food results in a starving animal.
- Changes "recklessly" to "with criminal negligence" which lowers the criminal standard. Recklessness is indicated by an awareness and conscious disregard. Criminal negligence is indicated by a "failure to perceive a substantial and unjustifiable risk that the result will occur..." 11.81.900
- Does not affect the existing statute which exempts farmers, hunters, and trappers who conduct traditional, lawful practices. 11.61.140

→

CSHB 386 (JUD) continued

- Does not affect the existing statute which designates cruelty to animals as a class A misdemeanor.
- Gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate." The proposed changes do not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.
- Organizations which support this bill:

Alaska Animal Control Association
Alaska Society of the Prevention of Cruelty to Animals
Kenai Borough Animal Control
Homer Animal Shelter
Fairbanks North Star Borough
Mush With Pride, Alaska
Matt Desalernos, President, Iditarod Trail Committee
Libby Riddles, Iditarod Race Winner
Dave Monson, Iditarod Board Member
Gastineau Humane Society
Humane Society of United States

Second Class Borough

Alutians East Borough
Bristol Bay Borough
Fairbanks North Star Borough
Kenai Peninsula Borough
Ketchikan Gateway Borough
Kodiak Island Borough
Matanuska-Susitna Borough

Animal Control System

City Level
Borough Level
Borough Level
City Level
Borough Level
Borough contracts to City
Cities contract to the Borough



CITY OF KENAI

" Oil Capital of Alaska "

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99611-7794
TELEPHONE 907-283-7535
FAX 907-283-3014



March 19, 1996

Representative Ben Grussendorf
Alaska State Legislature
State Capitol (MS 415)
Juneau, AK 99801-1182

FAXED
3/19/96

Subject: Support for Proposed House Bill No. 386

As an Animal Control Officer in the State of Alaska for over 16 years, I am very pleased to see Alaska's cruelty statute stream lined. House Bill No. 386 will make it much easier to pursue cruelty to animal investigations and prosecute these cases. The legislation will also give first and second class boroughs the investigative authority they need to follow through with cruelty cases, thereby taking the burden off the Alaska State Troopers.

Lately the State of Alaska has been getting some "bad press" in regards to the treatment of animals. Passage of this bill can only improve our image with national humane groups. Not only are these proposed changes simple and highly workable, they are both ethical and prudent legislation. Because of this I support and encourage House Bill No. 386 to be voted into law.

Sincerely,

A handwritten signature in cursive that reads "Bill Godek".

Bill Godek
Chief Animal Control Officer, Kenai
Vice President Alaska Animal Control Assoc.
BG/kw

Representative Grussendorf,

I would like to thank you for sponsoring House Bill 386. I have read the work draft and support the changes that you have made.

Animal control receives several calls every year from concerned citizens seeking information on where to report animal abuse or neglect situations regarding animals located in the borough. The only option available to them is to report the problem to the State Troopers who are unable to respond due to lack of manpower and time to spend on cruelty investigations.

The changes you have made are important and allowing first and second class boroughs to enact ordinances to prohibit cruelty to animals is urgently needed.

Sincerely,

Sherry Bess, ACO
Animal Shelter Manager
City of Homer

2/14/96

ALASKA ANIMAL CONTROL ASSOCIATION

March 20, 1996

Representative Ben Grussendorf
State Capitol Building
Juneau, Alaska 99801

Dear Representative Grussendorf:


On behalf of the Alaska Animal Control Association (AACA) we would like to go on record as being in support of CS House Bill 386.

This legislation will enable first and second class boroughs to adopt an ordinance to prohibit cruelty to animals and handle such cases in the boroughs. They currently do not have the authority to handle these cases and must rely on state troopers who consider them a low priority.

The current language in law AS 11.61.140 is very difficult to prove and courts have been unable to prosecute a number of neglect and cruelty cases. Bill 386 will improve the language in AS 11.61.140 and enable prosecutors to convict those that have participated in obvious acts of neglect and cruelty.

If there is anything I can do to facilitate passage of Bill 386 please let me know.

Sincerely,


Linda M. Blefgen
President

Libby Riddles
Blazing Kennels
P.O. Box 872901
Wasilla, AK 99687

Rep. Ben Grussendorf
State Capital
Juneau, AK 99801

March 19, 1996

Dear Representative Grussendorf,

As a representative of the mushing community, I would like to express my endorsement of the CSHB 386(JUD) bill that would enhance our current animal cruelty laws. I understand that this bill is also backed by the Mush with PRIDE organization of which I am a member.

It is apparent that in many animal abuse cases around the state, the current animal cruelty laws have not been adequate to protect the animals. It seems primitive that enforcement officers often have to have a dead animal to prove abuse or neglect. Bill CSHB 386(JUD) would give enforcement officers and neglect prosecutors more ability to protect all domestic animals.

As these animals cannot speak for themselves, those of us that are animal advocates must stand up and try to make sure that they are done right by. Your support of bill CSHB 386(JUD) is greatly appreciated by all of us.

With Best Regards,

Libby Riddles



CC: Will Forsberg, President
Mush With PRIDE

MUSH WITH PRIDE NEWS



Providing Responsible Information on a Dog's Environment

Will Forsberg, President
Box 378
Healy Ak. 99743

Rep. Ben Grussendorf
State Capital
Juneau, Ak. 99801

Feb. 25, 1996

Dear Rep. Grussendorf,

We are very pleased to see the rewrite of HB 386, the animal cruelty bill. We believe that the Alaskan statutes should be strengthened to protect domestic animals from abuse and neglect. The few instances each year of neglected sleddogs tarnishes the image of responsible mushers and our sport

We believe that some animal owners do not know what is expected of them in terms of good husbandry. For dog owners PRIDE offers a set of sleddog care guidelines. However, in some instances peer pressure and education are not sufficient. We believe that adoption of minimal husbandry standards by statute would serve to enlighten the uninformed animal owner as to acceptable practices. Minimal standards would also assist the authorities in assessing a "problem" situation. We support the minimal care standards proposed in Senator Randy Phillips animal cruelty bill, SB 238, and believe these standards are already in practice in most reputable sled dog kennels.

We also support the concept of variable citations for violations of the cruelty statutes so that authorities can issue a minor citation (class B misdemeanor) for lesser offenses and a more serious citation for repeat offenders and major offenses. This would allow for more timely and appropriate enforcement.

Your concern in this matter is very much appreciated. Please do not hesitate to call if we can be of further assistance in any way.

Sincerely,

A handwritten signature in cursive script that reads "Will Forsberg".

Will Forsberg, President
Ph. or fax 907-683-2644

To Rep. GROSSENDORF
From DAVID MONSON (PRIDE) Board of Directors
Re House Bill No. 386

Pride is a group of over 400 sled dog enthusiasts both in and outside Alaska. We have watched the progress of HB 386 and endorse its passage tomorrow. We believe it is important to allow the first and second class businesses to have the authority prohibit cruelty to animals. We also believe the clarification in HB 386 as to State of Mind will allow the law to be enforced by the Department of Law -

If I may be of further help
Please call -

David Monson



THE ALASKA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC.

SPCA State Headquarters and Spay Clinic • 549 W. International Airport Road • Anchorage, Alaska 99518
Phone: 562-2999

March 18, 1996

To whom it may concern:

The Alaska Society for the Prevention of Cruelty to Animals, is in full support of CSHB 386 (Judiciary). Efforts in past cruelty cases have been next to nothing. Alaska needs to have a stronger law to support our justice system in prosecution of animal abusers. The ASPCA in past years, has witnessed animal abusers in the worst scenarios. Due to insufficient laws, the District Attorney's office was unable to penalize these people. Animal abuse is and has been occurring throughout the state. Most people are unaware of the severity of some of these cases. Public awareness is increasing and the state needs to update legislation to deal with cruelty offenders.

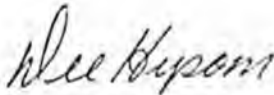
Statistics show that there is a definite link between animal cruelty and spousal, child abuse occurring within the home.

Again, the ASPCA, as well as most of the general public, is in strong support of CSHB 386 (Judiciary), and shows a very strong interest in the passage of this bill.

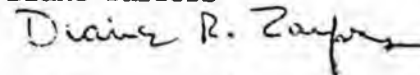
Sincerely,


Ethel Christensen, Director

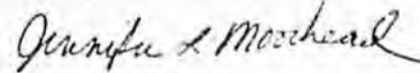
Dee Hysom




Diane Zarfoss



Jennifer Moorhead



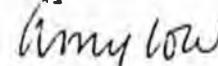
John McLane



Diane Vuckovich



Amy Low



"Kindness Uplifts The World"



Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

March 18, 1996

Representative Ben Grussendorf
Alaska State Legislature
State Capitol Building
Juneau, AK 99801

Dear Representative Grussendorf,

We support passage of CS for House Bill No. 386 (JUD).

Since a court decision in July, 1995 the Fairbanks North Star Borough Division of Animal Control has been unable to take action against persons who mistreat animals other than dogs. This decision left a large segment of the domestic animal population without protection, as the Alaska State Troopers are unable to place any priority on this problem. This bill will remedy our problem, and allow us to continue to enforce our ordinance to protect ALL domestic animals.

The changes to the wording regarding standard of proof are also highly recommended. It has long been known that the only good evidence to prove the crime of cruelty to animals under our current state statute is a dead animal. This new wording will save animals by allowing intervention by enforcement officers before the death of the animal becomes inevitable.

Please encourage passage this bill. Thank you very much.

Sincerely,

Laura Hood, Manager
Division of Animal Control

cc: Jim Sampson, Borough Mayor
Linda Anderson, F.N.S.B. Lobbyist



Fairbanks North Star Borough

Assembly

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

Fax 907/459-1224

February 13, 1996

The Honorable Ben Grussendorf
Alaska State House Of Representatives

Dear Representative Grussendorf,

This letter concerns the proposed committee substitute for House Bill 386, relating to "Cruelty to Animals" which you pre-filed for the Second Session of the Nineteenth Legislature.

On October 12, 1995, the Fairbanks North Star Borough Assembly adopted Resolution 95-052; "A Resolution Relating To Cruelty To Animals." The resolution requests a member (s) of the Legislature to "introduce legislation which would allow municipalities, by ordinance, to exercise the power of preventing cruelty to animals and to be able to prosecute those guilty of animal cruelty." Your legislation satisfies that request and I sincerely appreciate the introduction of the bill.

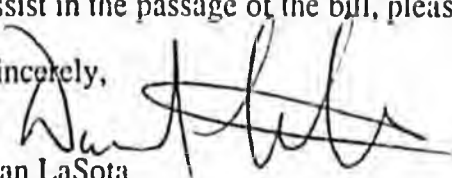
I'm sure you are aware of the resistance by municipalities throughout the state to have mandated responsibilities without state monetary assistance. I know that I normally would not be in favor of such legislation. This matter is different! A municipality does not have to accept this responsibility except by ordinance. Other provisions in the bill help clarify the definition of animal cruelty.

The prevention of cruelty to animals is important to the Fairbanks North Star Borough. It had been enforcing animal cruelty prevention powers and punishment for violations until the summer of 1995 when the court determined that the borough only had the power to practice the prevention of canine cruelty. The borough has trained staff and equipment in place which would allow it to exercise the broader animal cruelty prevention powers at little or no additional cost to our taxpayers.

The extent of legal animal control powers that the Fairbanks North Star Borough has exercised in recent years is varied. Attached, you will find a memo from the borough's legal department detailing the changes over the years.

In closing, I applaud your introduction of HB 386 and I believe it is the best vehicle to fulfill the Fairbanks North Star Borough's needs in this area. If there is any way I can assist in the passage of the bill, please let me know.

Sincerely,


Dan LaSota
Fairbanks North Star Borough Assembly Member

'It was like a case out of Auschwitz'

Officials seize 11 sickly dogs from home

By KATE RIPLEY
Staff Writer

Borough animal control officials have seized 11 dogs from the home of a Fairbanks man they say starved one dog to death and caused the others to suffer without adequate water, food and veterinary care.

Officials are awaiting a final necropsy report on the dead dog before deciding whether to charge the man, Steve Ferraro, with violating the borough's animal cruelty law. The husky mix dogs were taken from Ferraro's home off the Elliott Highway earlier this month.

Ferraro said he's innocent and would not allow his dogs to suffer. In explaining the dead dog, he said he shot it in the head because it had parvo, a condition that attacks the intestines.

"They can't say I'm starving them to death. I'm not an animal criminal here," Ferraro said Monday. "My dogs never suffered one bit. Never one bit."

But Dr. R.W. Van Pelt, the veterinarian who examined all the dogs for the borough, said there was no evidence of a bullet wound anywhere on the dead dog's body.

"I know what parvo looks like, and it doesn't look like this," Van Pelt said. "This dog starved to death."

Van Pelt said he could nearly count every bone in the dog's body without opening it up.

"He had literally digested his own tissues. It was like a case out of Auschwitz," Van Pelt said. "It was one of the worst cases I've seen, and I've seen a lot of them."

Indeed, a week after the dogs were seized, three of the adults still looked skeletal and acted listless Friday at the borough animal shelter, offPager Road. Their ribs protruded from their sides and their hip bones jutted out sharply.

Four other adults were thin but in better shape. Most of the

dogs were infested with lice. All were severely dehydrated.

The dogs were seized from Ferraro's trailer, at about 8 Mile Elliott Highway, Feb. 15. They've been under the care of the borough since and are slowly improving.

Animal control officer Vicki Adkins said the dogs were taken into custody just in time. One mother and her 6-week-old pup weren't moving and had to be pulled out of their house. She was wobbly when Adkins stood her up.

"I think she would have died that night. She was dying," Adkins said of the shy cream-colored mother. The pup, found curled on top of its mother trying to stay warm, was hypothermic and full of worms.

Van Pelt also discovered two older pups, ages 4½ and 5½ months, have rickets, a bone disease caused by lack of vitamin D and calcium. The pups' front legs

See DOGS, Page B-2



Nora Gruner/News-Miner

ABUSED—Animal control officer Vicki Adkins holds one of the huskies that were removed from a home off the Elliott Highway. The dogs were all underweight and dehydrated.

DOGS: Owner may face cruelty charges

Continued from Page B-1

are bowed and their back legs knock kneed. They are stunted, about the size of 3-month-old dogs, Van Pelt said.

The two pups seemed not to know of their health problems as they played in a large cage at the shelter Friday. They wagged their tails and walked around on their funny legs, happy to see visitors.

Ferraro admitted his dogs had worms, and he contends that's why they're so skinny. He said he was feeding them worm medication but found out later it was the wrong kind.

"It's my fault for not taking them to the vet, but I don't have

the money to take them to the vet," said Ferraro, who said he lost his latest job and doesn't own a vehicle that runs.

Ferraro said he has been mushing dogs for two years but is getting out of the sport because it's too expensive. He said he hasn't run his dogs much this winter.

Rather than get into a legal fight, Ferraro said he wants to work something out with the borough and have his dogs assigned to a friend.

It was a neighbor's complaint that led Adkins and Colleen Thompson, another animal control officer, to Ferraro's place Feb. 8. They could see the

mother and pup in front of the trailer and suspected other dogs were chained out back. The dead dog was stashed in an open shed in front of the trailer.

"That gave us probable cause to believe others would die," Adkins said.

Adkins wanted to get a search warrant right away, but an attorney wasn't available to help. She and Thompson made one more visit before obtaining the search warrant six days later.

People may be cited under the borough's animal cruelty law if they intentionally or negligently fail to provide dogs with adequate food, water, shelter or veterinary care to prevent physical suffering. The charge is a misdemeanor punishable by a \$500 maximum fine and up to 30 days in jail.

Adkins said that in her 16 years as an animal control officer she can remember the borough obtaining search warrants for similar cases only three times.

That's because many cruelty cases are borderline and difficult to prove, Adkins said. It's even more difficult in areas outside the borough, which falls under state jurisdiction.

Critics say the state law is vague and nearly requires an animal to die before authorities can act. Two bills in the Legislature would give those laws more teeth, but one, Senate Bill 238, has bogged down in the Senate Judiciary Committee while another, House Bill 386, is slowly working its way through the House.

Will Forsberg, of the educational group Mush with PRIDE, said animal cruelty laws must be strengthened.

"Authorities are at the scene, yet they don't have good enough statutes to go in and protect these animals until it's so extreme," Forsberg said. "That's what we've got to address."



LEGISLATIVE INFORMATION OFFICE
119 N. CUSHMAN, SUITE 101
FAIRBANKS, AK 99701
452-4448

DATE: 4/11/96

Please accept the enclosed original(s) of written
testimony for the

Senate CAPA (HB 386) teleconference scheduled on

4/10/96. A copy of this testimony was
transmitted to your committee via fax.

Thank you,

Fron/Flu 210



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE SCARA
 COMMITTEE ON 386 - Animal Cruelty COMMITTEE NAME
 DATED 4/10/96
 BILL/SUBJECT

Sec. 2 -(B) 1 The addition of Animal Husbandry
 to this Bill as well as the section 4
 concerning Farm Animals is a very important
 addition to HB 386

Thank you

SIGNED

TESTIFIER

REPRESENTING (OPTIONAL)

ADDRESS/PHONE NUMBER

Jimmie R. Ellison
FARMER
POB 55590 North Pole 488-1976



LEGISLATIVE INFORMATION OFFICE
119 N. CUSHMAN, SUITE 101
FAIRBANKS, AK 99701
452-4448

DATE: 3/3/96

Please accept the enclosed original(s) of written
testimony for the

Senate CIPA (HB386) teleconference scheduled on

3/3/96. A copy of this testimony was

transmitted to your committee via fax.

Thank you,

Fran/764 410



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE ANRA
 COMMITTEE ON 386 Animal Cruelty DATED 4/3/96
 BILL SUBJECT COMMITTEE NAME

The amendment to the statute adds to the authority of local animal control. Therefore even though production agriculture may be protected elsewhere in the statute we see the need to amend the amendment by inserting, on line one after "cruelty to" the word "companion, plus a written notation stating, "Not to include production agriculture". This would allow agriculture to continue under the state veterinary jurisdiction. The balance of the amendment we could support (We cannot support SB 238)

SIGNED Robert H. Lemble
 TESTIFIER

Alaska Farm Bureau
 REPRESENTING (OPTIONAL)

PO Box 75184 Fairbanks, AK 99707
 ADDRESS/PHONE NUMBER



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Community Affairs
COMMITTEE ON CS 386 Animal cruelty DATED _____
BILL SUBJECT COMMITTEE NAME

The Bill needs to be amended so that
Fur animals are exempted from the control of
Animal Control people

SIGNED _____

TESTIFIER

REPRESENTING (OPTIONAL)

P.O. Box 55580 N.E. 95-205

488-1976

ADDRESS/PHONE NUMBER

Post-it™ brand fax transmittal memo 7671 # of pages > 4

To: John Jorgerson	From:
Co.:	Co.:
Dept.:	Phone #:
Fax #:	Fax #:

Not in packet

MEMORANDUM

To: The Senate Finance Committee
 Co-Chair Steve Frank
 Co-Chair Rick Halford
 Committee Members
 Dave Donnelly
 Randy Phillips
 Steve Rieger
 Bert Sharp
 Fred Zharoff

From: Sally Clampitt, Coordinator for the
 Anchorage & Mat Su Area
 Alaska Equine Rescue
 5540 East 98th Ave.
 Anchorage AK 99516
 Home phone - 346-1346
 Work phone - 561-4487
 Fax (days) - 562-4945

Date: Tuesday, April 17, 1996

Re: Senate CS for CS for House Bill No. 386 (CRA)
CRUELTY TO ANIMALS

Gentlemen:

I have been a horse owner for more than 20 years, have been active in numerous horse-related organizations and activities, taught riding lessons for 6 years, and have acquaintances and friends from just about all areas of horsemanship in Alaska. I also have been privileged to serve as an area coordinator for the past 3 years for the volunteer organization known as Alaska Equine Rescue, (AER) a statewide organization promoting the responsible and humane care of horses in Alaska.

I am writing to you now as a private citizen as well as an active member of AER.

I have reviewed the above-referenced piece of legislation, and have the following comments:

- (1) The proposed CS to CS for HB 386 in no way resembles the honest and sincere concerns for animals that were expressed in its originating predecessors (HB386 and SB238). It has been picked to death. Although Community and Regional Affairs may have tried to perfect the letter of the law, they in fact have de-railed the intent of the law (and obviously succumbed to the pressures of a small but highly vocal special interest group) and the bill no longer does what it was originally intended to do.
- (2) The proposed legislation seeks to broaden the powers of first and second class boroughs to include the power to prohibit cruelty to animals, but at the same time eliminates all farm animals from this newly-bestowed borough jurisdiction. Increasing local authority to enforce animal cruelty regulations is excellent and is a much-needed change. However, farm animals should not be excluded from borough jurisdiction.

Memo to Senate Finance Committee
Opposing certain language in animal cruelty bill
April 17, 1996
Page 2

(3) I am told that representatives from the farming industry are concerned that extremist animal control officers will try to interfere with their agricultural and farming business. If this is in fact a legitimate concern, the language in lines 13 and 14 on page 1, and in line 1 on page 2 should provide the farmers with the protection they need to continue traditional animal husbandry practices...

"It is a defense to a prosecution ... of this section that the conduct of the defendant ... conformed to accepted veterinary or animal husbandry practice."

This carefully thought out language seems to provide excellent assurance that radical animal rightists will not be able to interfere with traditionally accepted animal husbandry practices.

(4) Lines 7 through 19 on page 2, then, which exclude farm animals from borough jurisdiction, should be eliminated in their entirety. Is there a particular reason why farm animals should not be protected by local law? If animal husbandry rights are protected, farmers should have no more to fear from borough jurisdiction than any private citizen who owns large or farm-type animals. The burden remains the same - that is, people who own animals - ALL ANIMALS - should take care of them humanely and responsibly. *This is true even of farm animals and animals bound for slaughter.*

(5) I was also told that the reason the farmers don't want to be accountable to borough animal control is because they think animal control officers will not know anything about farming and will butt into their business. Do you think that the average state trooper knows any more about farming than an animal control officer? Certainly not! Clearly, a person trained as an animal control officer will know more about animals than a State Trooper.

(6) I was told that the farmers don't want to be accountable to local borough agencies because they already have guidelines established by the Department of Agriculture and they prefer to be accountable to that Dept. But if you'll check Title 3, I believe you will find that there are no Dept. of Agriculture guidelines about cruelty to farm animals.

(7) Is there some particular reason why farm animals should not be protected by the same animal cruelty regulations as other animals (excluding traditional animal husbandry practices)? Does the farming community have a special entitlement to treat animals in a less humane way than other people have? Do farm animals have less right to be treated humanely than other animals? This is not logical. And this is not what good government is about. Good government should not be excessive, but more importantly, it shouldn't play favorites the way your proposed CS to CS HB386 does.

And what is a farm animal, anyhow? Is it a working animal? Is it an animal raised

Memo to Senate Finance Committee
Opposing certain language in animal cruelty bill
April 17, 1996
Page 3

specifically for slaughter? Is it cattle, pigs, goats, horses and sheep? Or is it all animals except dogs, cats and parakeets, for example? *Do you really want to get into the muddy area of defining what a farm animal is?* Should this definition define specific species of animals? Or specific uses of animals? What if I own a horse as a pleasure/competitive animal, and then I have to sell it and it ends up in the hands of a "farmer" - here is the very same horse - one day it's protected by certain laws, and the next day it isn't. Does this make sense? Of course not.

Let's say there are two men. They live in the same borough, and one is a farmer and one isn't. They both own horses. This bill says that one man must abide by borough animal cruelty laws and be accountable to the local borough authorities, and the other man doesn't. *Does this make sense?* Of course not. I suggest to you that the farming community knows very well how difficult it is to get the State Troopers to enforce cruelty laws, particularly in remote areas. In fact, as everyone knows, the State Troopers would rather not enforce animal cruelty regulations, and will avoid it if given the opportunity.

So, what we have here is a bill which in effect puts farm animals in a very vulnerable position - the State Troopers won't protect them, and borough animal control can't protect them.

I hope you will agree that horses used in commercial operations, such as guide-outfitting and hunting, trail riding, etc., should not be construed under any circumstances to be part of a farm operation. Horses used in commercial operations **MUST** be protected under all levels of law from cruelty and abuse.

Also, any exclusions for farm animals at any level should clarify that horses are not farm animals. Also, a farmer who has dairy cattle and also has a string of horses that are used to go pack hunting seasonally, is not protected from enforcement of cruelty regulations with regard to his horses.

And I must return to my original point - *what was the original intent of new, or amended and improved animal cruelty legislation?* It was to do a better job of protecting animals in our State, and to make it easier for authorities to prosecute when appropriate. It was **NEVER** intended to dilute our civic and moral responsibilities as humane caretakers, or to hang our political hats on the farming industry's reluctance to be accountable at the local level.

I sincerely hope that you will not consider approving the exclusion of farm animals from borough jurisdiction as outlined in the proposed legislation. *Please considered all of the real ramifications which will inevitably result from excluding farm animals.*

And last but not least, I ask each of you to take a brief personal inventory - do you personally really want to be responsible for establishing a statewide legal infrastructure as bizarre as this? Do

**Memo to Senate Finance Committee
Opposing certain language in animal cruelty bill
April 17, 1996
Page 4**

you really want to assume some personal, moral responsibility for the animals you are cheating out of protection if you pass this bill in its current form?

Please do not delete farm animals from protection against cruelty at the local level. Some language must be found which meets the needs of the farming community with regard to their traditional animal husbandry practices, but at the same time protects these animals from cruelty and neglect.

Thank you for your consideration. Please feel free to contact me if you have any questions.

Sincerely,



Sally Clampitt

Distribution:

**AER Board of Directors
AER Coordinators
Dianne Zarsoff, SPCA-Anchorage
Michelle Girault, Friends of Pets-Anchorage
The Senate Finance Committee
The Community and Regional Affairs Committee
To the sponsors listed on the bill in its current form:
Reps. Ben Grussendorf
David Finkelstein
Bettye Davis
Caren Robinson
John Davics
Drew Pearce, President of the Senate
Gail Phillips, Speaker of the House
Delbert Smith, Deputy Commissioner of Public Safety
Bill Godek, Member of The Alaska Animal Control Association**

HB

392

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/13/96

FURTHER: Judiciary

DATE TURNED INTO OFFICE: _____

The Community & Regional Affairs Committee considered HOUSE BILL NO. 392 am

Relating to the reinstatement of dissolved Native village corporations, and to the affirmative vote necessary to amend the articles of incorporation of Native village corporations to authorize the classification of directors.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tom Kelly</i>	—				
<i>Tom Hoff</i>	✓				
<i>Paul E. Kelly</i>	✓				
CHAIR: <i>John Brown</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Revenue & Economic Dev.</i>	<i>2/19/96</i>	✓	
<i>Community & Regional Affairs</i>	<i>2/23/96</i>	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 392 am

Revision Date: _____
 Title: Native Corp Director Classification
 Sponsor: Representative Ivan
 Requestor: _____

Department: Commerce and Economic Development
 BRU: Banking, Securities and Corporations
 Component: Banking, Securities and Corporations
 COMPONENT SERIAL NO. 1233

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director
 Division: Banking, Securities and Corporations
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2521
 Date: _____
 Date: 2-19-96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 392 am

Revision Date: 2/23/96 Community & Regional Affairs
 Title: An Act relating to the reinstatement of dis- BRU: none
solved Native village corporations... Component: none
 Sponsor: Rep. Ivan
 Requestor: Senate C&RA COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 95) impact: \$ none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4808
 Division: Director, Administrative Services Date: 2/23/96
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 2/23/96
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 392

Revision Date: _____
Title: Native Corp Director Classification

Department: Commerce and Economic Development
BRU: Banking, Securities and Corporations
Component: Banking, Securities and Corporations

Sponsor: Representative Ivan
Requestor: _____

COMPONENT SERIAL NO. 1233

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

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

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS					
FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director *Willis F. Kirkpatrick* Phone: 465-2521
 Division: Banking, Securities and Corporations Date: 1-10-96
 Approved by Commissioner: William L. Hensley *William L. Hensley* Date: 1-10-96
 Agency: Commerce and Economic Development

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 392

Revision Date: 1/9/96 Dept. Affected: Community & Regional Affairs
 Title: relating to the affirmative vote necessary BRU: _____
to amend articles of inc. of Native village corp Component: _____
 Sponsor: Rep. Ivan
 Requestor: Rep. Ivan COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not include !)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 95) impact: \$ none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4808
 Division: Administrative Services Date: 1/9/96
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 1/9/96
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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Alaska State House of Representatives
House District 39

Sesston
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942



Interim
P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

MEMORANDUM

TO: Senator John Torgerson, Chair
Senate Community & Regional
Affairs Committee

FROM: Representative Ivan M. Ivan *Ivan*

DATE: February 14, 1996

RE: Scheduling of House Bill 392 am

Please consider this request to hear House Bill 392 am: An Act relating to the reinstatement of dissolved Native village corporations and to the affirmative vote necessary to amend the articles of incorporation of Native village corporations to authorize the classification of directors.

Section 1 of the bill allows Native village corporations that have been involuntarily dissolved by the State to be reinstated under the law, one year after the effective date of this act. In 1994, HB 71 added a provision under AS 10.06.960 (i) offering a one year opportunity for involuntarily dissolved village corporations to reinstate. According to the Division of Banking, Securities and Corporations, there remain five Native village corporations that did not take advantage of the reinstatement. Those corporations are Oscarville Native Corporation, Tulkisarmute, Inc., Cully Corporation, Ohog Incorporated, and The Grouse Creek Corporation.

Section 2 amends the Alaska Corporations Code to authorize ANCSA village corporations to provide for Board of Director classification in their bylaws. If enacted, House Bill 392 would allow ANCSA village corporations to amend their articles of incorporation to authorize a classified or staggered term board of directors by a majority vote of the shares represented at a meeting of shareholders.

Under current law, for those villages which did not have classified boards in place by July 1, 1989, such an amendment requires a vote of two-thirds of all outstanding shares entitled to vote. This is often difficult for village corporations to achieve. House Bill 392 rectifies that situation. Alaska Federation of Natives (AFN) supports House Bill 392 am.

Thank you for your consideration of my request. Backup material for this bill will be provided to your aide. If you require further information or have any questions, please contact myself or my aide, Pat Walker.

Alaska State House of Representatives House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942



Interim
P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

SPONSOR STATEMENT - HOUSE BILL 392 am

I sponsored House Bill 392 to amend the Alaska Corporations Code to allow ANCSA village corporations to amend their articles of incorporation to authorize a classified or staggered term board of directors by a majority vote of the shares represented at a meeting of shareholders.

Under current law, for those villages which did not have classified boards in place by July 1, 1989, such an amendment requires a vote of two-thirds of all outstanding shares entitled to vote. This is often difficult for village corporations to achieve. This bill rectifies that situation.

An amendment to House Bill 392 was presented and accepted, to include a provision for ANCSA village corporations that have been involuntarily dissolved by the State an opportunity to reinstate. A similar provision was provided by the Eighteenth Alaska Legislature in 1994, under HB 71.

Amended House Bill 392 allows Native village corporations that have been involuntarily dissolved by the State, the ability to be reinstated under the law, one year after the effective date of this act. According to the Division of Banking, Securities and Corporations, there remain five Native village corporations that did not take advantage of the 1994 reinstatement. Those corporations are Oscarville Native Corporation (Oscarville - Senate District T), Tulkisarmute, Inc. (Tuluksak - Senate District R), Cully Corporation (Point Lay - Senate District S), Ohog Incorporated (Russian Mission - Senate District R), and The Grouse Creek Corporation (Seward - Senate District D).

Sponsor Statement

Akiachak • Akiak • Aleknagik • Atmautluak • Bethel • Chefornak • Clark's Point • Dillingham • Eek • Ekuk • Ekwok • Goodnews Bay • Kasigluk • Kipnuk • Koliganek • Kongiganak • Kwethluk • Kwigillinguk • Manokotak • Napaktak • Napaaktak • New Stuyahok • Nunapituk • Oscarville • Platinum • Portage Creek • Quinhagak • Togiak • Tuntutuliak • Twin Hills

Sec. 10.06.453. NUMBER AND ELECTION OF DIRECTORS.

(a) The board of directors shall consist of one or more members. The number of directors shall be fixed by, or in the manner provided in, the bylaws, unless the articles fix the number of directors, in which case a change in the number of directors shall be made only by amendment of the articles. If the number of directors is not otherwise set, the number of directors is three.

(b) Except as otherwise provided in AS 10.06.230 and this section, the number of directors may be increased or decreased by amendment of the articles or the bylaws or by action of the board or the shareholders under the specific provisions of an article or a bylaw adopted by approval of the outstanding shares. A change in the number of directors, including by amendment of the articles, is subject to the following limitations:

(1) if the board is authorized by the articles or the bylaws to change the number of directors, whether by amending the bylaws or by taking action under the specific provision of an article or a bylaw adopted by approval of the outstanding shares, the amendment or action shall require the vote of a majority of the entire board;

(2) a decrease in the number of directors may not shorten the term of an incumbent director.

(c) The articles may provide for the election of one or more directors by the holders of the shares of a class or series voting as a class or series.

(d) The names and addresses of the members of the first board may be stated in the articles. The members of the first board hold office until the first annual meeting of shareholders, and until their successors have been elected and qualified.

(e) At the first annual meeting of shareholders and at each subsequent annual meeting the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in the case of the classification of directors as permitted by AS 10.06.455. A director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

History -

(sec. 1 ch 166 SLA 1988; am sec. 35, 36 ch 82 SLA 1989)

Amendment Notes -

The 1989 amendment, effective July 1, 1989, rewrote subsection (a); and in subsection (b), added "Except as otherwise provided in AS 10.06.230 and this section" at the beginning of the subsection, divided the subsection into two sentences, adding "A change in the number of directors, including by amendment of the articles, is" to the beginning of the present second sentence, and made related grammatical changes.

Editors Notes -

Section 57, ch. 82, SLA 1989, provides: "APPLICABILITY TO CERTAIN CORPORATIONS WITH CLASSIFIED DIRECTORS. (a) Notwithstanding AS 10.06.453(e) and 10.06.455, if a corporation is organized under 43 U.S.C. 1601 - 1629e and if the corporation's bylaws, as the bylaws exist immediately before July 1, 1989, contain a provision that complies with former AS 10.05 and provides for a board of directors consisting of three or fewer classes of directors with terms of office extending not longer than the third annual meeting after the directors' election, the corporation may continue to elect directors in the classes and for the terms provided under the bylaws.

"(b) The application of (a) of this section terminates if on or after July 1, 1989, the corporation modifies or eliminates the provisions of the corporation's bylaws on the classification and terms of office of the corporation's directors.

"(c) Notwithstanding AS 10.06.453(e) and 10.06.455, if a corporation is not covered by (a) of this section, if the corporation is organized under former AS 10.05, and if the corporation's bylaws, as the bylaws exist immediately before July 1, 1989, contain a provision that complies with former AS 10.05 and provides for a classified board of directors, the corporation may continue to elect directors in the classes and for the terms provided under the bylaws until July 1, 1994."

Collateral Refs -

18B Am. Jur. 2d, Corporations, sec. 1349, 1363.

19 C.J.S., Corporations, sec. 716 - 720.

Sec. 10.06.455. CLASSIFICATION OF DIRECTORS.

(a) If the board consists of three or more members, the articles of incorporation may provide that instead of electing all the directors annually the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, with the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after the classification the number of directors equal to the number of the class whose term expires at the time of the meeting shall be elected to hold office until the second succeeding annual meeting if there are two classes, or until the third succeeding annual meeting if there are three classes. A classification of directors is not effective before the first annual meeting of shareholders.

(b) Unless cumulative voting rights under AS 10.06.420(d) have been eliminated by the articles of incorporation, an amendment of the articles that would establish or require classification of the board under (a) of this section may not be adopted if the votes cast against the amendment would be sufficient to elect a director if voted cumulatively at an election of the entire board.

History -

(sec. 1 ch 166 SLA 1988; am sec. 1 ch 131 SLA 1990)

Cross References -

For applicability of section to certain existing corporations, see sec. 57, ch. 82, SLA 1989 in the Temporary and Special Acts or the editor's note at AS 10.06.453.

Amendment Notes -

The 1990 amendment substituted "three or more members" for "nine or more members" in the first sentence of subsection (a).

Sec. 10.06.960. CORPORATIONS ORGANIZED UNDER ALASKA NATIVE CLAIMS SETTLEMENT ACT.

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

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

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

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

(B) of a corporation organized under the act includes the

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

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

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

(c) Notwithstanding the provisions of AS 10.06.546, a plan of merger, consolidation, or exchange in which each participating corporation either (1) was organized under the act, within the same one of the 12 regions of Alaska established under the act, or (2) resulted from the prior merger, consolidation, or exchange of other similarly organized corporations within the same region, is approved if it receives the affirmative vote of the holders of at least a majority of the outstanding shares of each corporation. If a class of shares of a corporation specified in this subsection is entitled to vote as a class, the plan of merger, consolidation, or exchange is approved if it receives the affirmative vote of the holders of at least a majority of the outstanding shares of each class of shares entitled to vote as a class and of the total outstanding shares. Notwithstanding AS 10.06.574 - 10.06.582, a plan of merger, consolidation, or exchange approved under this section before December 19, 1991, may not include a right of shareholders to dissent.

(d) *Repealed, sec. 21 ch 6 SLA 1993.*

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

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

(g) Notwithstanding AS 10.06.358, if there are no retained earnings, the directors of a corporation organized under the act may declare and pay distributions in cash or property out of its net profits for the fiscal year in which the distribution is declared and for the preceding fiscal

year, except when the corporation is insolvent under AS 10.06.360. For the purposes of this subsection, a corporation's debts include the amounts it is required to distribute under 43 U.S.C. 1606(i) and 43 U.S.C. 1606(j). The directors may determine the net profits derived from the exploitation or liquidation of wasting assets without consideration of the depletion of those assets resulting from lapse of time, consumption, liquidation, or exploitation, of the assets, and a distribution declared from those net profits shall be described, concurrently with distribution of the net profits to shareholders, as a distribution from wasting assets without consideration of the depletion of the assets. In this subsection, "wasting assets" means timber resources and subsurface estates.

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

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

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

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

(i) Notwithstanding AS 10.06.633(e), a corporation that is organized as a Native corporation under the act, that has been involuntarily dissolved by the commissioner under AS 10.06.633, and that has failed to apply for reinstatement during the period established under AS 10.06.633(e), may be reinstated under AS 10.06.633(e) within one year of June 29, 1994. The reinstated corporation and its shareholders have all of the rights, privileges, liabilities, and obligations that would have applied to them if the corporation had not been dissolved, and all corporate and shareholder actions taken during the period of dissolution are considered to be as valid as if dissolution had not occurred.

(j) If a corporation is formed before June 29, 1994 to replace a Native corporation that has been involuntarily dissolved under AS 10.06.633, and if the replacing corporation has the same name as the dissolved corporation, the replacing corporation and its shareholders succeed, upon payment of any amount that would have been required for the reinstatement of the dissolved corporation under AS 10.06.633(e), to all of the rights, privileges, liabilities, and obligations that would have applied to the dissolved corporation and its shareholders if the dissolved corporation had been reinstated under AS 10.06.633(e).

(k) In this section,

(1) "act" means 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement Act);

(2) "Native corporation" has the meaning given in 43 U.S.C. 1602(m).

History -

(sec. 1 ch 166 SLA 1988; am sec. 53, 54 ch 82 SLA 1989; am sec. 21 ch 6 SLA 1993; am sec. 1, 2 ch 120 SLA 1994)

Revisors Notes -

In 1989, the word "and" was inserted preceding "the corporation may take" in the first sentence of subsection (f).

Subsections (i) and (j) were enacted as (j) and (k) respectively. Relettered in 1994, at which time former (i) was relettered as (k).

Cross References -

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

Amendment Notes -

The 1989 amendment, effective July 1, 1989, substituted "43 U.S.C. 1601 - 1629e as amended" for "43 U.S.C. 1601 - 1629a" near the beginning of subsection (a); substituted "the act" for "43 U.S.C. 1601 - 1629a" throughout subsections (a) - (d); and added subsections (e) - (i).

The 1993 amendment, effective April 14, 1993, repealed subsection (d).

The 1994 amendment, effective June 29, 1994, added present subsections (i) and (j), added the paragraph (k)(1) designation and made a section reference substitution therein, and added paragraph (k)(2) and made a related stylistic change.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

January 30, 1996

SUBJECT: Codification of sections amended in HB 392
(Work Order No. 9-LS1448\C)

TO: Representative Ivan Ivan

FROM: *TB*
Theresa Bannister
Legislative Counsel

You have asked why sec. 10, ch 166, SLA 1988 and sec. 57, ch. 50, SLA 1989 weren't codified (numbered as part of the permanent Alaska Statutes) and whether they should be. After a review of the sections it is not apparent why they were not codified initially.

The two sections are transition sections between the old corporations code (AS 10.05) and the new code (AS 10.06). Transition sections are usually temporary in nature and not codified. Section 10 requires existing corporations to continue with the former code's two-thirds vote requirement to amend their articles of incorporation, unless the corporation elects by the two-thirds vote to fall under the new code's lower majority vote approval. Section 57 amends sec. 10 to allow certain Native corporations incorporated under the former code to use a majority vote to amend their articles to add a provision about director liability.

As you can see, these two sections are not temporary in nature. They could continue to affect corporations indefinitely. Therefore, it would be appropriate to codify them in permanent law. This would not change their content or effect, but would merely place them with the other permanent statutes.

This codification can be accomplished by the revisor of statutes without further action by the legislature. Under AS 01.05.031, the revisor of statutes has the authority to revise for consolidation into the Alaska Statutes all laws of a general and permanent nature and all laws of a temporary or special nature enacted by the legislature. The revisor is authorized to accomplish this by, among other things, renumbering sections, parts of sections, articles, chapters, and titles.

The revisor is already aware that these two sections may need to be codified. If you would like her do so, you can contact her and suggest that it be done.

Representative Ivan Ivan
January 30, 1996
Page 2

You do not need to change your bill, HB 392, at this time. If your bill becomes law and the revisor codifies the two sections, she can codify your new provision as well.

If I may be of further assistance, please advise.

TLB:klb
96-047.klb

68888

FOSTER PEPPER & SHEFELMAN

A LAW PARTNERSHIP INCLUDING
PROFESSIONAL SERVICE CORPORATIONS

January 12, 1996

VIA FACSIMILE

Mr. Tom Wright
Administrative Assistant
Office of Representative Ivan M. Ivan
Alaska State Legislature
Juneau, Alaska 99801

Re: HB 392; ANCSA Village Corporation Board Classification
Our File Nos. 74270.1 and 74273.1

Dear Tom:

Per your request, this letter provides you with a summary of HB 392 ("An Act relating to the affirmative vote necessary to amend the articles of incorporation of Native village corporations to authorize the classification of directors"). In a nutshell, if enacted in its current form, HB 392 would allow ANCSA village corporations to amend their articles of incorporation to authorize a classified or staggered term board of directors by a majority vote of the shares represented at a meeting of shareholders.

Under the current law, such an amendment requires a vote of two-thirds of all the outstanding shares entitled to vote. This is a difficult voting percentage for ANCSA village corporations to achieve. Native village corporations generally have a difficult time obtaining even a majority attendance (in person or by proxy) at their shareholder meetings. Obtaining an affirmative vote of two-thirds of all the shareholders (which is not simply two-thirds of the shareholders present at a meeting) or even two-thirds attendance (in person or by proxy) at a shareholder meeting, is almost impossible.

There are various advantages to having a classified board of directors. A classified board provides continuity in the management of a corporation because the full board is not replaced every year. Instead, only directors in one of the classes are up for election in any given year. A classified board also provides for better long range planning and policy development because there are always directors from the previous year on the board. In addition, such a scheme always ensures that there are some board members with historical knowledge of prior year corporate activities.

It is also important to emphasize that this legislation does not apply to ANCSA Regional corporations. Furthermore, many of the ANCSA village corporations already have classified boards in place, so this legislation will also not impact them (unless they desire to change their current classification scheme). Under the prior corporations statute (which was replaced by the

801 WEST FIFTH AVENUE, SUITE 300
ANCHORAGE, ALASKA 99501-2228
TEL. 907-276-4411 FACSIMILE 907-276-4400

BELLEVUE, WASHINGTON PORTLAND, OREGON SEATTLE, WASHINGTON

Mr. Tom Wright
January 12, 1996
Page 2

Alaska Corporations Code effective July 1, 1989), corporations were permitted to provide for a classified board in their bylaws. Savings language enacted in conjunction with the Alaska Corporations Code allowed these bylaw classification schemes to remain intact for ANCSA corporations despite language in the new code requiring corporations to provide for classified boards through their articles of incorporation. See Section 57, ch. 82, SLA 1989. Thus, HB 392 is primarily directed at village corporations who did not have classified boards in place on July 1, 1989, but now desire to implement such a scheme.

I should also emphasize that there is a precedent for allowing this lower voting percentage. Under the Alaska Corporations Code, corporations are authorized to eliminate or limit director personal liability (except in certain instances) to the corporation and/or shareholders for monetary damages by way of their articles of incorporation. See AS 10.06.210(1)(N). For corporations in effect prior to July 1, 1989, the necessary voting percentage for such an amendment to the articles is two-thirds of all the shares entitled to vote. However, the Legislature made an exception to this requirement for ANCSA corporations by providing that such an amendment to the articles of incorporation could be adopted by the affirmative vote of the majority of shares represented at a meeting. See Section 10, ch. 166, SLA 1988, as amended by Section 57, ch. 50, SLA 1989. The voting percentage for such an amendment is the same as that proposed in HB 392.

Lastly, as you are aware, this amendment was requested by Napaskiak Incorporated and Swan Lake Corporation, two ANCSA village corporations from the Calista Region. Both corporations have submitted classified board amendments to their shareholders at the last two annual shareholder meetings. Although the amendment was supported by a majority of shares represented at each meeting, neither corporation was able to obtain a two-thirds affirmative vote in favor of the amendment. If the proposed legislation is enacted, both corporations will most likely adopt a classified board amendment at their next annual shareholder meeting.

Please let me know if you need additional information. I appreciate all the time and effort you have provided in conjunction with this proposed legislation.

Very truly yours,

FOSTER PEPPER & SHEFELMAN



Glen Price

cc: Steven Maxie, Jr., Napaskiak Incorporated
Aurelia Brown, Swan Lake Corporation
Matthew Nicolai, Calista Corporation
Sue Gamache, Calista Corporation
Julie Kitka, Alaska Federation of Natives
Michael Monagle, Division of Banking, Securities and Corporations

ALASKA FEDERATION OF NATIVES, INC.

1577 C Street, Suite 201, Anchorage, Alaska 99501
907-274-3611 - Fax 907-276-7989

February 9, 1996

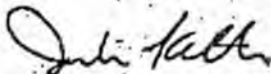
Representative Donald Long
Alaska State Legislature
State Capital, Room 405
Juneau, Alaska 99811-1182
VIA FAX MAIL: 907-465-4586

Dear Representative Long:

I am writing this letter on behalf of the Alaska Federation of Natives (AFN) to advise you that AFN supports HB 392, "An Act relating to the affirmative vote necessary to amend the articles of incorporation of Native village corporations to authorize the classification of directors." AFN supports the flexibility given by this bill for the Alaska village corporations. AFN also supports the proposed amendment to HB 392, which provides for the reinstatement of dissolved village corporations.

Thank you for your kind consideration. If you have any questions concerning this letter, please call me at AFN.

Sincerely,


Julie Kitka
President



SUPPORT

Calista Corporation

601 W. 5th Avenue, Suite 200 • Anchorage, AK 99501-2225 • (907) 279-5516 Facsimile (907) 272-5060

January 25, 1996

Office of the President

Representative Ivan M. Ivan
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Representative Ivan:

Calista Corporation supports House Bill 392 which if passed would amend the Alaska Corporation's Code to assist village corporations to add provisions to their articles of incorporation to authorize classification of directors.

As it currently stands, in order for ANCSA village corporations to amend their articles of incorporation to add wording to allow for classification of directors, 2/3 of their voting stock must vote affirmative in order for this to pass. It is very difficult at the village level to obtain a 2/3 representation by proxy and in person let alone a 2/3 approval vote on an issue.


Village corporations are concerned about the lack of continuity on their board of directors and they feel that having a classified Board will provide the following advantages:

- Provide continuity in the Board of Directors and management of the corporation because the full board will not be replaced every year by a new board.
- Provide for better long range planning and policy development because there will always be at least three existing directors on the Board.
- Always ensure that there are some Board members with historical knowledge of prior year corporate activities.

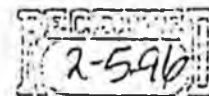
Calista Corporation assists many of the Calista region village corporations in preparing their annual shareholders meeting documents and serving as inspector of elections at the village meetings. In meetings where the classification of directors issue has been put before the shareholders for their consideration, it is our experience that the shareholders support the classification of directors, however, the village corporations are unable to obtain the 2/3 proxy return currently required to implement this provision.

Sincerely,

CALISTA CORPORATION



Matthew Nicolai
President



February 1, 1996

House Finance Committee
Co-chair Rep. Mark Hanley
Co-chair Rep. Richard Foster
State Capitol
Juneau, AK 99801-1182

via fax: 465-2418
via fax: 465-3242

Dear Committee Members:

I understand that your committee is considering legislation relating to the Alaska corporations code, Chapter 10.06, that may be able to address a problem faced by one of the village corporations within our region. A proposed addition to HB 392 is attached.

The Village Corporation for Point Lay, Cully Corporation, had been involuntarily dissolved by the State and they sought to be reinstated under the provision added to AS 10.06.960(i) last year. Unfortunately, they were unable to meet the deadline in that provision. Arctic Slope Regional Corporation (ASRC) has been working with Cully Corporation representatives to solve this problem and establish a system to ensure they are kept current with biannual reporting requirements to the State. We are seeking to have the benefit provided by 960(i) extended again to permit Cully Corporation to gain its active status and good standing with the State. Language to allow this could be added to HB 392 presently before you.

Many small village corporations have difficulty with the corporate reporting requirements. Our region is not the only one with corporations that have been involuntarily dissolved. A random sampling of eight villages with corporations provided for under ANCSA found four with no record, one dissolved, and only three in good standing.

This provision would allow village corporations which have been dissolved due to their failure to meet corporate compliance requirements to be reinstated under the law. Your support for this amendment on behalf of our region and many others is appreciated.

Sincerely,

A handwritten signature in dark ink that reads "Conrad Bagne". The signature is written in a cursive style with a large, sweeping 'C' at the beginning.

Conrad N. Bagne, House Counsel and
Chief Administrative Officer

CNB/ngk

Attachment

cc: Sen. Al Adams
Rep. Don Long

*Swan Lake Corporation
Board of Directors
Resolution 95-17*

A resolution to amend the Alaska Corporation Code (AS 10.26.455 (a)) ANCSA village corporations Articles of Incorporation and By Laws - Classified Boards

WHEREAS, under the Corporation's current form of Articles of Incorporation and By Laws, the Board of Directors is comprised of seven members who are elected annually; and

WHEREAS, the Board of Directors have determined that it is in the Corporation's best interests to classify the Board into three classes with three-year staggered terms; and

WHEREAS, under the Alaska Corporation's Code (AS 10.06.455 (g)), a classified board must be authorized in a corporation's Articles of Incorporation; and

WHEREAS, the Corporation's Articles presently contain no such authority; and

WHEREAS, in order to provide such authority in the Articles of Incorporation, an amendment to the Article must be approved by at least two-thirds of the shares entitled to vote on the amendment; and

WHEREAS, the Corporation has attempted such an amendment in the last two annual shareholder meetings, but has been unable to even have two-thirds of all shares represented at the meetings; and

WHEREAS, it is very common for ANCSA village Corporations to be unable to obtain a two thirds attendance in person or by proxy, at a shareholder's meeting; and

WHEREAS, the Board of Directors has determined that it should request that the Alaska Federation of Natives and Calista Corporation work towards an amendment to the Alaska Corporations Code to address this high voting percentage requirements;

NOW, THEREFORE BE IT IS RESOLVED by the delegates to the 1995 Annual Convention of the Alaska Federation of Natives, Inc., that Aurelia Brown, as Chairperson and President of the Corporation, be and hereby is authorized and directed to contact and work in conjunction with Calista, the Alaska Federation of Natives, and the Corporation's attorney to attempt to amend the Alaska Corporations Code to provide for either (i) a lower voting percentage to amend

ANCSA village corporation's Articles with respect to authority for classified boards; (ii) the authority in a Board of Directors to amend a Corporation's By Laws to provide for a classified board; or (iii) some similar amendment that would assist ANCSA village Corporations in establishing classified boards.

PASSED AND APPROVED by a duly constituted quorum on the 13th day of September 1995, with 4 present and 3 absent, also by a vote of 4 in favor, 0 opposed and three absent of the Swan Lake Corporation Board of Directors

Aurelia Brown
Aurelia Brown
Chairperson

ATTEST: Justin Ignatius Sr.
Justin Ignatius, Sr.
Secretary

NAPASKIAK INCORPORATED

BOARD OF DIRECTORS

RESOLUTION NO. 95-05

WHEREAS, under the corporation's current form of Articles of Incorporation and Bylaws, the Board of Directors is comprised of five members who are elected annually; and

WHEREAS, the Board of Directors has determined that it is in the corporation's best interests to classify the Board into three classes with three-year staggered terms; and

WHEREAS, under the Alaska Corporations Code (AS 10.06.455(a)), a classified board must be authorized in a corporation's Articles of Incorporation; and

WHEREAS, the corporation's Articles presently contain no such authority;
and

WHEREAS, in order to provide such authority in the corporation's Articles of Incorporation an amendment to the Articles must be approved by at least two-thirds of the shares entitled to vote on the amendment; and

WHEREAS, the corporation is not able to obtain even a two-thirds attendance, in person or by proxy, at shareholder meetings; and

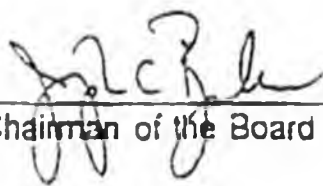
WHEREAS, it is very common for ANCSA village corporations to be unable to obtain a two-thirds attendance, in person or by proxy, at a shareholder's meeting; and

WHEREAS, the Board of Directors has determined that it should request that the Alaska Federation of Natives and Calista Corporation work towards an amendment to the Alaska Corporations Code to address this high voting percentage requirement; therefore

IT IS RESOLVED, that Joseph Bavilla, as Chairman and President, and Steven Maxie, Jr., as General Manager, be and hereby are authorized and directed to contact and work in conjunction with Calista Corporation, the Alaska Federation of Natives, and the corporation's attorney to attempt to amend the Alaska Corporations Code to provide


for either (i) a lower voting percentage to amend ANCSA village corporations' Articles with respect to authority for classified boards; (ii) the authority in a Board of Director's to amend a corporation's Bylaws to provide for a classified board; or (iii) some similar amendment that would assist ANCSA village corporations in establishing classified boards.

5 DATED this 2nd day of October, 1995, be a vote of
in favor, and 2 opposed.



Chairman of the Board

ATTESTED TO:



Secretary



Senator Albert P. Adams

2-20-96

John -

Rep. Dean has HB
392 dealing w/ municipalities
& dissolutions. Can we have
a hearing & get it moving -

al

HB

466

First Committee of Referral

DATE: 3/25/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 4/11/96

The C&RA Committee considered CS FOR HOUSE BILL NO. 466(FIN) am

"An Act establishing the Adak Reuse Authority."

and recommends:

be replaced with Senate CS for CS for HB 466 (CRA)

adopt previous _____ CS _____

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR° _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tim Kelly</i>	-	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>Road [Signature]</i>	✓		
CHAIR: <i>John Bregman</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>C&RA</i>	<i>3/12/96</i>		✓
<i>Military & Veterans Affairs</i>	<i>2/14/96</i>		✓

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

WE HAVE ON LINE :

FROM BOSTON

MR CHRIS GATES TO TESTIFY ON HB 466

SENATE CS FOR CS FOR HOUSE BILL NO. 466(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MOSES, Mulder

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Adak Reuse Authority."

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

3 * Section 1. AS 30 is amended by adding a new chapter to read:

4 CHAPTER 17. ADAK REUSE AUTHORITY.

5 ARTICLE 1. ESTABLISHMENT.

6 Sec. 30.17.010. CREATION OF AUTHORITY. There is created the Adak
7 Reuse Authority. The authority is a public corporation of the state and a body corporate
8 and is an instrumentality of the Department of Commerce and Economic Development,
9 but with separate and independent legal existence.

10 Sec. 30.17.020. MEMBERSHIP OF AUTHORITY. (a) The membership of the
11 authority consists of

12 (1) the commissioner of commerce and economic development;

13 (2) two other persons selected by the governor who serve as the heads
14 of principal departments of the executive branch of state government; and

15 (3) four public members appointed by the governor, two of whom must

1 be residents of the area that is within the boundaries of the Aleut Corporation, a Native
2 regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims Settlement
3 Act).

4 (b) If a member described in (a)(1) or (2) of this section is unable to attend a
5 meeting of the authority, the member may, by an instrument in writing filed with the
6 authority, designate a deputy or assistant to act in the member's place as a member at
7 the meeting. For purposes of this chapter, the designee is a member of the authority at
8 the meeting.

9 (c) Members of the authority described in (a)(2) and (3) of this section serve
10 two-year terms but serve at the pleasure of the governor.

11 (d) If a vacancy occurs in the membership of the authority, the governor shall
12 immediately appoint a member for the unexpired portion of the term.

13 Sec. 30.17.030. CHAIR AND VICE-CHAIR. The members of the authority
14 shall elect a chair from among themselves. A vice-chair may be elected by the authority
15 from among its other members. The vice-chair presides over all meetings in the absence
16 of the chair and has other duties that the authority may prescribe.

17 Sec. 30.17.040. MEETINGS, COMPENSATION, AND EMPLOYEES. (a) A
18 majority of the members of the authority constitutes a quorum for the transaction of
19 business or the exercise of a power or function at a meeting of the authority. Action
20 may be taken and motions and resolutions may be adopted by the authority only upon
21 an affirmative vote of a majority of the full membership of the authority. The authority
22 may meet and transact business by electronic media if (1) public notice of the time and
23 locations where the meeting will be held by electronic media has been given in the same
24 manner as if the meeting were held in a single location; (2) participants and members
25 of the public in attendance can hear and have the same right to participate in the meeting
26 as if the meeting were conducted in person; and (3) copies of pertinent reference
27 materials, statutes, regulations, and audio-visual materials are reasonably available to
28 participants and to the public. A meeting by electronic media as provided in this
29 subsection has the same legal effect as a meeting in person.

30 (b) The public members of the authority are entitled to \$100 compensation for
31 each day spent on official business of the authority and may be reimbursed by the
32 authority for actual and necessary expenses at the same rate paid to members of state

1 boards under AS 39.20.180.

2 (c) The authority may not hire employees but may contract with individuals or
3 entities to serve in capacities it considers advisable, including service as an executive
4 director, executive secretary, professional advisor, legal counsel, technical expert, agent,
5 and in other positions. A contractor hired under this subsection is not a state employee
6 for any purpose. A contract under this subsection may not exceed two years' duration.

7 (d) The authority shall keep minutes of each meeting and send a certified copy
8 to the governor and to the Legislative Budget and Audit Committee.

9 **ARTICLE 2. PURPOSE AND GENERAL POWERS.**

10 **Sec. 30.17.100. PURPOSE OF THE AUTHORITY.** The purpose of the
11 authority is to develop and implement a comprehensive reuse and redevelopment plan
12 for the territory encompassed by the Adak Naval Air Facility in a manner that will attract
13 business, create jobs, and advance the general prosperity and economic welfare of the
14 people of the state by

15 (1) administering in a manner consistent with the purpose of the authority
16 the assets transferred to the authority by the federal government, including facilities and
17 other real or personal property, located at the Adak Naval Air Facility;

18 (2) entering into necessary agreements with the federal government for
19 operation of the facilities comprising the Adak Naval Air Facility;

20 (3) operating or contracting with others to operate enterprises and other
21 facilities located at the Adak Naval Air Facility; and

22 (4) cooperating and acting in conjunction with other organizations, public
23 and private, the objects of which are the promotion and advancement of economic use
24 of the facilities located at the Adak Naval Air Facility.

25 **Sec. 30.17.110. POWERS OF THE AUTHORITY.** In furtherance of its
26 corporate purposes, the authority may, in addition to other powers that it may have by
27 law,

28 (1) sue and be sued;

29 (2) have a seal and alter the seal at its pleasure;

30 (3) adopt and amend bylaws for its organization and internal
31 management;

32 (4) adopt regulations governing the exercise of its corporate powers;

1 (5) subject to AS 30.17.130(c), accept title to, or other interest in, assets
2 transferred to the authority by the federal government, including facilities and other real
3 or personal property, located at the Adak Naval Air Facility;

4 (6) lease to others a project acquired by it for the rentals and upon the
5 terms and conditions the authority may consider advisable, including, without limitation,
6 provisions for options to purchase or renew;

7 (7) issue and secure the payment of bonds, including revenue bonds;
8 provide for the rights of holders of the bonds; and purchase, hold, and dispose of bonds;

9 (8) sell, by installment sale or otherwise, exchange, donate, convey, or
10 encumber in any manner by mortgage or by creation of any other security interest, real
11 or personal property owned by it, or in which it has an interest, including a project,
12 when, in the judgment of the authority, the action is in furtherance of its corporate
13 purposes;

14 (9) accept gifts, grants, or loans from, and enter into contracts or other
15 transactions regarding them with, a federal agency or an agency or instrumentality of the
16 state, a municipality, a private organization, or other source;

17 (10) deposit or invest its funds, subject to agreements with bondholders;

18 (11) acquire, manage, and operate projects as the authority considers
19 necessary or appropriate to serve a public purpose;

20 (12) enter into contracts or other transactions with a federal agency, with
21 an agency or instrumentality of the state or of a municipality, or with a private
22 organization or other entity consistent with the exercise of any power under this chapter;

23 (13) charge fees or other forms of remuneration for the use or possession
24 of the projects described in (11) of this section in accordance with the agreements
25 described in (12) of this section, other agreements pertaining to the projects, covenants,
26 or representations made in bond documents pertaining to the projects, or regulations of
27 the authority pertaining to the projects.

28 Sec. 30.17.120. ADMINISTRATIVE PROCEDURE. The provisions of the
29 Administrative Procedure Act regarding the adoption of regulations under AS 44.62.040 -
30 44.62.320 apply to the authority.

31 Sec. 30.17.130. LIMITATION ON POWERS. (a) The authority has only the
32 powers expressly granted in this chapter, reasonably implied from this chapter, or

1 reasonably necessary or convenient to carry out its corporate purposes and to exercise
2 the powers expressly granted in or reasonably implied from this chapter.

3 (b) The authority does not have powers of

- 4 (1) eminent domain;
- 5 (2) taxation;
- 6 (3) land use planning;
- 7 (4) zoning;
- 8 (5) permitting; or
- 9 (6) other similar governmental powers.

10 (c) The authority may not accept transfer by the federal government of title to,
11 an interest in, control over, or responsibility for a facility or other real or personal
12 property located at the Adak Naval Air Facility unless sufficient federal or other money
13 is available to the authority to manage the property or operate the facility at a minimal
14 level for two years after the date of the transfer. The director of the office of
15 management and budget shall determine whether sufficient money is available to the
16 authority with respect to each proposed transfer subject to this subsection, and approve
17 or disapprove the proposed transfer.

18 ARTICLE 3. PROJECTS; BONDS.

19 Sec. 30.17.200. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
20 Before issuing bonds for a project under this chapter, the authority must find, on the
21 basis of all information reasonably available to it, that the

22 (1) project and its development under this chapter will be economically
23 advantageous to the state and the general public welfare and will contribute to the
24 economic growth of the state;

25 (2) project is financially sound and can be expected to produce revenue
26 adequate to repay the bonds with which it is financed; and

27 (3) scope of the project is sufficient to provide a reasonable expectation
28 of a benefit to the region and the economy of the state.

29 (b) The authority shall give fair and reasonable consideration to a project
30 presented to it for financing. When the authority determines whether to finance or assist
31 in the financing of a project, the authority shall state the reasons for its determination in
32 a written resolution upon request by a person who presented the project to the authority

1 or a person who presented opposition to the project. The authority shall base its reasons
2 on the information presented to it concerning the project and on other information
3 considered appropriate by the authority.

4 (c) The authority may not issue bonds to finance or assist in financing a project
5 unless the authority has received legislative approval to do so for a specified project.

6 Sec. 30.17.210. BONDS OF THE AUTHORITY. (a) Subject to the provisions
7 of AS 30.17.200, the authority may borrow money and may issue revenue bonds,
8 including bonds on which the principal and interest are payable

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

11 (2) exclusively from the income and receipts or other money derived
12 from designated projects whether or not they are financed in whole or in part with the
13 proceeds of the bonds; or

14 (3) from the income and receipts or assets generally, or a designated part
15 or parts of them, of the authority or of any other person.

16 (b) Bonds issued under this chapter shall be authorized by resolution of the
17 authority, and shall be dated and shall mature as the resolution may provide, except that
18 a bond may not mature more than 40 years from the date of its issuance. The bonds
19 shall bear interest at the rate or rates, be in the denominations, be in the form, either
20 coupon or registered, carry the registration privileges, be executed in the manner, be
21 payable in the medium of payment, at the place or places, and be subject to the terms
22 of redemption that the resolution or a subsequent resolution may provide.

23 (c) Bonds issued under this chapter, regardless of form or character, shall be
24 negotiable instruments for the purposes of the Uniform Commercial Code.

25 (d) Bonds issued under this chapter may be sold at public or private sale in the
26 manner, for the price or prices, and at the time or times that the authority may determine.

27 (e) The superior court shall have jurisdiction to hear and determine suits, actions,
28 or proceedings relating to the authority, including suits, actions, or proceedings brought
29 to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest or
30 brought by or for the benefit or security of a holder of its bonds or by a trustee for or
31 other representative of the holders.

32 (f) Before issuing bonds for a project under this chapter, the authority shall

1 submit to the state bond committee a description of the bond issue and an independent
2 economic feasibility analysis of the project and expected revenue. This information may
3 be contained in a preliminary prospectus, offering circular, or official statement relating
4 to the bond issue. Bonds may not be issued under this chapter unless the state bond
5 committee finds, based upon the information submitted by the authority under this
6 subsection and other information that is reasonably available to the committee, that the
7 project revenue can be reasonably expected to be adequate for payment of the principal
8 and interest on the bonds to be issued if the bonds are to be secured by project revenue
9 alone, and in any event that issuance of the bonds by the authority would not be
10 expected to adversely affect the ability of the state or its political subdivisions to market
11 bonds.

12 Sec. 30.17.220. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a trust indenture or trust
14 agreement between the authority and a corporate trustee, which may be a trust company,
15 bank, or national banking association, with corporate trust powers, located inside or
16 outside the state, or by a secured loan agreement or other instrument or under a
17 resolution giving powers to a corporate trustee, after this in this section referred to as
18 "trust agreement," by means of which the authority may

19 (1) make and enter into the covenants and agreements with the trustee
20 or the holders of the bonds that the authority determines necessary or desirable,
21 including, without limitation, covenants, provisions, limitations, and agreements as to

22 (A) the application, investment, deposit, use, and disposition of
23 the proceeds of the bonds of the authority or of money or other property of the
24 authority or in which it has an interest;

25 (B) the fixing and collection of rents or other consideration for,
26 and the other terms to be incorporated in, an agreement with respect to a project;

27 (C) the assignment by the authority of its rights in a mortgage or
28 other security interest created with respect to a project to a trustee for benefit of
29 bondholders;

30 (D) the terms and conditions upon which additional bonds of the
31 authority may be issued;

32 (E) the vesting in a trustee of rights, powers, duties, funds, or

1 property in trust for the benefit of bondholders, including, without limitation, the
2 right to enforce payment, performance, and all other rights of the authority or of
3 the bondholders under a lease, contract of sale, mortgage, security agreement, or
4 trust agreement with respect to a project by appropriate judicial proceeding or
5 by taking possession of by agent or otherwise and operating a project and
6 collecting rents or other consideration and applying the same in accordance with
7 the trust agreement;

8 (2) pledge, mortgage, or assign money, leases, agreements, property, or
9 other assets of the authority either presently in hand or to be received in the future, or
10 both; and

11 (3) provide for other matters that affect the security or protection of the
12 bonds.

13 Sec. 30.17.230. VALIDITY OF PLEDGE. (a) It is the intent of the legislature
14 that a pledge made in respect of bonds issued under this chapter is perfected, valid, and
15 binding from the time the pledge is made; that the money or property so pledged and
16 thereafter received by the authority is immediately subject to the lien of the pledge
17 without physical delivery or further act; and that the lien of the pledge is valid and
18 binding against all parties having claims of any kind in tort, contract, or otherwise
19 against the authority whether or not the parties have notice. Neither the resolution, trust
20 agreement, nor any other instrument by which a pledge is created need be recorded or
21 filed under the provisions of the Uniform Commercial Code to be perfected or to be
22 valid, binding, or effective against the parties.

23 (b) This section does not affect title to or conveyances of real property, and does
24 not limit the applicability of AS 40.17.080.

25 Sec. 30.17.240. NONLIABILITY ON BONDS. (a) Neither the members of the
26 authority nor a person executing the bonds are liable personally on the bonds issued by
27 the authority or are subject to personal liability or accountability by reason of the
28 issuance of the bonds.

29 (b) The bonds issued by the authority do not constitute an indebtedness or other
30 liability of the state or of a political subdivision of the state, but shall be payable solely
31 from the income and receipts or other funds or property of the authority. The authority
32 may not pledge the faith or credit of the state or of a political subdivision of the state,

1 except the authority, to the payment of a bond, and the issuance of a bond by the
2 authority does not directly, indirectly, or contingently obligate the state or a political
3 subdivision of the state to apply money from, levy, or pledge any form of taxation to the
4 payment of the bond.

5 (c) The authority shall print the language of (b) of this section in substantial
6 form on the face of all bonds issued and in any offering circular, or statement issued in
7 connection with the bonds.

8 Sec. 30.17.250. PLEDGE OF THE STATE. The state pledges to and agrees
9 with the holders of bonds issued under this chapter and with the federal agency that
10 loans or contributes funds in respect to a project, that the state will not limit or alter the
11 rights and powers vested in the authority by this chapter to fulfill the terms of a contract
12 made by the authority with the holders or federal agency, or in any way impair the rights
13 and remedies of the holders until the bonds, together with the interest on them with
14 interest on unpaid installments of interest, and all costs and expenses in connection with
15 an action or proceeding by or on behalf of the holders, are fully met and discharged.
16 The authority may include this pledge and agreement of the state, insofar as it refers to
17 holders of bonds of the authority, in a contract with the holders, and insofar as it relates
18 to a federal agency, in a contract with the federal agency.

19 Sec. 30.17.260. EXEMPTION FROM TAXATION. (a) The real and personal
20 property of the authority and its assets, income, and receipts are declared to be the
21 property of a political subdivision of the state and are exempt from taxes and special
22 assessments of the state or a political subdivision of the state. Bonds of the authority are
23 declared to be issued by a political subdivision of the state and for an essential public
24 and governmental purpose and to be a public instrumentality, and the bonds, the interest
25 on them, the income from them, and the transfer of the bonds, and all assets, income,
26 and receipts pledged to pay or secure the payment of the bonds or interest on them shall
27 at all times be exempt from taxation by or under the authority of the state, except for
28 inheritance and estate taxes and taxes on transfers by or in contemplation of death.

29 (b) This section does not affect or limit an exemption from license fees, property
30 taxes, or excise, income, or other taxes, provided under any other law, nor does it create
31 a tax exemption with respect to the interest of any business enterprise or other person,
32 other than the authority, in any property, assets, income, receipts, project, or lease

1 whether or not financed under this chapter.

2 Sec. 30.17.270. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
3 bonds of the authority are securities in which public officers and bodies of the state;
4 municipalities and municipal subdivisions; insurance companies and associations and
5 other persons carrying on an insurance business; banks, bankers, trust companies, savings
6 banks, savings associations, including savings and loan associations and building and
7 loan associations, investment companies, and other persons carrying on banking business;
8 administrators, guardians, executors, trustees, and other fiduciaries; and other persons
9 who are now or may afterward be authorized to invest in bonds or other obligations of
10 the state, may properly and legally invest money, including capital in their control or
11 belonging to them. Notwithstanding any other provisions of law, the bonds of the
12 authority are also securities that may be deposited with and may be received by public
13 officers and bodies of the state and municipalities and municipal subdivisions for any
14 purpose for which the deposit of bonds or other obligations of the state is now or may
15 afterward be authorized.

16 Sec. 30.17.280. ENTERPRISE DEVELOPMENT ACCOUNT. (a) The
17 enterprise development account is established in the authority. The enterprise
18 development account is a trust fund for the uses and purposes of this chapter. The
19 enterprise development account consists of money or assets appropriated or transferred
20 to the authority and other money or assets deposited in it by the authority.

21 (b) The authority may establish in the enterprise development account the
22 accounts it considers appropriate.

23 (c) Money and other assets of the enterprise development account may be used
24 to secure bonds of the authority issued to finance the purchase of loans for projects or
25 may be used to purchase participation in the loans for projects.

26 (d) A loan participation purchased by the authority with assets of the enterprise
27 development account or with proceeds of bonds secured by assets of the enterprise
28 development account

29 (1) may not be purchased unless

30 (A) the project applicant is not, or, if the applicant is not a single
31 proprietorship, all members of the business enterprise or enterprises constituting
32 the project applicant are not, in default on another loan made by the state or by

1 a public corporation of the state;

2 (B) the project applicant has, or, if the applicant is not a single
3 proprietorship, all members of the business enterprise or enterprises constituting
4 the project applicant have, paid all taxes due to the state, has satisfied financial
5 requirements for state tax cases that are under appeal, and is current on all
6 payment schedules relating to state taxes or settlement of tax disputes with the
7 state; and

8 (C) at least 20 percent of the principal amount of the loan is
9 retained by the loan originator;

10 (2) may not be purchased if the loan to be purchased exceeds the cost
11 of the project or 75 percent of the appraised value of the project, whichever is less,
12 unless the amount of the loan in excess of this limit is federally insured or guaranteed
13 or is insured by a qualified mortgage insurance company;

14 (3) may not be purchased if the participation in the loan to be purchased
15 is for a term longer than three-quarters of the authority's estimate of the life of the
16 project or 25 years from the date the loan is made, whichever is earlier; however, in the
17 case of a loan participation for a power transmission intertie, the term may not be longer
18 than 50 years from the date the loan is made;

19 (4) may be made only if the participation in the loan to be purchased
20 contains amortization provisions; the amortization provisions

21 (A) must be complete and satisfactory to the authority and require
22 periodic payments by the borrower;

23 (B) may allow the loan originator to amortize the portion of the
24 loan retained by the loan originator using a shorter amortization schedule than the
25 amortization schedule for the portion of the loan held by the authority if

26 (i) in the authority's opinion, the project financed can
27 support the increased debt service; and

28 (ii) the accelerated amortization schedule is required to
29 induce the originator to make the loan;

30 (5) may be made only if the participation in the loan to be purchased is
31 in the form and contains the terms and provisions with respect to insurance, repairs,
32 alterations, payment of taxes and assessments, default reserves, delinquency charges,

1 default remedies, acceleration of maturity, secondary liens, and other matters the
2 authority prescribes; and

3 (6) may be made only if the participation in the loan to be purchased is
4 secured as to repayment by a mortgage or other security instrument in the manner the
5 authority determines is feasible to assure timely repayment under a loan agreement
6 entered into with the borrower.

7 (e) The authority may adopt regulations for the administration of the enterprise
8 development account including provisions for fees and agreements relating to application,
9 loan commitment, servicing, and origination of loans by other lenders.

10 (f) The authority may enter into agreements as to the use of the money in the
11 enterprise development account including trust or custody arrangements with banks or
12 trust companies. It may also pledge, assign, or grant the agreement, interests under an
13 agreement, or interests in the enterprise development account as may be necessary or
14 appropriate to provide for payment and security for bonds of the authority issued to
15 finance the purchase by the authority of loans for projects.

16 (g) Notwithstanding any other provision of this section, the authority may waive
17 or modify the requirements of this section as it considers appropriate and prudent in
18 order to finance a project if the authority intends to own the project or in order to
19 finance a power transmission intertie project.

20 (h) The provisions of this section apply only with respect to a loan participation
21 purchased by the authority for projects under this chapter.

22 ARTICLE 4. MISCELLANEOUS PROVISIONS.

23 Sec. 30.17.300. AUDIT. The legislative auditor shall audit or shall cause to
24 have audited annually the financial records of the authority. The legislative auditor may
25 prescribe the form and content of the financial records of the authority and shall have
26 access to these records at reasonable times.

27 Sec. 30.17.310. EQUAL USE AND ACCESS. If the authority owns, leases, or
28 otherwise operates or controls, or participates in the financing of, a facility, the authority
29 shall, to the maximum extent possible, provide for equal rights of access to and use of
30 the facility by members of the public and other persons or entities upon terms and
31 conditions that are fair and reasonable. However, this section does not prevent the
32 authority from establishing fair and reasonable limitations on use of or access to a facility

1 to the extent the limitations are necessary in connection with the nature of the facility or
2 the demand for use of or access to the facility. This section applies to the establishment
3 of rates and rate structures as well as all other factors, terms, and conditions relating to
4 the use of or access to the facility, including without limitation the design and location
5 of the facility. The members of the authority shall make a written finding concerning
6 compliance of the facility with this section. A written finding signed by a majority of
7 the authority members complies with the provisions of this section and shall constitute
8 a conclusive presumption of compliance.

9 Sec. 30.17.320. SUCCESSION. The authority is dissolved one year after the
10 date of incorporation of a municipality, other than a second class city, that has an area
11 coterminous with or inclusive of the area formerly encompassed by the Adak Naval
12 Air Facility. Upon dissolution of the authority, the municipality succeeds to the assets
13 and liabilities of the authority and succeeds to the rights, powers, and duties of the
14 authority under contracts to which the authority is a party on the date of dissolution.
15 Except for this section, this chapter is not applicable to a municipality that succeeds
16 the authority.

17 Sec. 30.17.330. PURCHASE OF PROJECT AND LEASES. (a) This chapter
18 does not prevent the inclusion in a lease or other agreement relating to a project of a
19 provision granting the right to purchase the project, or to renew or extend the lease or
20 agreement, upon the terms and conditions that may be provided for in the lease or
21 agreement.

22 (b) A lease with respect to a project may provide for two or more lessees with
23 the legal relationship between themselves and the authority that the authority may
24 approve, including provisions to the effect that the obligations of the lessees under the
25 lease for payment of rental or otherwise between themselves and the authority are
26 several, joint, or joint and several and that the lessees lease the project as
27 tenants-in-common, or otherwise.

28 Sec. 30.17.340. CONFLICTS OF INTEREST. (a) A member of the authority
29 may not vote on a matter relating to a lease or contract entered into or to be entered into
30 by the authority under this chapter if the member is a party to the lease or contract or
31 has a direct ownership or equity interest in a firm, partnership, corporation, or association
32 that may be a party to the contract or lease. A matter relating to a lease or contract that

1 is approved by a majority of the members who are not barred from voting under this
2 section is a valid action of the authority for all purposes.

3 (b) Members of the authority are subject to AS 39.52 (Alaska Executive Branch
4 Ethics Act).

5 Sec. 30.17.350. OPERATION OF CERTAIN STATUTES EXCEPTED. (a) The
6 authority may not be considered to be or constitute (1) a political subdivision of the state
7 as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision
8 of the state as the terms are used in AS 29, or (3) except as provided in AS 30.17.360,
9 a state agency as the term is used in AS 37, but for all other purposes the authority
10 constitutes a political subdivision and an instrumentality of the state as provided in this
11 chapter.

12 (b) The funds, income, or receipts of the authority may not be considered to be
13 or constitute money of the state, nor may real property in which the authority has an
14 interest be considered land owned in fee by the state or to which the state may become
15 entitled or in any way land belonging to the state, or state land referred to in art. VIII,
16 Constitution of the State of Alaska.

17 Sec. 30.17.360. COMPLIANCE WITH EXECUTIVE BUDGET ACT;
18 AUTHORITY FINANCES. (a) The operating budget of the authority is subject to
19 AS 37.07 (Executive Budget Act).

20 (b) To further ensure effective budgetary decision making by the legislature, the
21 authority shall

22 (1) annually review the authority's assets to determine whether assets of
23 the authority exceed an amount required to fulfill the purposes of the authority as defined
24 in this chapter; in making its review, the members of the authority shall determine
25 whether, and to what extent, assets in excess of the amount required to fulfill the
26 purposes of the authority during at least the next fiscal year are available without

27 (A) breaching an agreement entered into by the authority;

28 (B) materially impairing the operations or financial integrity of
29 the authority; or

30 (C) materially affecting the ability of the authority to fulfill the
31 authority's purposes; and

32 (2) present to the legislature by January 10 of each year a complete

1 accounting of all assets of the authority and a report of the review and determination
2 made under (1) of this subsection; the accounting shall be audited by the auditor who
3 conducts the audit required by AS 30.17.300, including income earned on assets of the
4 authority during that period.

5 Sec. 30.17.370. REPORTS AND PUBLICATIONS. By January 10 of each
6 year, the authority shall publish a report for distribution to the governor, legislature, and
7 the public. The authority shall notify the legislature that the report is available. The
8 report shall be written in easily understandable language. The report must include a
9 financial statement audited by an independent outside auditor, a statement of the
10 authority's investments under this chapter, including an appraisal of the investments at
11 market value, a comparison of the authority's performance with the goals of the
12 authority, and other information the members of the authority believe would be of
13 interest to the governor, the legislature, and the public. The annual income statement and
14 balance sheet of the authority shall be published in at least one newspaper circulating in
15 each judicial district. The authority may also publish other reports it considers desirable
16 to carry out its purposes.

17 ARTICLE 5. GENERAL PROVISIONS.

18 Sec. 30.17.900. DEFINITIONS. In this chapter,

19 (1) "authority" means the Adak Reuse Authority created by this chapter;

20 (2) "bonds" means bonds or other obligations issued under this chapter;

21 (3) "business enterprise" means a single proprietorship, cooperative,
22 corporation, firm, partnership, or other association of persons organized in any manner,
23 for any credit worthy business purpose;

24 (4) "facility" means real property, whether above or below mean high
25 water, or an interest in it, and the buildings, improvements, and structures constructed
26 or to be constructed on or in it, and may include fixtures, machinery, and equipment on
27 it or in it, and tangible personal property, regardless of whether the tangible personal
28 property is attached to or connected with real property, if the owner has agreed not to
29 remove the tangible personal property permanently from the state for the period the
30 authority sets; "facility" does not include work in process or stock in trade;

31 (5) "federal agency" means the United States and any officer, department,
32 agency or instrumentality of the United States;

1 (6) "lease" includes, when used as a noun, an interest in, or when used
2 as a verb, the transfer of an interest in, property less than fee simple title, including,
3 when used as a noun, agreements to use or occupy property;

4 (7) "person" includes a corporation, company, partnership, firm,
5 association, organization, business trust, society, state or agency or subdivision of the
6 state, municipality of the state, a resource development authority, as well as a natural
7 person;

8 (8) "project" means

9 (A) a facility used or intended for use in connection with making,
10 processing, preparing, transporting, or producing goods, products, or substances
11 of any kind or nature or in connection with developing or using a natural
12 resource, or extracting, smelting, transporting, converting, assembling, or
13 producing minerals, raw materials, chemicals, compounds, alloys, fibers,
14 commodities and materials, products, or substances of any kind or nature;

15 (B) a facility used or intended for use in connection with a
16 business enterprise;

17 (C) commercial activity by a small enterprise;

18 (D) a facility demonstrating technological advances of new
19 methods and procedures and prototype commercial applications for the
20 exploration, development, production, transportation, conversion, and use of
21 energy resources;

22 (E) infrastructure for a new tourism destination facility or for the
23 expansion of a tourism destination facility;

24 (F) a facility, other than a facility described in (D) of this
25 paragraph, for the generation, transmission, development, transportation,
26 conversion, or use of energy resources;

27 (9) "project applicant" means a business enterprise or enterprises
28 proposing to

29 (A) use or occupy a project; or

30 (B) agree to permit others to use or occupy a project;

31 (10) "real property" means land and rights and interests in land, including
32 interests less than full title such as easements, uses, leases, and licenses.

1 * Sec. 2. INITIAL TERMS. Notwithstanding AS 30.17.020, enacted in sec. 1 of this Act,
2 the initial term of one member appointed under (a)(2) of that section, and the initial terms of two
3 members appointed under (a)(3) of that section, shall be one year.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: SCS CS HB 466 (CRA)

Revision Date: 4/17/96
Title: An Act establishing the Adak Reuse Authority.
Sponsor: Rep. Moses
Requestor: Senate C&RA

Dept. Affected: Community & Regional Affairs
BRU: Adak Reuse Authority
Component: none
COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES () Revenue Code						
--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 96) ... none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill will have no fiscal impact on the department.

Prepared By: Remond Henderson Phone: 465-4708
Division: Director, Administrative Services Date: 4/17/96
Approved by Commissioner: Mike Irwin Date: 4/17/96
Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CS HB466 (CRA)

ANALYSIS: (continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT Fiscal Note Calculations for

This fiscal note covers the cost of core management staff for the Adak Reuse Authority, consisting of an Executive Director and Administrative Assistant. The Senate Community and Regional Affairs committee substitute prohibits the Authority from hiring employees, stating that instead the Authority should contract for professional services, including those of an Executive Director. Therefore all staff support costs are included in contractual services.

Any staff to operate facilities and deliver services would be funded entirely with charges for these services and facilities. The analysis assumes that the Authority management staff would become self-supporting from lease revenues or other service contracts after a two-year period. The analysis also assumes that the Department of Defense, Office of Economic Adjustment will provide at least \$100.0 per year for the first two years.

1. Personal Services

No cost since the Authority is not authorized to hire staff.

2. Travel

Travel costs are based on Authority board meeting costs and 2 trips per month between Adak and Anchorage lasting three days each.

3. Contractual Services

(a) Contracts for Executive Director (\$112.5) and Administrative Support (\$53.6).

First year cost is for nine months.

(b) Contractual also includes \$50.0 per year for legal services, real estate, engineering and other professional services.

(c) Contractual also includes funding for phones, advertising and other overhead costs.

(d) Office space will be provided at no charge by the Navy or in a facility which the LRA will own.

Utilities will be provided by the Navy at no charge in the first year, and thereafter purchased by the LRA.

4. Supplies

Estimated cost of supplies for the board, management and support staff.

5. Equipment

Computers, copying machine, and other equipment for the Authority.

Differences between
CS for House Bill No. 466(FIN) am and
Senate CS for CS for House Bill 466(FIN) am Work Draft 9-LS1580\O

Page 1, lines 8 and 12:

Community and Regional Affairs is changed to Commerce and Economic
Development

Page 2, lines 20-22

The phrase

"In case of a tie vote on a motion or resolution pending before the
authority, the motion or resolution shall be presented to the governor, and
if approved by the governor, is considered adopted by the authority.

was deleted and replaced by

"Action may be taken and motions and resolutions may be adopted by the
authority only upon an affirmative vote of a majority of the full
membership of the authority.

Page 3, Line 3 Subsection (3)

This subsection was rewritten to indicate that all employees of the
authority are contract employees rather than state employees and that
contracts are not to exceed two years.

9-LS1580\O
Lauterbach
4/10/96

SENATE CS FOR CS FOR HOUSE BILL NO. 466(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MOSES, Mulder

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Adak Reuse Authority."

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

3 * Section 1. AS 30 is amended by adding a new chapter to read:

4 CHAPTER 17. ADAK REUSE AUTHORITY.

5 ARTICLE 1. ESTABLISHMENT.

6 Sec. 30.17.010. CREATION OF AUTHORITY. There is created the Adak
7 Reuse Authority. The authority is a public corporation of the state and a body corporate
8 and is an instrumentality of the Department of Commerce and Economic Development,
9 but with separate and independent legal existence.

10 Sec. 30.17.020. MEMBERSHIP OF AUTHORITY. (a) The membership of the
11 authority consists of

12 (1) the commissioner of commerce and economic development;

13 (2) two other persons selected by the governor who serve as the heads
14 of principal departments of the executive branch of state government; and

15 (3) four public members appointed by the governor, two of whom must

1 be residents of the area that is within the boundaries of the Aleut Corporation, a Native
2 regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims Settlement
3 Act).

4 (b) If a member described in (a)(1) or (2) of this section is unable to attend a
5 meeting of the authority, the member may, by an instrument in writing filed with the
6 authority, designate a deputy or assistant to act in the member's place as a member at
7 the meeting. For purposes of this chapter, the designee is a member of the authority at
8 the meeting.

9 (c) Members of the authority described in (a)(2) and (3) of this section serve
10 two-year terms but serve at the pleasure of the governor.

11 (d) If a vacancy occurs in the membership of the authority, the governor shall
12 immediately appoint a member for the unexpired portion of the term.

13 Sec. 30.17.030. CHAIR AND VICE-CHAIR. The members of the authority
14 shall elect a chair from among themselves. A vice-chair may be elected by the authority
15 from among its other members. The vice-chair presides over all meetings in the absence
16 of the chair and has other duties that the authority may prescribe.

17 Sec. 30.17.040. MEETINGS, COMPENSATION, AND EMPLOYEES. (a) A
18 majority of the members of the authority constitutes a quorum for the transaction of
19 business or the exercise of a power or function at a meeting of the authority. Action
20 may be taken and motions and resolutions may be adopted by the authority only upon
21 an affirmative vote of a majority of the full membership of the authority. The authority
22 may meet and transact business by electronic media if (1) public notice of the time and
23 locations where the meeting will be held by electronic media has been given in the same
24 manner as if the meeting were held in a single location; (2) participants and members
25 of the public in attendance can hear and have the same right to participate in the meeting
26 as if the meeting were conducted in person; and (3) copies of pertinent reference
27 materials, statutes, regulations, and audio-visual materials are reasonably available to
28 participants and to the public. A meeting by electronic media as provided in this
29 subsection has the same legal effect as a meeting in person.

30 (b) The public members of the authority are entitled to \$100 compensation for
31 each day spent on official business of the authority and may be reimbursed by the
32 authority for actual and necessary expenses at the same rate paid to members of state

1 boards under AS 39.20.180.

2 (c) The authority may not hire employees but may contract with individuals or
3 entities to serve in capacities it considers advisable, including service as an executive
4 director, executive secretary, professional advisor, legal counsel, technical expert, agent,
5 and in other positions. A contractor hired under this subsection is not a state employee
6 for any purpose. A contract under this subsection may not exceed two years' duration.

7 (d) The authority shall keep minutes of each meeting and send a certified copy
8 to the governor and to the Legislative Budget and Audit Committee.

9 ARTICLE 2. PURPOSE AND GENERAL POWERS.

10 Sec. 30.17.100. PURPOSE OF THE AUTHORITY. The purpose of the
11 authority is to develop and implement a comprehensive reuse and redevelopment plan
12 for the territory encompassed by the Adak Naval Air Facility in a manner that will attract
13 business, create jobs, and advance the general prosperity and economic welfare of the
14 people of the state by

15 (1) administering in a manner consistent with the purpose of the authority
16 the assets transferred to the authority by the federal government, including facilities and
17 other real or personal property, located at the Adak Naval Air Facility;

18 (2) entering into necessary agreements with the federal government for
19 operation of the facilities comprising the Adak Naval Air Facility;

20 (3) operating or contracting with others to operate enterprises and other
21 facilities located at the Adak Naval Air Facility; and

22 (4) cooperating and acting in conjunction with other organizations, public
23 and private, the objects of which are the promotion and advancement of economic use
24 of the facilities located at the Adak Naval Air Facility.

25 Sec. 30.17.110. POWERS OF THE AUTHORITY. In furtherance of its
26 corporate purposes, the authority may, in addition to other powers that it may have by
27 law,

28 (1) sue and be sued;

29 (2) have a seal and alter the seal at its pleasure;

30 (3) adopt and amend bylaws for its organization and internal
31 management;

32 (4) adopt regulations governing the exercise of its corporate powers;

1 (5) subject to AS 30.17.130(c), accept title to, or other interest in, assets
2 transferred to the authority by the federal government, including facilities and other real
3 or personal property, located at the Adak Naval Air Facility;

4 (6) lease to others a project acquired by it for the rentals and upon the
5 terms and conditions the authority may consider advisable, including, without limitation,
6 provisions for options to purchase or renew;

7 (7) issue and secure the payment of bonds, including revenue bonds;
8 provide for the rights of holders of the bonds; and purchase, hold, and dispose of bonds;

9 (8) sell, by installment sale or otherwise, exchange, donate, convey, or
10 encumber in any manner by mortgage or by creation of any other security interest, real
11 or personal property owned by it, or in which it has an interest, including a project,
12 when, in the judgment of the authority, the action is in furtherance of its corporate
13 purposes;

14 (9) accept gifts, grants, or loans from, and enter into contracts or other
15 transactions regarding them with, a federal agency or an agency or instrumentality of the
16 state, a municipality, a private organization, or other source;

17 (10) deposit or invest its funds, subject to agreements with bondholders;

18 (11) acquire, manage, and operate projects as the authority considers
19 necessary or appropriate to serve a public purpose;

20 (12) enter into contracts or other transactions with a federal agency, with
21 an agency or instrumentality of the state or of a municipality, or with a private
22 organization or other entity consistent with the exercise of any power under this chapter;

23 (13) charge fees or other forms of remuneration for the use or possession
24 of the projects described in (11) of this section in accordance with the agreements
25 described in (12) of this section, other agreements pertaining to the projects, covenants,
26 or representations made in bond documents pertaining to the projects, or regulations of
27 the authority pertaining to the projects.

28 Sec. 30.17.120. ADMINISTRATIVE PROCEDURE. The provisions of the
29 Administrative Procedure Act regarding the adoption of regulations under AS 44.62.040 -
30 44.62.320 apply to the authority.

31 Sec. 30.17.130. LIMITATION ON POWERS. (a) The authority has only the
32 powers expressly granted in this chapter, reasonably implied from this chapter, or

1 reasonably necessary or convenient to carry out its corporate purposes and to exercise
2 the powers expressly granted in or reasonably implied from this chapter.

3 (b) The authority does not have powers of

- 4 (1) eminent domain;
- 5 (2) taxation;
- 6 (3) land use planning;
- 7 (4) zoning;
- 8 (5) permitting; or
- 9 (6) other similar governmental powers.

10 (c) The authority may not accept transfer by the federal government of title to,
11 an interest in, control over, or responsibility for a facility or other real or personal
12 property located at the Adak Naval Air Facility unless sufficient federal or other money
13 is available to the authority to manage the property or operate the facility at a minimal
14 level for two years after the date of the transfer. The director of the office of
15 management and budget shall determine whether sufficient money is available to the
16 authority with respect to each proposed transfer subject to this subsection, and approve
17 or disapprove the proposed transfer.

18 ARTICLE 3. PROJECTS; BONDS.

19 Sec. 30.17.200. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)

20 Before issuing bonds for a project under this chapter, the authority must find, on the
21 basis of all information reasonably available to it, that the

22 (1) project and its development under this chapter will be economically
23 advantageous to the state and the general public welfare and will contribute to the
24 economic growth of the state;

25 (2) project is financially sound and can be expected to produce revenue
26 adequate to repay the bonds with which it is financed; and

27 (3) scope of the project is sufficient to provide a reasonable expectation
28 of a benefit to the region and the economy of the state.

29 (b) The authority shall give fair and reasonable consideration to a project
30 presented to it for financing. When the authority determines whether to finance or assist
31 in the financing of a project, the authority shall state the reasons for its determination in
32 a written resolution upon request by a person who presented the project to the authority

1 or a person who presented opposition to the project. The authority shall base its reasons
2 on the information presented to it concerning the project and on other information
3 considered appropriate by the authority.

4 (c) The authority may not issue bonds to finance or assist in financing a project
5 unless the authority has received legislative approval to do so for a specified project.

6 Sec. 30.17.210. BONDS OF THE AUTHORITY. (a) Subject to the provisions
7 of AS 30.17.200, the authority may borrow money and may issue revenue bonds,
8 including bonds on which the principal and interest are payable

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

11 (2) exclusively from the income and receipts or other money derived
12 from designated projects whether or not they are financed in whole or in part with the
13 proceeds of the bonds; or

14 (3) from the income and receipts or assets generally, or a designated part
15 or parts of them, of the authority or of any other person.

16 (b) Bonds issued under this chapter shall be authorized by resolution of the
17 authority, and shall be dated and shall mature as the resolution may provide, except that
18 a bond may not mature more than 40 years from the date of its issuance. The bonds
19 shall bear interest at the rate or rates, be in the denominations, be in the form, either
20 coupon or registered, carry the registration privileges, be executed in the manner, be
21 payable in the medium of payment, at the place or places, and be subject to the terms
22 of redemption that the resolution or a subsequent resolution may provide.

23 (c) Bonds issued under this chapter, regardless of form or character, shall be
24 negotiable instruments for the purposes of the Uniform Commercial Code.

25 (d) Bonds issued under this chapter may be sold at public or private sale in the
26 manner, for the price or prices, and at the time or times that the authority may determine.

27 (e) The superior court shall have jurisdiction to hear and determine suits, actions,
28 or proceedings relating to the authority, including suits, actions, or proceedings brought
29 to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest or
30 brought by or for the benefit or security of a holder of its bonds or by a trustee for or
31 other representative of the holders.

32 (f) Before issuing bonds for a project under this chapter, the authority shall

1 submit to the state bond committee a description of the bond issue and an independent
2 economic feasibility analysis of the project and expected revenue. This information may
3 be contained in a preliminary prospectus, offering circular, or official statement relating
4 to the bond issue. Bonds may not be issued under this chapter unless the state bond
5 committee finds, based upon the information submitted by the authority under this
6 subsection and other information that is reasonably available to the committee, that the
7 project revenue can be reasonably expected to be adequate for payment of the principal
8 and interest on the bonds to be issued if the bonds are to be secured by project revenue
9 alone, and in any event that issuance of the bonds by the authority would not be
10 expected to adversely affect the ability of the state or its political subdivisions to market
11 bonds.

12 Sec. 30.17.220. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a trust indenture or trust
14 agreement between the authority and a corporate trustee, which may be a trust company,
15 bank, or national banking association, with corporate trust powers, located inside or
16 outside the state, or by a secured loan agreement or other instrument or under a
17 resolution giving powers to a corporate trustee, after this in this section referred to as
18 "trust agreement," by means of which the authority may

19 (1) make and enter into the covenants and agreements with the trustee
20 or the holders of the bonds that the authority determines necessary or desirable,
21 including, without limitation, covenants, provisions, limitations, and agreements as to

22 (A) the application, investment, deposit, use, and disposition of
23 the proceeds of the bonds of the authority or of money or other property of the
24 authority or in which it has an interest;

25 (B) the fixing and collection of rents or other consideration for,
26 and the other terms to be incorporated in, an agreement with respect to a project;

27 (C) the assignment by the authority of its rights in a mortgage or
28 other security interest created with respect to a project to a trustee for benefit of
29 bondholders;

30 (D) the terms and conditions upon which additional bonds of the
31 authority may be issued;

32 (E) the vesting in a trustee of rights, powers, duties, funds, or