

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9436 HOUSE STATE AFFAIRS

Revision Date: March 12, 1997 Dept. Affected: Revenue  
 Title: PULL-TABS LIMITED TO 501(C)(3) OR (19) BRU: Revenue Operations  
 Component: Charitable Gaming Division  
 Sponsor: Rep. Marlin  
 Requestor: H (STA) COMPONENT SERIAL NO. 1883

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	(117.0)	(117.0)	(117.0)	(117.0)	(117.0)	(117.0)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(117.0)</b>	<b>-117.0</b>	<b>-117.0</b>	<b>-117.0</b>	<b>-117.0</b>	<b>-117.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>	<b>(1,155.3)</b>	<b>(1,155.3)</b>	<b>(1,155.3)</b>	<b>(1,155.3)</b>	<b>(1,155.3)</b>	<b>(1,155.3)</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME	(2)					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Dennis R. Poshard, Director Phone: 465-2279  
 Division: Charitable Gaming Division Date: March 12, 1997  
 Approved by Commissioner: Wilson L. Condon Date: March 12, 1997  
 Agency: Revenue

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## HB84 - PULL-TABS LIMITED TO 501(c)(3) AND (19)

### Effect on Charities

House Bill 84 proposes to limit the types of charities that can apply for and receive a permit to sell pull-tabs to those that are incorporated and have been designated as 501(c)(3) and 501(c)(19) tax exempt corporations by the Internal Revenue Service.

The Charitable Gaming Division estimates 362 charities that currently have pull-tab permits will no longer be authorized to sell pull-tabs. These 362 charities include IRA/Native Villages, Volunteer Fire Departments, Fraternal Organizations, Fishing Derby Associations, Dog Musers' Associations, Municipalities, Labor Organizations, Non-Profit Trade Associations, and Civic or Service Organizations. The division estimates the total loss of revenues to those organizations to be approximately \$12,000,000.

### Fiscal Effect

Based upon those figures, the effect to the division's budget will be a slight reduction to operating expenditures and a reduction in program receipts. The reduction in operating expenditures is a result of a personal services decrease equal to two positions - one auditor and one licensing examiner. This is because there will be slightly fewer applications to review, permits to issue, and reports to process. The effect on the operating expenditures is minimal though, due to the fact that many of the charities that no longer qualify for pull-tab permits have other charitable gaming permits, such as bingo and raffles, which require the division to process an application and a report. The reduction in program receipts is due to the decrease in pull-tab taxes collected from the sale of pull-tabs by affected organizations and a decrease in the 1% fee collected on net proceeds.

### Assumptions

Since the only agency that maintains a list of 501(c) corporations is the IRS, who has not supplied the list to the division, the division has made several assumptions to develop the figures in this fiscal note. These assumptions are:

1. All 1995 charitable, educational, and religious organizations are exempted under 501(c)(3) and all veterans organizations are exempt under 501(c)(19).
2. All other 1995 charitable gaming organization types are not exempt under 501(c)(3) or 501(c)(19).
3. Qualified organizations that currently do not have a permit will not choose to get one.
4. 1997 pull-tab activity by 1997 permitted organizations will approximate reported 1995 pull-tab activity.

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: PULL-TABS LIMITED TO 501(C)(3) OR (19) BRU: Revenue Operations  
 Component: Charitable Gaming Division  
 Sponsor: Rep. Martin  
 Requestor: H (STA) COMPONENT SERIAL NO. 1883

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	(117.0)	(117.0)	(117.0)	(117.0)	(117.0)	(117.0)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(117.0)</b>	<b>(117.0)</b>	<b>(117.0)</b>	<b>(117.0)</b>	<b>(117.0)</b>	<b>(117.0)</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	(1,155.3)	(1,155.3)	(1,155.3)	(1,155.3)	(1,155.3)	(1,155.3)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME	(2)					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached...

Prepared by: Dennis R. Poshard, Director Phone: 465-2279  
 Division: Charitable Gaming Division Date: March 10, 1997  
 Approved by Commissioner: Wilson L. Condon Date: 3/10  
 Agency: Revenue

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## HB84 - PULL-TABS LIMITED TO 501(c)(3) AND (19)

House Bill 84 proposes to limit the types of charities that can apply for and receive a permit to sell pull-tabs to those that are incorporated and have been designated as 501(c)(3) and 501(c)(19) tax exempt corporations by the Internal Revenue Service.

The Charitable Gaming Division estimates that 362 charities that currently have pull-tab permits will no longer be authorized to sell pull-tabs. The division estimates the total loss of revenues to those organizations to be approximately \$12,000,000.

Based upon those figures, the effect to the division's budget will be a slight reduction to operating expenditures and a reduction in program receipts. The reduction in operating expenditures is a result of a personal services decrease equal to two positions. This is because there will be slightly fewer permits issued and the corresponding reports to process. The effect on the operating expenditures is minimal though, due to the fact that most of these charities also have other charitable gaming permits. Thus, the division will still process an application and a report for those organizations. The reduction in program receipts is due to the decrease in pull-tab taxes collected from the sale of pull-tabs by affected organizations and a decrease in the 1% fee collected on net proceeds.

Since the only agency that maintains a list of 501(c) corporations is the IRS, who has not supplied the list to the division, the division has made several assumptions to develop the figures in this fiscal note. These assumptions are:

1. All 1996 charitable, educational, and religious organizations are exempted under 501(c)(3) and all veterans organizations are exempt under 501(c)(19).
2. All other 1996 charitable gaming organization types are not exempt under 501(c)(3) or 501(c)(19).
3. 1997 pull-tab activity by 1997 permitted organizations will approximate reported 1995 pull-tab activity.

**HB**

**110**

# HOUSE COMMITTEE REPORT

(7) [REDACTED]  
 Date Referred to Committee: April 16, 1997

FURTHER REFERRALS:

HESS  
Finance

Date of Committee Action: 4/29/97

The STATE AFFAIRS Committee considered:

SSHB 110

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 110

CHARTER SCHOOL FUNDING

"An Act relating to funding for charter schools."

recommends it be replaced  the same title  
 with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Wendy Hoag</i>			✓	
<i>Paul Brown</i>			✓	
<i>Ken S. O'S</i>			✓	
<i>W. Burt</i>			✓	
<i>J. W. [unclear]</i>			✓	
<i>Jeannette James</i>			✓	
<i>[unclear]</i>			✓	

CHAIR'S SIGNATURE *Jeannette James*

House District 36

- Alatna
- Alean
- Allakaket
- Amiak
- Anvik
- Arctic Village
- Beaver
- Bettles
- Birch Creek
- Canyon Village
- Central
- Chalkyitsik
- Chicken
- Chistochina
- Chitina
- Chuathbaluk
- Circle
- Circle Hot Springs
- Coldfoot
- Copper Center
- Copperville
- Crooked Creek
- Dot Lake
- Dry Creek
- Eagle
- Eagle Village
- Evansville
- Fort Yukon
- Gakona
- Galena
- Grayling
- Gulkana
- Healy Lake
- Holy Cross
- Hughes
- Huslia
- Kaltag
- Koyukuk
- Lime Village
- Livengood
- Lake Minchumina
- Lower Kalskag
- Manley
- Marshall
- McCarthy
- McGrath
- Medfra
- Mentasta
- Minto
- Nabesna
- Nenana
- Nikolai
- Northway
- Nulato
- Pilot Station
- Rampart
- Red Devil
- Ruby
- Russian Mission
- Shageluk
- Slana
- Sleetmute
- Stevens Village
- Stony River
- Takona
- Tanacross
- Tanana
- Telida
- Terlin
- Tok
- Tulksak
- Tvonek
- Upper Kalskag
- Venette
- Wiseman

# Representative Irene K. Nicholia

State Capitol • Juneau, Alaska 99801

Phone: 465-4527 FAX: 465-2197

Toll Free: 1-800-491-4527

E-Mail: Representative\_Irene\_Nicholia@Legis.state.ak.us

*Resources*

*Rules*

*Military and Veterans Affairs*

*World Trade and State/Federal Relations*

**Sponsor Statement**  
**SSHB 110**  
**by Rep. Irene Nicholia**

House Bill 110 allows charter schools that board out of town students to request funding to cover boarding costs. Charter schools, by their very nature, accept both in-district and out-of-district students to meet the students' academic and personal needs criteria. Charter schools do not receive any funds to cover boarding costs. Consequently, their already limited school allocation must be spread even further.

This bill requires the Department of Education include a funding request to cover boarding costs at the request of the local school boards. The legislature may choose to appropriate or to deny the funds.

The need for this legislation will become increasingly important as other charter schools open throughout the state. Charter schools in Alaska are already graduating students with above average academic accomplishments. Many of these students would not have finished high school if left in their former situations. We need to responsibly fund alternative school programs for students who might not otherwise succeed in a traditional school setting.

I urge your support for HB 110.

## ... Local Government/Schools ...

**HB-147: Charter boarding schools.** This bill is now in Senate Rules, and has been approved for calendaring. HB-147 provides for ADM support for students attending a state approved charter boarding school. However, as now written the bill prohibits use of state funds to pay for boarding costs. Other school districts understandably do not want to lose funding beyond the ADM educational support dollars that would travel with the student. However, the bill seems unnecessarily restrictive in imposing a blanket prohibition on the use of "any" state money.

\* Meanwhile, Rep. Irene Nicolai has had HB-110 in the hopper since early February, which would make it permissive for a charter school to make a special request to the legislature for boarding cost funds. There may also be circumstances where a district might wish to place a special need student in a more urban based charter school where the total cost might end up cheaper for a "sending" district.

**SB-151: Union trashing bill near floor:** This bill is out of Senate Finance and into Senate Rules. About all one can say about this bill is that it is right-to-work's "little brother," and accomplishes little except aggravating management and union relations and solution finding. If you think unions shouldn't exist then this bill is for you, otherwise the bill comes off as simply divisive and designed for harassment. Under the bill a shop representative couldn't pick up the phone on his desk to mediate an employee/management problem without risking criminal sanction.

The problem here is that the state and legislature needs to bring unions to the statewide fiscal solution funding table, as many other Republican governors and Legislatures have sought to do around the country. SB-151 appears to sacrifice the solution role to other more political purposes.

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**HB-94: Municipal tax records:** Confidentiality of certain tax records that may reveal proprietary information - See Page 6

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**More on the initiative to put school endowment question on the 1998 ballot:**  
-See Muni/Rural/school supplement!

**HB-229: Charter school board:** Just introduced by Rep. Al Vezey, this bill sets up a Charter School Board to handle appeals regarding issues between local charter schools and boards. (See more in our municipal/school supplement).

**HB-145: Teacher competency testing:** This bill has passed the house and is in Senate Finance Committee, one step away from final action.

**HB-146: Pupil exist tests:** This measure that authorizes exit-competency testing for high school seniors was up in House Finance Committee this week, with that committee narrowing the test to English, reading, and math, dropping science and history categories. The bill is expected to move on to House Rules Committee and scheduling for floor action.

**SB-161: Perm fund/Municipal assets:** This bill by Sen. Bert Sharp is moving swiftly. The measure permits the Alaska Permanent Fund Corporation to manage assets of a municipality when requested to do so. The bill was introduced April 4, passed out of Senate CRA Committee April 14, and as we went to press was reported to Rules by House Finance.

**HB-158: Part-time student enrollment:** As we go to press this bill, by Anchorage Rep. Fred Dyson, was scheduled for hearing in House Finance. The bill would 'require' admission for part-time students, generally home schooled under state or private programs, seeking to take individual courses in the regular public system.. The school would receive partial ADM support from the state. Most school districts except Anchorage permit this now, we are told.

**SB-98: Land conveyance to municipalities:** This bill is aimed at allowing municipalities, especially those who have received their maximum grant entitlements, to receive isolated tracts of state land. In many cases lands may better integrated with one owner for management reasons. The transfer would be at the discretion of the Department of Natural Resources and some compensation would be required. Basically the bill simply gives municipalities a little policy muscle in negotiating such transfers with the state.

off-net:

298-2113

Part Mwarey

Takotna

1-800-478-7612

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Plus Box + Arch

House District 36

- Alatna
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- Allakaker
- Aniak
- Anvik
- Arctic Village
- Beaver
- Bettles
- Birch Creek
- Canyon Village
- Central
- Chalkyitsik
- Chicken
- Chistochina
- Chitina
- Chuathbaluk
- Circle
- Circle Hot Springs
- Coldfoot
- Copper Center
- Copperville
- Crooked Creek
- Dot Lake
- Dry Creek
- Eagle
- Eagle Village
- Evansville
- Fort Yukon
- Gakona
- Galena
- Grayling
- Gulkana
- Healy Lake
- Holy Cross
- Hughes
- Huslia
- Katag
- Koyukuk
- Lime Village
- Livengood
- Lake Minchumina
- Lower Kalskag
- Manley
- Marshall
- McCarthy
- McGrath
- Medfra
- Mentasta
- Minto
- Nabesna
- Nemana
- Nikolai
- Northway
- Nulato
- Pilot Station
- Rampart
- Red Devil
- Ruby
- Russian Mission
- Shageluk
- Siana
- Sleetmute
- Stevens Village
- Stony River
- Takotna
- Tanacross
- Tanana
- Tehda
- Tetlin
- Tok
- Tiluksak
- Wonek
- Upper Kalskag
- Venetic
- Wiseman

# Representative Irene K. Nicholia

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Phone: 465-4527 FAX: 465-2197

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Resources  
Rules

Military and Veterans Affairs  
World Trade and State/Federal Relations

TO: Representative Jeannette James, Chair  
House State Affairs Committee

FROM: Representative Irene Nicholia

DATE: April 16, 1997

RE: Scheduling of SSHB 110

I respectfully request a hearing for SSHB 110, a bill that would provide boarding costs to charter schools that house out of town students. Attached you will find the necessary support materials for this bill. Thank you for your consideration.

**CS FOR HOUSE BILL NO. 147(HES) am**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

Amended: 3/27/97

Offered: 3/12/97

Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the expenses of housing nonresident charter school students;  
2 relating to authorizing charter school programs to provide domiciliary and other  
3 services to nonresident charter school students; relating to duties of the state  
4 board of education; and relating to the establishment of state boarding schools."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* Section 1. AS 14.03.260 is amended by adding a new subsection to read:

7 (d) The expenses of housing nonresident students who attend the charter  
8 school, including room, board, and other reasonable housing expenses, may not be paid  
9 for with state money but may be paid for with funds contributed by sources other than  
10 the state.

11 \* Sec. 2. AS 14.03.265(a) is amended to read:

12 (a) The program of a charter school may be designed to serve  
13 (1) students within an age group or grade level; [OR]  
14 (2) students who will benefit from a particular teaching method or

1 curriculum; or

2 (3) nonresident students, including providing domiciliary services  
 3 for students who need those services, if approved by the board.

4 \* Sec. 3. AS 14.07.165 is amended to read:

5 **Sec. 14.07.165. Duties.** The board shall adopt

6 (1) statewide goals and require each governing body to adopt written  
 7 goals that are consistent with local needs;

8 (2) regulations regarding the application for and award of grants under  
 9 AS 14.03.125;

10 (3) regulations implementing provisions of AS 14.11.014(b);

11 (4) regulations requiring approval by the board before a charter  
 12 school, state boarding school, or a public school may provide domiciliary services.

13 \* Sec. 4. AS 14.16.010 is amended to read:

14 **Sec. 14.16.010. Establishment of state boarding schools [SCHOOL].** The  
 15 department may establish and operate [A] boarding schools [SCHOOL, TO BE  
 16 KNOWN AS THE MT. EDGE CUMBE HIGH SCHOOL], to be managed in  
 17 accordance with this chapter. A [THE] state boarding school must offer a secondary  
 18 education curriculum to students enrolled in it, and must provide domiciliary services  
 19 for students needing such services, if approved by the board.

20 \* Sec. 5. AS 14.16.020 is amended to read:

21 **Sec. 14.16.020. Operation of state boarding schools [SCHOOL].** In the  
 22 management of [THE] state boarding schools [SCHOOL], the board shall

23 (1) adopt a philosophy of education for [THE] state boarding schools  
 24 [SCHOOL];

25 (2) employ [A] chief school administrators [ADMINISTRATOR] and  
 26 approve the employment of other personnel necessary to operate [THE] state boarding  
 27 schools [SCHOOL];

28 (3) establish the salaries and benefits to be paid teachers, excluding  
 29 administrators [, OF THE STATE BOARDING SCHOOL];

30 (4) designate the employees authorized to direct disbursements from the  
 31 money appropriated for the operation of [THE] state boarding schools [SCHOOL] and

1 for the construction of [ITS] facilities;

2 (5) provide custodial services and routine maintenance of [THE STATE  
3 BOARDING SCHOOL'S] physical facilities;

4 (6) establish procedures for the development and implementation of  
5 curriculum and the selection and use of textbooks and instructional materials [AT THE  
6 STATE BOARDING SCHOOL];

7 (7) prescribe health evaluation and placement screening programs for  
8 newly admitted students;

9 (8) establish procedures for staff evaluation; and

10 (9) provide staff training.

11 \* Sec. 6. AS 14.16.030(a) is amended to read:

12 (a) A [THE] state boarding school may admit students who are qualified in  
13 accordance with applicable admission standards. Preference for enrollment must be  
14 given to students currently enrolled at a [THE] boarding school and to students whose  
15 educational, emotional, or family requirements warrant attendance in a domiciliary  
16 environment.

17 \* Sec. 7. AS 14.16.040 is amended to read:

18 **Sec. 14.16.040. Status of state boarding school.** A [THE] state boarding  
19 school is a public school of the state.

20 \* Sec. 8. AS 14.16.050(a) is amended to read:

21 (a) The following provisions apply with respect to the operation and  
22 management of a [THE] state boarding school as if it were a school district:

23 (1) requirements relating to school district operations:

24 (A) AS 14.03.030 - 14.03.050 (defining the school term, day in  
25 session, and school holidays);

26 (B) AS 14.03.083 - 14.03.140 (miscellaneous provisions  
27 applicable to school district operations);

28 (C) regulations adopted by the board under authority of  
29 AS 14.07.020(a) that are applicable to school districts and their schools, unless  
30 the board specifically exempts [THE] state boarding schools [SCHOOL] from  
31 compliance with a regulation;

1 (D) AS 14.12.150 (authorizing school districts to establish and  
2 participate in the services of a regional resource center);

3 (E) AS 14.14.050 (imposing the requirement of an annual  
4 audit);

5 (F) AS 14.14.110 (authorizing cooperation with other school  
6 districts);

7 (G) AS 14.14.130 (directing the employment of a chief school  
8 administrator);

9 (H) AS 14.14.140(b) (establishing a prohibition on employment  
10 of a relative of the chief school administrator);

11 (I) AS 14.18 (prohibiting discrimination based on sex in public  
12 education);

13 (2) requirements relating to state financial assistance for education and  
14 the receipt and expenditure of that assistance:

15 (A) AS 14.17.080 (relating to student count estimates);

16 (B) AS 14.17.082 (relating to school operating fund balances);

17 (C) AS 14.17.160 - 14.17.220 (setting out the procedure for  
18 payment of financial assistance, and imposing general requirements and limits  
19 on money paid);

20 (3) requirements relating to teacher employment and retirement:

21 (A) AS 14.14.105 and 14.14.107 (relating to sick leave);

22 (B) AS 14.20.095 - 14.20.215 (relating to the employment and  
23 tenure of teachers);

24 (C) AS 14.20.220 (relating to the salaries of teachers  
25 employed);

26 (D) AS 14.20.280 - 14.20.350 (relating to sabbatical leave  
27 provisions for teachers);

28 (E) AS 23.40.070 - 23.40.260 (authorizing collective bargaining  
29 by certificated employees), except with regard to teachers who are  
30 administrators and except that the board may delegate some or all of its  
31 responsibilities under those statutes;

1 (F) AS 14.25 (provisions regarding the teachers' retirement  
2 system);

3 (4) requirements relating to students and educational programs:

4 (A) AS 14.30.180 - 14.30.350 (relating to educational services  
5 for exceptional children);

6 (B) AS 14.30.360 - 14.30.370 (establishing health education  
7 program standards);

8 (C) AS 14.30.400 - 14.30.410 (relating to bilingual and  
9 bicultural education).

10 \* Sec. 9. AS 14.16.060 is amended to read:

11 **Sec. 14.16.060. Status of employees.** The employees of a [THE] state  
12 boarding school are state employees.

13 \* Sec. 10. AS 14.16.070 is amended to read:

14 **Sec. 14.16.070. Applicability of other law.** AS 23.40.070 - 23.40.260 (Public  
15 Employment Relations Act) apply to the employees of a [THE] state boarding school.

16 \* Sec. 11. AS 14.16.080(a) is amended to read:

17 (a) AS 14.17.024 applies to the calculation of state aid payable for operation  
18 of a [THE] state boarding school.

19 \* Sec. 12. AS 14.16.080(b) is amended to read:

20 (b) In the transmittals required by AS 37.07.060 - 37.07.062, the governor  
21 shall request amounts for the expenses of construction, rehabilitation, and improvement  
22 of the facilities of a [THE] state boarding school.

23 \* Sec. 13. AS 14.16.080(e) is amended to read:

24 (e) For purposes of application for and receipt of federal aid to education, a  
25 [THE] state boarding school constitutes a local educational agency.

26 \* Sec. 14. AS 14.17.010(a) is amended to read:

27 (a) The public school foundation account is established. The account consists  
28 of appropriations for distribution to school districts, [THE] state boarding schools  
29 [SCHOOL], and for centralized correspondence study programs under this chapter.

30 \* Sec. 15. AS 14.17.024 is amended to read:

31 **Sec. 14.17.024. Money for state boarding schools [SCHOOL].** (a) Money

1 for the instructional services provided in a fiscal year by [THE] state boarding schools  
2 [SCHOOL] established under AS 14.16.010 includes an allocation from the public  
3 school foundation account in an amount calculated by

4 (1) multiplying the instructional unit value in AS 14.17.056 by the total  
5 number of instructional units under AS 14.17.031 for that fiscal year, as determined  
6 by treating each [THE] school as if it were a school district consisting of a single  
7 funding community;

8 (2) multiplying the product determined under (1) of this subsection by  
9 the area cost differential that is applicable to calculation of the entitlement for the  
10 adjacent school district under AS 14.17.051; and

11 (3) adding 10 percent of the eligible federal impact aid received for that  
12 fiscal year on behalf of each [THE] school plus any federal impact aid received on  
13 behalf of each [THE] school which the state, under P.L. 81-874 (20 U.S.C. 236 - 244),  
14 as amended, and regulations adopted under it, could not consider as local resources if  
15 the school were considered a school district.

16 (b) In addition to the amount calculated and payable under (a) of this section,  
17 the governor shall request from the legislature appropriation of any program receipts  
18 or federal food service reimbursements or other federal aid, other than aid under P.L.  
19 81-874 (20 U.S.C. 236 - 244), as amended, received on behalf of each [THE] school,  
20 and other amounts necessary for the expenses of operating each [THE] state boarding  
21 school, including

22 (1) domiciliary services, including room, board, custodial services, and  
23 other reasonable expenses related to the operation and maintenance of dormitory and  
24 other residential facilities for students;

25 (2) student transportation services, to include one round trip for each  
26 student between the student's place of residence and the site of each [THE] state  
27 boarding school during each school year; and

28 (3) maintenance and operation of the school's physical plant.

29 (c) Money received by a [THE] state boarding school for purposes described  
30 in (a) of this section may be used for the purposes described in (b) of this section, and  
31 money received for the purposes described in (b) may be used for the purposes

1 described in (a).

2 \* Sec. 16. AS 14.30.010(b)(10) is amended to read:

3 (10) is enrolled in

4 (A) a [THE] state boarding school established under AS 14.16;

5 or

6 (B) a full-time program of correspondence study approved by  
7 the department; in those school districts providing an approved correspondence  
8 study program, a student may be enrolled either in the district correspondence  
9 program or in the centralized correspondence study program;

10 \* Sec. 17. AS 23.40.200(c) is amended to read:

11 (c) The class in (a)(2) of this section is composed of public utility, snow  
12 removal, sanitation, and educational institution employees other than employees of a  
13 school district, a regional educational attendance area, or a [THE] state boarding  
14 school. Employees in this class may engage in a strike after mediation, subject to the  
15 voting requirement of (d) of this section, for a limited time. The limit is determined  
16 by the interests of the health, safety, or welfare of the public. The public employer  
17 or the labor relations agency may apply to the superior court in the judicial district in  
18 which the strike is occurring for an order enjoining the strike. A strike may not be  
19 enjoined unless it can be shown that it has begun to threaten the health, safety, or  
20 welfare of the public. A court, in deciding whether or not to enjoin the strike, shall  
21 consider the total equities in the particular class. "Total equities" includes not only the  
22 impact of a strike on the public but also the extent to which employee organizations  
23 and public employers have met their statutory obligations. If an impasse or deadlock  
24 still exists after the issuance of an injunction, the parties shall submit to arbitration to  
25 be carried out under AS 09.43.030.

26 \* Sec. 18. AS 23.40.200(d) is amended to read:

27 (d) The class in (a)(3) of this section includes all other public employees who  
28 are not included in the classes in (a)(1) or (2) [(a)(2)] of this section. Employees in  
29 this class may engage in a strike if a majority of the employees in a collective  
30 bargaining unit vote by secret ballot to do so. However, if an impasse or deadlock is  
31 reached in collective bargaining negotiations between a municipal school district, a

1 regional educational attendance area, or a [THE] state boarding school and its  
2 employees, the parties shall submit to advisory arbitration before the employees may  
3 engage in a strike. The arbitrator selected to conduct the advisory arbitration must be  
4 a member of the American Arbitration Association Panel of Labor Arbitrators or the  
5 Federal Mediation and Conciliation Service. In selecting the arbitrator, the parties  
6 shall request a list of arbitrators who have knowledge of and recent experience in the  
7 local conditions in the school district, regional educational attendance area, or state  
8 boarding school. A list containing at least five nominees who meet the qualifications  
9 of this subsection is a complete list for the purpose of striking names and selecting the  
10 arbitrator.

11 \* **Sec. 19.** Notwithstanding secs. 3 and 4 of this Act, domiciliary services being provided  
12 by Mt. Edgecumbe High School on or before the effective date of this Act may continue to  
13 be provided until the state Board of Education adopts regulations required under sec. 3 of this  
14 Act.

# FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 110

1997 LEGISLATIVE SESSION

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

Department Affected: Education

Title: An act relating to funding for charter schools.

BRU: Teaching and Learning Support

Component: Quality Schools

Sponsor: Representative Nicholia

Requester: House HESS

COMPONENT SERIAL NO. 2147

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	\$420.0 - *	\$420.0 - *	\$420.0 - *	\$420.0 - *	\$420.0 - *	\$420.0 - *
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	\$420.0 - *	\$420.0 - *	\$420.0 - *	\$420.0 - *	\$420.0 - *	\$420.0 - *
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>	<b>\$420.0 - *</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: -0-

**ANALYSIS: (Attach a separate page if necessary.)**

\* - There will be costs but they are unknown at this time.

Of the charter schools currently approved, only one, the Project Education Charter School in Galena provides a residential program. The cost of operating that program is approximately \$420,000. This estimate is based on \$12,000 per student for 35 students, provided by the Galena City School District. The Department has no additional information on proposed charter schools that would include residential costs.

Prepared by: Eddy Jeans School Finance Manager

Phone: 465-8679

Division: Education Support Services

Date: 4/30/97

Approved by Commissioner: Shirley J. Holloway, Ph. D., Commissioner

Agency: Education

Date: 4/30/97

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**HB**

**112**

(7)

Date Referred to Committee: February 3, 1997

FURTHER REFERRALS:

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HB 112

HOUSE BILL NO. 112

AMEND DEFINITION OF "POLITICAL PARTY"

"An Act amending the definition of 'political party' except as the definition of the term applies to the regulation of contributions and expenditures in state and municipal election campaigns, an amendment that also has the effect of changing the definition of 'political organization' as applied to the regulation of games of chance and contests of skill."

recommends it be replaced with the following committee substitute \_\_\_\_\_ [ ] the same title [ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) \_\_\_\_\_ [ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_ [ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>				
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE *[Signature]*

# Alaska State Legislature

## House of Representatives

Interim Address:  
119 N. Cushman, Suite 211  
Fairbanks, AK 99701  
(907)-456-5081  
Fax# (907)-456-8245

Session Address:  
Room 13  
(907)-465-3719



State Capitol  
Juneau, AK. 99801-1182

Official Business

**Representative Al Vezey**

### HB 112 SPONSOR STATEMENT

HB 112 would expand the definition of a political party. It would allow a political party to choose its method of qualification: (1) receive three percent of the vote in the preceding gubernatorial election; or (2) have at least 10,000 eligible voters in the state registered to their party. A political party with 10,000 registered voters would not have to run a candidate for governor every four years to retain status as a political party.

To be recognized as a political party under current Alaskan law, a political party must nominate a candidate for governor every four years. The candidate must receive at least three percent of the total votes cast for governor in the general election. Political parties should not have to enter Alaska's gubernatorial race just to qualify as a political party.

In the 1990 gubernatorial election, the governor was elected by 38.8% percent of the voters. In the 1994 gubernatorial election, the governor was elected by 41.1% percent of the voters. HB 112 would result in a Alaska's governors being elected by a larger plurality and hopefully a majority of Alaskan voters.

# LEGAL SERVICES

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

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Mail Stop 3101

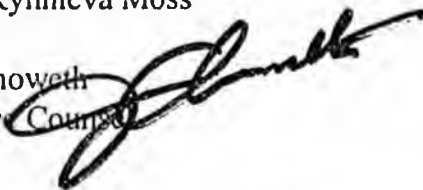
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

January 29, 1997

**SUBJECT:** Amending the definition of "political party" (Work Order No. 20-LS0455\A)

**TO:** Representative Al Vezey  
ATTN: Rynniva Moss

**FROM:** Jack Chenoweth  
Legislative Counsel 

Bill section 2 amends the definition of "political party," AS 15.60.010(2), as it is used in the state Election Code in line with your suggested wording.

Because the definition of "political organization" in AS 05.15, covering regulation of gaming, cross-references the definition of "political party" in AS 15.60.010, I had to make a decision as to whether the substantive change made in bill section 2 should affect the definition of political party under gaming regulation. I opted not to have the change affect the gaming regulation provision. Bill section 1, then, simply "unties" the definition of "political party" from its cross-reference to AS 15.60.010 and substitutes the text of the **current** definition of "political party." In other words, though a change is made to AS 05.15.690, it is not intended to have substantive effect. If I did not do this and simply omitted the change being made by bill section 1, redefining "political party" in AS 15.60.010 would necessarily carry over into the gaming regulation provision, and I would have to note the effect of the change in the bill title.

The bill title provided notes an exception. For purposes of campaign financing regulation under AS 15.13 (AS 15.13 is part of the Alaska Election Code), there is a separate definition of "political party" intended to apply only for purposes of treatment of parties under the contribution and expenditure regulation provisions of AS 15.13. The change in definition made in bill section 1 does not affect that definition.

If this bill becomes law, there will be three definitions of "political party" operating in the Alaska Statutes:

-- AS 15.13.400(10)(A) will apply to regulation of campaign financing;

Representative Al Vez.  
January 29, 1997  
Page 2

-- AS 15.60.010(20) as amended by bill section 2 of this measure will apply to provisions of the Alaska Election Code apart from election campaign financing; and

-- AS 05.15.690(34) as amended by bill section 1 of this measure will continue in place the **current** definition of "political party" as applicable to gaming regulation.

\*

If any of this prompts questions, or if you want this redrafted to eliminate the inconsistent definitions, please contact me.

JBC:glc  
97-024.glc

# Alaska State Legislature

## House of Representatives

Interim Address:  
119 N. Cushman, Suite 211  
Fairbanks, AK 99701  
(907)-456-5081  
Fax# (907)-456-8245

Session Address:  
Room 13  
(907)-465-3719



Official Business

State Capitol  
Juneau, AK. 99801-1182

Representative Al Vezey

A large, stylized handwritten signature, likely of Representative Al Vezey, written in black ink.

February 10, 1997

Rep. Jeannette James, Chairman  
House State Affairs Committee  
State Capitol, Room 107  
Juneau, AK 99801-1182

Dear Rep. James:

I am requesting that HB 112, *'An Act amending the definition of 'political party' except as the definition of the term applies to the regulation of contributions and expenditures in state and municipal election campaigns, an amendment that also has the affect of changing the definition of 'political organization' as applied to the regulation of games of chance and contests of skill'* be scheduled for hearing in the House State Affairs Committee.

Attached is the sponsor statement I have prepared.

Sincerely,

A handwritten signature of Representative Al Vezey, written in black ink, positioned above the printed name.

Rep. Al Vezey

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: AMEND DEFINITION OF "POLITICAL PARTY" BRU: Revenue Operations  
 Component: Charitable Gaming Division  
 Sponsor: Rep. Vezay  
 Requestor: H (STA) COMPONENT SERIAL NO. 1883

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will change the definition of "political organization." However, this change will not have a fiscal impact on Charitable Gaming Division.

Prepared by: Dennis R. Poshard, Director Phone: 465-2279  
 Division: Charitable Gaming Division Date: 2-21-97  
 Approved by Commissioner: Wilson L. Condon Date: \_\_\_\_\_  
 Agency: Revenue

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 112

Revision Date _____	Dept. Affected _____	Office of the Governor _____
Title <u>Amend definition of Political Party</u>	BRU _____	Elective Operations _____
Sponsor <u>Representative Vezey</u>	Component <u>Elections</u>	
Requester <u>House State Affairs</u>	Component Serial No. <u>#21</u>	

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services						
Travel						
Contractual	59.6	10.0	10.0	10.0		
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>59.6</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES [ ]						
------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF	59.6	10.0	10.0	10.0		
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>59.6</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: none

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

There are approximately 230,000 voters who have not aligned themselves with a political party, registering as Non-partisan, Undeclared, or Other (N,U,O voters). The passage of this legislation would require that the division of elections start tracking and reporting all political party selections.

This change will require substantial reprogramming of the VREMS election registration system. The cost of reprogramming and increased mainframe time are estimated at \$38.0. Assuming that roughly 10% of the current N,U,O voters, would change their registration to indicate a party affiliation results in the printing and mailing of 23,000 voter id cards at a cost of \$10.1. New voter registration cards and training materials will be designed and printed at an estimated cost of \$11.5.

The costs estimated in this fiscal note assume that the division of elections would not be responsible for notifying N,U, and O voters of the change in law. If the division was expected to notify voters of the change, the fiscal note would increase dramatically.

Prepared by <u>Dana LaTour</u>	Phone <u>465-5347</u>
Division <u>Division of Elections</u>	Date <u>2/24/97</u>
Approved by Co <u>Lt. Governor Fran Ulmer</u>	Date <u>2/24/97</u>
Agency <u>Office of the Lieutenant Governor</u>	

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**HB**

**124**

(7)

Date Referred to Committee: February 12, 1997

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/11/97

The STATE AFFAIRS Committee considered:

HB 124

HOUSE BILL NO. 124

PERA: LOCAL EXEMPTION/NONNEGOTIABLE ITEMS

"An Act relating to items not subject to collective bargaining and to application of the Public Employment Relations Act to municipalities and other political subdivisions."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Labor, Admin.  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeannette James</i>			-	
<i>[Signature]</i>		✓		
<i>[Signature]</i>		✓		
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE *Jeannette James*

# Alaska State Legislature

Interim Address:  
119 N. Cushman, Suite 211  
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Fax# (907)-456-8245  
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State Capitol  
~~(907)466-7119~~  
99801-1182

**Representative Al Vezey**

## **HB 124 SPONSOR STATEMENT**

HB 124 makes two modifications to the Public Employment Relations Act (PERA).

Section 1 of HB 124 exempts from collective bargaining state services that are contracted out or privatized.

Section 2 of HB 124 will provide a democratic means for the municipalities of Alaska to vote to be covered by the Public Employment Relations Act (PERA) or if covered by PERA, a democratic means to opt out of PERA.

Existing legislation as interpreted by the courts has put local governing bodies in a position where one governing body can obligate all future governing bodies. HB 124 would place the decision making process back into the hands of local governing officials and the people.

HB 124 will strengthen the ability of municipalities to represent the citizens of their communities.

From  
Lezey's  
office

## Collective bargaining is not eliminated by repealing PERA.

Collective bargaining is the negotiations between an employer and a group of employees that determine the conditions of employment.

Mr. Cyr of the NEA stated in his testimony before State Affairs on March 11, 1997 that Anchorage is opted out of PERA but does a good job of negotiating with their employees.

## Mandatory PERA participation by municipalities in an unfunded mandate:

Unfunded mandates by the federal government have forced communities to raise taxes and reduce necessary services. Not allowing municipalities and school districts to opt from PERA is clearly an unfunded mandate the State has imposed. The ability of local governments to represent the interests of their citizens, make local decisions on funding, and participate in the collective bargaining process must be reinstated. Public policy should not be made by a third party.

## Mandatory PERA participation by municipalities is a violation of the National Labor Relations Act:

The National Labor Relations Act (NLRA) is the principle law governing collective bargaining. In 29 U.S.C. 7.141(b), Congress declared the purpose and policy of the National Labor Relations Act (NLRA):

*"It is the purpose and policy of this chapter, in order to promote the full flow of commerce, to prescribe the legitimate rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the legitimate rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce."*

As is evident from the text of 29 U.S.C.7.141(b), when the State mandated that municipalities are automatically opted into PERA, the state infringed upon the legitimate rights of the employers and quite possibly employees of that municipality. In the case of local governments and employees, the public is the employer. Forcing binding arbitration dictates that public policy will be decided by a third party. Public employees should not be able to take away from the public what they have already paid for.

# LEGAL SERVICES

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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

February 10, 1997

**SUBJECT:** Sectional Summary of HB 124. (Application of PERA to municipalities and other political subdivisions; right to privatize government services)

**TO:** Representative Al Vezey  
Attn: Rynniva Moss

**FROM:** Teresa B. Cramer   
Legislative Counsel

You have requested a sectional summary of the above-described bill. Please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 amends AS 23.40.075 to provide that the right of the employer to contract out services or functions is not subject to the requirement of collective bargaining under the Public Employment Relations Act (PERA).

Sec. 2 adds AS 23.40.085 to PERA to set out a mechanism for municipalities and other political subdivisions to use in deciding whether or not PERA should apply to employment relations in the municipality or political subdivision. The voters in the municipality or political subdivision can decide to accept or reject coverage under PERA.

Sec. 3 repeals two temporary law sections.

Section 4, ch. 113, SLA 1972 provides that PERA applies to "organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

Section 11, ch. 1, SLA 1992 provides that a municipal school district or regional educational attendance area cannot reject coverage under PERA.

Sec. 4 provides that the Act does not terminate or modify the terms of a collective bargaining agreement in effect on the effective date of the Act.

TC:glc  
97-085.glc

# Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 463-3991  
Fax: (907) 463-3351

AUG 16 1993

July 8, 1993

## MEMORANDUM

TO: Representative Al Vezey

FROM: Carol R. Vandor *CRV*  
Legislative Analyst

RE: Public Employment Relations Act (PERA)  
Research Request 93.232

You asked about the number of state political subdivisions covered by the Public Employment Relations Act (PERA). Title 23, chapter 40 of the Alaska statutes governs PERA. There is no requirement for a political subdivision to report its status under PERA; therefore, the only way of knowing whether a political subdivision is covered under PERA or has opted-out is if a hearing has been held by the Alaska Labor Relations Agency or a suit has been filed in the courts. Following is a brief discussion of PERA and the Alaska Labor Relations Agency followed by a list of the 15 political subdivisions that are known to be covered by PERA and the 11 that have opted-out of PERA.

### Public Employment Relations Act

In June 1972 the State of Alaska enacted the Public Employment Relations Act. The PERA confers upon public employees the right to organize and to bargain collectively with their employers (AS 23.40.080). The Declaration of Policy, set forth in AS 23.40.070, states in part:

The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by recognizing the right of public employees to organize for the purpose of collective bargaining; (2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment; and (3) maintaining merit-system principles among public employees.

Representative Vezey

July 8, 1993

Page 2

Alaska Statute 23.40.250 defines public employer and public employee as used in the Declaration of Policy as follows:

"public employer" means the state or a political subdivision of the state, including without limitation, a municipality, district, school district, regional educational attendance area, board of regents, public and quasi-public corporation, housing authority, or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees.

"public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or superintendents of schools.

An appointed official, defined in 2 AAC 10.220, is a person who exercises significant responsibilities for the public employer in the area of collective bargaining policy formulation and implementation.

The interpretation of PERA as it applies to political subdivisions has been litigated on several occasions since PERA was enacted. The most recent decision, *Kodiak Island Borough v State of Alaska*, Supreme Court File No. S-4891, (June 1993) addressed the issue of the right of public employees to organize for the purpose of collective bargaining under PERA, and the right of a political subdivision to exempt itself. In this case, the borough had adopted an opt-out resolution in 1980 after it became aware of substantial organizational activities by its employees. The court ruled that a political subdivision may not opt-out of PERA after becoming aware of organizational activity by employees. A copy of the decision is attached.

#### Alaska Labor Relations Agency

For many public employees in Alaska, the Alaska Labor Relations Agency provides enforcement of PERA. The agency is comprised of three members appointed by the governor and confirmed by the legislature. It serves as the labor relations agency under the Public Employment Relations Act and carries out the functions specified in that act. Under Title 23, the agency has the authority to enter into labor management matters when certain situations exist. The agency has several responsibilities, one of which is the investigation and resolution by conciliation of unfair labor practices committed by either employers or employees. The decisions can be enforced by an injunction to cause the prohibited practice to cease and desist. The agency also decides the unit appropriate for the purpose of

collective bargaining and schedules representation elections and settles issues regarding clarifications of the appropriate unit.

### PERA Status

According to the Alaska Labor Relations Agency employees of 15 political subdivisions are known to be covered under PERA and 11 political subdivisions have opted-out. PERA status is pending in three political subdivisions.

Covered	Opted-Out
City of Wainier	City of Ketchikan
Bristol Bay Borough	Wrangell
City of Fairbanks	Seward
Fairbanks North Star Borough	North Pole
Ketchikan Gateway Borough	North Slope Borough
Nome	City and Borough of Juneau
City of Seldovia	Municipality of Anchorage
Unalaska	Sitka
Petersburg	Mat-Su Borough
Haines Borough	City of Kodiak
Thomas Bay Power Authority	City of Homer
City of Dillingham	
City of Cordova	
City of Hoonah	
Kodiak Island Borough	

Status Dispute Pending - *update:*

City of Bethel *not sure*  
City of Kotzebue *opt out was effective*  
City of Haines *opt out upheld by AK Labor Relations Agency (under sec)*

I hope this information is useful to you. If we may be of further assistance, please contact this office.

Attachments



# NEA-ALASKA

*Affiliated with the National Education Association*

## NEA-ALASKA POSITION PAPER

HB 124 - Relating to Collective Bargaining  
March 11, 1997

House State Affairs Committee

NEA-Alaska opposes HB 124. The bill will allow municipalities or other political subdivisions including school districts to conduct an election to determine if employees are to continue to bargain under the provisions of AS 23.40.070 - 23.40.260.

Since the early 1970's, state policy extended the statutory right to bargain to public employees. School employees struggled for over ten years to establish their rights under PERA. The schools and school employees have developed a successful pattern of bargaining under PERA for nearly six years.

Bargaining provides public employees a good participatory way to influence decisions that affect the work place. At the bargaining table public employees share in the decision-making process affecting wages and working conditions. They have become more responsive and better able to exchange ideas and information on school operations with their administrators. Successful businesses are moving to management models designed to involve employees in a meaningful participatory role. Studies have shown that successful school reform occurs in school districts where mature bargaining relationships exist.

If HB 124 were to become law, labor relations between school districts and school employees would be disrupted. Good faith bargaining would give way to politics. Management and school boards would have greater latitude to delay and forestall the bargaining process. Some school districts could submit the question of continuance under PERA to voters annually or during each round of bargaining. In effect local governments could use this bill to become "right to work" employers. School, municipal, borough or state employees will lose. Inconsistency between units and school districts would occur. The bargaining process would be weakened and in some instances destroyed.

The bill calls for a vote of the people. Who pays for the election? Will the election activate adversarial clashes between the special anti-labor groups with agendas opposed to working people?

Representatives are elected to make decisions for their constituency in view of the public good. HB 124 proposes a poor approach to decision making. The issue of inclusion of school employees under PERA has been debated on the state level. A majority of the legislature, after weighing carefully the facts and information, decided it is good policy. In its declaration of policy, Sec. 23.40.070, "the legislature finds that joint decision-making is the modern way of administering government"

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RECEIVED  
JUN 07 1993  
Alaska Labor Relations Agency

THE SUPREME COURT OF THE STATE OF ALASKA

KODIAK ISLAND BOROUGH, )  
 )  
Appellant, )  
 )  
v. )  
 )  
STATE OF ALASKA, DEPARTMENT )  
OF LABOR, LABOR RELATIONS )  
AGENCY; and the INTERNATIONAL )  
BROTHERHOOD OF ELECTRICAL )  
WORKERS, LOCAL 1547, )  
 )  
Appellees. )  
\_\_\_\_\_ )

Supreme Court File No. S-489  
Superior Court File No.  
3AN-90-4512 Civil

O P I N I O N

[No. 3965 - June 4, 1993]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Karen L. Hunt, Judge.

Appearances: Paul H. Cragan, Hughes, Thorsness, Gantz, Powell & Brundin, Fairbanks, for Appellant. Toby N. Steinberger, Assistant Attorney General, Anchorage, and Charles E. Cole, Attorney General, Juneau, for State of Alaska, Department of Labor, Labor Relations Agency and William F. Morse, Associate General Counsel, IBEW LOCAL UNION 1547, for Brotherhood of Electrical Workers, Local 1547, Appellees.

Before: Moore, Chief Justice, Rabinowitz, Burke, Matthews and Compton, Justices.

COMPTON, Justice.  
BURKE, Justice, concurring.  
MATTHEWS, Justice, concurring.

This case arises out of the Department of Labor, Labor Relations Agency's (DOL) ruling that the Kodiak Island Borough's (Borough) 1980 resolution opting out of the Public Employment Relations Act (PERA) AS 23.40.070-.260 was invalid. On appeal to the superior court, Judge Karen Hunt affirmed the DOL ruling. The Borough appeals. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

The material facts are not disputed. In June 1972 the State of Alaska enacted PERA. PERA confers upon public employees the right to organize and to bargain collectively with their employers. However, Section 4 of PERA also permits the legislative body of any political subdivision of the state to reject PERA, preventing its application to the public employees of that subdivision. Section 4 reads:

This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply.

Ch. 113, § 4, SLA 1972. PERA became effective on September 5, 1972.

In 1977 the Borough enacted personnel rules and regulations governing relations with its employees. These rules do not require the Borough to recognize an employees' union nor do the rules expressly reject PERA. In 1979 Kodiak Island Borough Employees' Association (KIBEA) submitted a petition to DOL requesting that KIBEA be recognized as the bargaining

representative for the Borough's general government employees. KIBEA later withdrew its petition for certification in favor of a petition submitted by the Alaska Public Employees Association (APEA).

After becoming aware of this organizing activity, the Borough enacted Resolution No. 79-5-R, rejecting the application of PERA. DOL concluded that the Borough had not validly opted out of PERA. It sought to conduct a representation election under PERA. The Borough refused to allow the election to proceed. As a result DOL filed a lawsuit against the Borough in superior court.

The superior court granted DOL's motion for summary judgment, holding that the Borough had not validly opted out of PERA. DOL then held the certification election. APEA did not secure the requisite number of votes to be certified by DOL as the bargaining representative for the Borough employees.

On January 22, 1980, twelve days after DOL announced the results of the election, the Borough again attempted to reject PERA by adopting Resolution No. 80-5-R. The 1980 resolution is identical to the 1979 resolution:

Resolution No. 80-5-R, exempting Kodiak Island Borough from the Alaska Public Employment Act, Whereas, the assembly believes that the public interest is best served by administration of borough employee relations at the local level, and Whereas, the State Public Employee Relations Act applies to municipalities unless the governing body rejects application of its provisions; Now, therefore, the Kodiak Island Borough Assembly resolves: Pursuant to Section 4, Chapter 113 SLA 1972, the Kodiak Island Borough rejects application of Section 2, Chapter 113, [SLA] 1972, codified as

AS 23.40.070 et. seq., and commonly known as the Alaska Public Employment Relations Act.

In 1989 Borough employees again attempted to organize. The International Brotherhood of Electrical Workers, Local Union 1547 (IBEW), filed a petition with DOL to be recognized as the exclusive bargaining agent for the Borough employees. The Borough objected to the petition, claiming that it had "opted out" of PERA by its 1980 resolution. IBEW asserted that the 1980 opt out resolution was not valid and that DOL had proper jurisdiction.

DOL held a hearing on IBEW's petition for certification and the Borough's objections. DOL ruled that the Borough did not validly opt out of PERA in 1980. The Borough appealed this ruling to the superior court pursuant to AS 22.10.020(d) and Appellate Rule 602(a). The superior court affirmed DOL's decision. It held the 1980 resolution was untimely, since the Borough enacted the resolution after it was aware of organizational activities of its employees.

## II. STANDARD OF REVIEW

The superior court was sitting as an intermediate appellate court. Accordingly, its decision is not entitled to deference. Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896, 903 (Alaska 1987). DOL held a formal adjudicatory hearing before a neutral hearing officer. Both parties were represented by counsel, examined and cross-examined witnesses and introduced evidence. The hearing officer rendered formal findings of fact and conclusions of law, which were adopted by DOL as its

decision. As to questions of law which do not involve agency expertise we apply the substitution of judgment standard of review. Union Oil Co. of California v. State, 804 P.2d 62, 64 (Alaska 1990). The primary task in this case is to construe two seemingly inconsistent sections of the same statutory scheme. The interpretation of this statute is a question of law to which we will apply our independent judgment.

To the extent that facts are necessary to the determination of the legal question, we will adopt DOL's findings of fact if they are supported by substantial evidence. Commercial Fisheries Entry Comm'n v. Baxter, 806 P.2d 1373, 1374 (Alaska 1991).

### III. DISCUSSION

#### KODIAK ISLAND BOROUGH'S RESOLUTION EXEMPTING THE BOROUGH FROM THE PUBLIC EMPLOYMENT RELATIONS ACT IS NOT VALID

The question presented by this case involves the interplay between the right of public employees to organize for the purpose of collective bargaining under PERA,<sup>1</sup> and the right of a

- 
1. Alaska Statute 23.40.070 states in relevant part:

Declaration of policy. . . . The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by

(continued...)

political subdivision to exempt itself pursuant to section 4 of PERA. We previously examined these two provisions together in State v. City of Petersburg, 538 P.2d 263 (Alaska 1975). In Petersburg, the city's electrical workers signed cards authorizing IBEW to act as their collective bargaining representative. The city council then held a special meeting to exempt the city from the provisions of PERA. Id. at 264. At the time of this meeting the members of the city council were aware of employees' activities concerning the formation of a collective bargaining unit. Id.

In Petersburg we looked for the point beyond which the right of the city to reject PERA became subordinated to the rights of the employees to organize. We concluded that "the analysis must turn on both the substantiality of the organizational activities undertaken by the employees and the extent of the City's awareness of those activities." Id. at 267. The city's rejection of PERA after becoming aware of the organizational activities constituted "a gross and impermissible interference with the employees' freedom to choose which collective bargaining association should represent them. . . . [t]he City's prerogative to reject the Act is not to be used as a de facto veto against particular unions . . . ." Id. We noted that the city had requested that the employees form their own union rather than join IBEW. Id. We concluded such

---

1. (...continued)

(1) recognizing the right of public employees to organize for the purpose of collective bargaining.

maneuvering was an attempt to interfere with the employees' rights under PERA. Id.

In this case the Borough contends that DOL and the superior court erred by interpreting Petersburg too broadly. The Borough notes that section 4 expressly allows political subdivisions of the state to reject PERA. It argues that the Petersburg limitation on the employer's right to exempt itself should only apply to situations in which employee PERA rights are being interfered with by favoring one union over another. But, if the employer rejects PERA totally, refusing to deal with any union, section 4 applies.

The Borough thus argues that Petersburg should be read narrowly, prohibiting local government only from favoring one union over another. The Borough claims it engaged in no such favoritism. Rather, the Borough made the decision to avoid collective bargaining in order to manage its employment relations in a way that was beneficial and appropriate to the overall needs, abilities and resources of the community. Since the Borough did not interfere with any specific organizing efforts, it concludes that its election to reject PERA should be upheld.

DOL and IBEW argue that the Petersburg analysis should invalidate any rejection of PERA after employees have exercised their PERA rights. In 1979 Borough employees prevailed in a lawsuit which permitted them to exercise their PERA rights and to decide if a majority of the employees wanted to be represented by APEA. DOL and IBEW argue the Borough's attempt to reject PERA is

invalid because it occurred after the employees exercised their PERA rights.

In City & Borough of Sitka v. International Bhd. of Elec. Workers, Local Union 1547, 653 P.2d 332 (Alaska 1982), we held the opt out from PERA valid even though there had been prior employee organizing efforts. However, we distinguished Petersburg because the employees in Sitka had attempted to organize prior to the passage of PERA. From the time PERA was enacted until Sitka exempted itself there had been no organizing activities. The employees could not have organized in reliance on their PERA rights because PERA had not yet become the law. City & Borough of Sitka, 653 P.2d at 335.

By contrast, in this case Borough employees have already relied upon their PERA rights. The Borough's attempt in 1979 to stop the employees from organizing was an attempt, as in Petersburg, to deny employees their statutory right to organize. The fact that the resolution was passed just twelve days after the employee vote indicates the Borough was still attempting to thwart employee efforts to organize under PERA.<sup>2</sup>

In Petersburg we limited a local government's ability to exempt itself from PERA once the local government became aware of

---

2. We reject the Borough's contention that organizing activity had ceased after the election because there were no organizing efforts in the twelve day period preceding the Borough's rejection of PERA. We note that PERA requires employees to wait for one full year following a valid election before they can hold another election. AS 23.40.100. As the organizational hiatus during the twelve day period was consistent with PERA, the lack of organizational activity did not terminate the employees' PERA rights.

substantial steps taken by employees to exercise their PERA rights. Although this holding limits the freedom of political subdivisions to opt out of PERA, we concluded that this result was consistent with the legislature's intent. 538 P.2d at 268. "[A]pplicability of PERA is the rule, exemption the exception." Id. We reaffirm that political subdivisions may not reject PERA after becoming aware of substantial organizational activity by employees.<sup>3</sup>

#### IV. CONCLUSION

The Borough's rejection of PERA after it became aware of substantial organizational activity is invalid. The decision of the superior court affirming DOL's determination that the Borough's 1980 resolution was ineffective in rejecting PERA is AFFIRMED.

---

3. In Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, 618 P.2d 575, 579 (Alaska 1980), we wrote "a public employer which chooses to opt out of PERA must do so promptly, rather than at its leisure . . . ." Because we conclude that Kodiak Island Borough's rejection of PERA after it became aware of substantial organizational activity was invalid, we do not reach the question of whether PERA can be rejected seven years after it was enacted.

BURKE, Justice, concurring.

I concur because I am bound by the decision of the court in State v. City of Petersburg, 538 P.2d 263 (Alaska 1975).

# Alaska State Legislature

## House of Representatives

Interim Address:  
119 N. Cushman, Suite 211  
Fairbanks, AK 99701  
(907)-456-5081  
Fax# (907)-456-8245



LATER  
in March

Session Address:  
Room 13  
(907)-465-3719

Official Business

State Capitol  
Juneau, AK. 99801-1182

Representative Al Vezey

February 13<sup>th</sup>, 1997

PERA

Rep. Jeannette James, Chairman  
House State Affairs Committee  
State Capitol, Room 107  
Juneau, AK 99801-1182

Dear Rep. James:

I am requesting that HB 124, "An Act relating to items not subject to collective bargaining and to application of the Public Employment Relations Act to municipalities and other political subdivisions" be scheduled for hearing in the House State Affairs Committee.

Attached is the sponsor statement I have prepared.

Sincerely,

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

Rep. Al Vezey

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 124

Revision Date: \_\_\_\_\_  
 Title: PERA: Local exemption/nonnegotiable  
           Items  
 Sponsor: Representative Vezey  
 Requestor: House STA

Department Affected: Labor  
 BRU: Office of the Commissioner  
 Component: \_\_\_\_\_  
               Alaska Labor Relations Agency  
 COMPONENT SERIAL NO. 1200

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>CHANGE IN REVENUE</b>						
<b>FUND SOURCE #</b>						

**FUNDING:** (Thousands of Dollars)

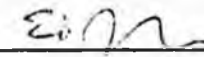
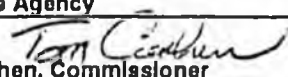
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

**ANALYSIS:** (Attach a separate page if necessary)  
 HB 124 adds privatization or contracting out to the items not subject to bargaining under the Public Employment Relations Act (PERA) and would exclude political subdivisions from coverage under PERA unless the political subdivision, after election among voters, opts to be covered. The bill would also permit the rejection of PERA by election of the voters. The bill would remove a number of employers from the jurisdiction of the Alaska Labor Relations Agency (ALRA). This change might ultimately reduce the workload of ALRA, however the transition and initial disruptions will delay the decrease, if any, long past the effective date of the law. Should the bill result in frequent movements into and out of PERA, the representation workload and attendant petitions or complaints could actually increase agency workload.

Prepared by: Jan Hart DeYoung  Phone: 269-4895  
 Division: Alaska Labor Relations Agency Date: 3/10/97  
 Approved by Commissioner: Tom Cashen, Commissioner   
 Agency: Department of Labor Date: 3/10/97

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FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 124

Revision Date: \_\_\_\_\_  
Title: An Act relating to item not subject to collective bargaining  
Sponsor: Vezey  
Requestor: House State Affairs Committee

Department Affected: Administration  
BRU: Personnel  
Component: Labor Relations  
COMPONENT SERIAL NO. 58

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
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
CHANGE IN REVENUES ( )	0	0	0	0	0	0

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 96) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

The changes to the Public Employment Relations Act contained in this bill will have an insignificant program impact on the Labor Relations Section. It will eliminate one additional topic from all the possible subjects of bargaining over the wages, hours and other terms and conditions of employment.

Prepared by: Beverly Reaume  
Division: Division of Personnel

Phone: 465-4429  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 3/10/97

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**HEB**

**143**

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 17, 1997

FURTHER REFERRALS:

Date of Committee Action: 3/27/97

The STATE AFFAIRS Committee considered:

HB 143

HOUSE BILL NO. 143

REPEAL ART IN PUBLIC PLACES REQUIREMENT

"An Act relating to the art in public places requirements for state-owned and state-leased buildings and facilities."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DOE, NOT

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Janette James</i>			✓	
<i>[Signature]</i>		✓		
<i>[Signature]</i>		✓		
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>		✓		

CHAIR'S SIGNATURE

*Janette James*

# Alaska State Legislature



*While in Session:*  
State Capitol Building  
Juneau, Alaska 99801-1182  
907-465-3719  
Fax 907-465-3258

*Interim:*  
119 N. Cushman, Suite 211  
Fairbanks, Alaska 99701-2879  
907-456-5081  
Fax 907-456-8245

Representative Al Vezey

## SPONSOR STATEMENT

### HB 143

**"An act relating to the art in public places requirements for state-owned and state-leased building and facilities".**

This is a very simple bill. It merely removes the existing mandate that one percent of the appropriation for state buildings and facilities go to the Arts Council for the procurement of art. This bill does not prohibit the legislature and/or other appropriating bodies from appropriating any funds it deems suitable for the procurement of art. Nor does it prohibit public agencies or political subdivisions from allocating any amount they deem appropriate for any public facility.

It is the intent of this legislation that the decision of how much money is spent on art be a deliberate act on the part of elected officials making the appropriation or, a deliberate decision on the part of the users responsible for the wise use of public funds.

# 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

March 19, 1997

**SUBJECT:** Sectional Summary of HB 143 (Work Order 0-LS0558\A)

**TO:** Representative Al Vezey  
Attn: Rynniewa Moss

**FROM:**  Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Amends the section on the powers of the Alaska State Council on the Arts. Conforms the subsection to the repeal of AS 44.27.060 in sec. 3 of the bill by removing the reference to AS 44.27.060 (the art in public places fund).

**Section 2.** Amends the section on Alaska veteran memorials to conform the section to the repeal of AS 35.27 in sec. 3 of the bill. Removes the reference to AS 35.27 (Art Works in Public Buildings and Facilities).

**Section 3.** Repeals AS 35.27 (Art Works in Public Buildings and Facilities), AS 44.27.050(6) (management of the art in public places fund), and AS 44.27.060 (the art in public places fund).

**Section 4.** Subsection (a) states that repealed chapter AS 35.27 continues to operate for the design, construction, mounting, and administration of a work of art if a contract for the purpose has been entered into under AS 35.27 before this Act takes effect.

Subsection (b) states that certain statutes changed in this Act remain effective as they were before this Act, for the design, construction, mounting, administration, commission, or loan of an art work if a contract for the purpose has been entered into before this Act takes effect, and the contract was funded under AS 44.27.060.

Representative Al Vezey

March 19, 1997

Page 2

**Section 5.** Transfers to the general fund those assets of the art in public places fund that are not needed to pay for art works funded under AS 35.27 or AS 44.27.060.

If I may be of further assistance, please advise.

TLB:jdr

97-197.jdr

department may transfer land considered no longer necessary for public works purposes to the Department of Natural Resources for disposal. The proceeds of disposal by the Department of Natural Resources shall be credited to the funds from which the purchase was originally made. (§ 4 art IV title IV ch 152 SLA 1957)

*Revisor's notes.* — Minor word changes related to the recording of documents were made in this section in 1988 because of the enactment of ch. 161, SLA 1988.

### Chapter 25. General Provisions.

[Renumbered as AS 35.95.]

### Chapter 27. Art Works in Public Buildings and Facilities.

**Section**

10. Purpose

20. Art requirements for public buildings and facilities

**Section**

30. Definitions

*Cross references.* — For nonapplicability of this chapter to memorials to Alaska veterans, see AS 44.35.030.

**Sec. 35.27.010. Purpose.** The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities. (§ 1 ch 54 SLA 1975)

*Legislative history reports.* — For House State Affairs Committee report on ch. 54, SLA 1975 (CSHB 133(Fin)), see 1975 House Journal, p. 567; for House Finance Committee report on that bill, see 1975 House Journal, pp. 713-714; for Senate Finance Committee letter of intent on that bill, see 1975 Senate Journal, p. 939.

**Sec. 35.27.020. Art requirements for public buildings and facilities.** (a) A building or facility constructed after June 30, 1975, or remodeled or renovated after June 30, 1975, shall include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art.

(b) The department, before preparing plans and specifications for buildings and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one percent or, in the case of a rural school facility, at least one-half of one percent of the construction cost of a building or facility approved for construction by the legislature after September 1, 1977, will be reserved for the following purposes: the design, construction, mounting and administration of works of art in a school, office building, court building, vessel of the marine highway system, or other building or facility which is subject to substantial public use.

(d) A building or facility with an estimated construction cost of less than \$250,000 is exempt from the requirements of this chapter unless inclusion of works of art in the design and construction of the building or facility is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities.

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department shall make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident artists for the commission of these art works. (§ 1 ch 54 SLA 1975; am §§ 1, 2 ch 96 SLA 1977; am §§ 1 — 4 ch 176 SLA 1980)

*Cross references.* — For the responsibilities of the Alaska State Council on the Arts in the management of the Art in Public Places Fund, see AS 44.27.060.

**Sec. 35.27.030. Definitions.** In this chapter

(1) "building" or "facility" means a permanent improvement constructed by the department; the term

(A) includes, but is not limited to,

(i) schools, office buildings, and court buildings;

(ii) other buildings which the commissioner determines are designed for substantial public use;

(iii) boats and vessels of the marine highway system;

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities;

(2) "commissioner" means the commissioner of transportation and public facilities;

(3) "construction cost" is that cost expended for the actual construction of the facility, exclusive of the costs of land acquisition, site investigation, design services, administrative costs, equipment purchases and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility. (§ 1 ch 54 SLA 1975; am §§ 3, 4 ch 96 SLA 1977; am E.O. No. 39, § 11 (1977); am §§ 5, 6 ch 176 SLA 1980; am § 57 ch 14 SLA 1987)

*Revisor's notes.* — Reorganized in 1987 to alphabetize the defined terms. repealed former paragraph (1), which defined "department."

*Effect of amendments.* — The 1987 amendment

### Chapter 30. Consistency with Local Government Plans and Ordinances.

**Section**

10. Review and approval by local planning authorities

20. Compliance with municipal ordinances

**Section**

30. Waiver

40. Definitions

**Sec. 35.30.010. Review and approval by local planning authorities.** (a) Except as provided in (b) of this section, before commencing construction of a public project,

(1) if the project is located in a municipality, the department shall submit the plans for the project to the planning commission of the municipality for review and approval;

(2) if the project is located within two miles of a village, the department shall submit the plans to the village council for review and comment;

(6) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any fishery resource in intrastate, interstate, or foreign commerce;

(7) "restaurant" includes a place maintained for the sale and on-premise consumption of food, and a street vendor who sells food prepared for immediate consumption. (E.O. No. 85 § 3 (1993))

### Chapter 27. Department of Education.

#### Article

- 1. Board and Department of Education (§§ 44.27.010, 44.27.020)
- 2. Alaska State Council on the Arts (§§ 44.27.040 — 44.27.060)

### Article 1. Board and Department of Education.

#### Section

- 10. Board and commissioner of education
- 20. Duties of Department

**Sec. 44.27.010. Board and commissioner of education.** There is at the head of the Department of Education a Board of Education. The commissioner of education is the principal executive officer of the department. (§ 11 ch 64 SLA 1959; am § 12 ch 96 SLA 1967)

**Collateral references.** — 63A Am. Jur. 2d, Public Officers and Employees, § 445; 68 Am. Jur. 2d, Schools, §§ 37 to 55; 72 Am. Jur. 2d, States, Territories and Dependencies, § 62. 78 C.J.S. Schools and School Districts, §§ 83 to 91.

**Sec. 44.27.020. Duties of Department.** The Department of Education shall

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, and adult basic education, but not including degree programs of postsecondary education;

(2) administer the historical library;

(3) plan, finance, and operate related school and educational activities and facilities. (§ 11 ch 64 SLA 1959; am § 77 ch 69 SLA 1970; am § 5 ch 86 SLA 1979; am E.O. No. 62, § 3 (1986))

### Article 2. Alaska State Council on the Arts.

#### Section

- 40. Creation
- 41. Composition
- 42. Appointment
- 43. Terms of office
- 44. Compensation
- 45. Chairman and vice-chairman

#### Section

- 50. Duties of council
- 52. Powers of council
- 54. Powers of chairman
- 56. Reports
- 58. National endowment funds
- 60. Art in public places fund

**Sec. 44.27.040. Creation.** There is created in the Department of Education an Alaska State Council on the Arts. (E.O. No. 44, § 4 (1980))

**Sec. 44.27.041. Composition.** The Alaska State Council on the Arts consists of 11 members, broadly representative of all fields of the performing, visual, and fine arts, who are widely known for their competence and experience or interest in connection with the performing, visual, and fine arts. (E.O. No. 44, § 4 (1980))

**Revisor's notes.** — Enacted as AS 44.27.050. Re-numbered in 1980.

**Sec. 44.27.042. Appointment.** The members are to be appointed by the governor from among citizens of the state. In making the appointments, consideration must be given to the recommendations made by representative civic, educational, and professional associations and groups concerned with or engaged in the production or presentation of the performing, visual, and fine arts generally. In making the appointments consideration must also be given to having statewide geographical representation on the council. The members of the council serve at the pleasure of the governor and their appointments are not subject to legislative confirmation. (E.O. No. 44, § 4 (1980))

**Revisor's notes.** — Enacted as AS 44.27.060. Re-numbered in 1980.

**Sec. 44.27.043. Terms of office.** The term of office of each member is three years. All vacancies are to be filled for the balance of the unexpired term in the same manner as original appointments. (E.O. No. 44, § 4 (1980); am § 32 ch 168 SLA 1990)

**Revisor's notes.** — Enacted as AS 44.27.070. Re-numbered in 1980. effective June 22, 1990, deleted a provision at the end of the first sentence pertaining to terms of members first appointed.

**Effect of amendments.** — The 1990 amendment,

**Sec. 44.27.044. Compensation.** The members of the council are not entitled to receive compensation for their services, but they are entitled to receive the same travel pay and per diem as provided by law for board members. (E.O. No. 44, § 4 (1980))

**Revisor's notes.** — Enacted as AS 44.27.080. Re-numbered in 1980.

**Cross references.** — For per diem and travel expenses, see AS 39.20.180.

**Sec. 44.27.045. Chairman and vice-chairman.** The governor shall designate a chairman and a vice-chairman from the members of the council to serve as such at the pleasure of the governor. The chairman shall be the chief executive officer of the council. (E.O. No. 44, § 4 (1980))

**Revisor's notes.** — Enacted as AS 44.27.090. Re-numbered in 1980.

**Sec. 44.27.050. Duties of council.** The duties of the council are (1) to stimulate and encourage throughout the state the study and presentation of the performing, visual, and fine arts and public interest and participation;

(2) to make surveys, which are considered advisable, of public and private institutions engaged in the state in artistic and cultural activities, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) to take steps necessary and appropriate to encourage public interest in the cultural heritage of the state and to expand the state's cultural resources;

(4) to encourage and assist freedom of artistic expression essential for the well being of the arts;

(5) [Repealed, § 2 ch 97 SLA 1986.]

(6) to manage the art in public places fund. (E.O. No. 44, § 4 (1980); am § 7 ch 176 SLA 1980; am § 2 ch 97 SLA 1986)

**Revisor's notes.** — Enacted as AS 44.27.100. Re-numbered in 1980.

**Sec. 44.27.052. Powers of council.** (a) The council may

- (1) hold public and private hearings;
- (2) enter into contracts, within the limit of funds available, with individuals, organizations, and institutions for services furthering the educational objectives of the council's programs;
- (3) enter into contracts, within the limit of funds available, with local and regional associations for cooperative endeavors furthering the educational objectives of the council's programs;
- (4) accept gifts, contributions, and bequests of unrestricted funds from individuals, foundations, corporations, and other organizations or institutions for the purpose of furthering the educational objectives of the council's programs; and
- (5) make and sign agreements and to do and perform any acts necessary to carry out the purposes of AS 44.27.040 — 44.27.060.

(b) The council may request and is entitled to receive from any department, division, board, bureau, commission, or agency of the state the assistance and data that will enable it properly to carry out its powers and duties. The council is authorized to receive state funds made available for its purposes. (E.O. No. 44, § 4 (1980); am § 39 ch 85 SLA 1988)

*Revisor's notes.* — Enacted as AS 44.27.110. Re-numbered in 1980. Divided into subsections (a) and (b) in 1989.

**Sec. 44.27.054. Powers of chairman.** Subject to available appropriations the chairman may, with the concurrence of a majority of the council, employ necessary personnel and may contract for the services of experts and other persons who may be needed. (E.O. No. 44, § 4 (1980))

*Revisor's notes.* — Enacted as AS 44.27.120. Re-numbered in 1980.

**Sec. 44.27.056. Reports.** The council shall report to the governor not later than November 1, 1966, and from time to time thereafter. The council shall notify the legislature when its reports are available. (E.O. No. 44, § 4 (1980); am § 91 ch 21 SLA 1995)

*Revisor's notes.* — Enacted as AS 44.27.130. Re-numbered in 1980.

*Effect of amendments.* — The 1995 amendment,

effective August 8, 1995, deleted "and the legislature" following "governor" in the first sentence and added the last sentence.

**Sec. 44.27.058. National endowment funds.** The council is the official agency of this state to receive and disburse funds made available by the National Endowment for the Arts. (E.O. No. 44, § 4 (1980))

*Revisor's notes.* — Enacted as AS 44.27.140. Re-numbered in 1980.

**Sec. 44.27.060. Art in public places fund.** (a) The art in public places fund is established. The council shall manage the fund.

(b) The commissioner of a department responsible for the design and construction of a building or facility shall deposit into the art in public places fund one percent of the construction cost of a building or facility if the building or facility is exempt from the requirements of AS 35.27 and the exemption is because

- (1) the estimated construction cost of the building or facility is less than \$250,000; or
  - (2) the building or facility is not designed for substantial public use.
- (c) The council may use the money in the art in public places fund

(1) to commission or purchase a work of art that is to be made a permanent part of, or placed on loan in, a building or facility owned or leased by the state that has substantial public use; and

(2) to meet expenses for a commissioned work of art for a building or facility that has substantial public use if the cost of the work of art exceeds the amount reserved under AS 35.27.020(c).

(d) In (c) of this section, "building" or "facility" means

(1) a building or facility of the state, as defined by AS 35.27.030(2), that is designed for and that is subject to substantial public use; and

(2) a building or facility that is leased by the state and subject to substantial public use. (§ 8 ch 176 SLA 1980; am § 97 ch 59 SLA 1982)

*Revisor's notes.* — Enacted as AS 44.19.942. Re-numbered in 1980.

*Secs. 44.27.061 — 44.27.076. Alaska Historical Commission. [Repealed, E.O. No. 63, § 3 (1987). For current law, see AS 41.35.300 — 41.35.380.]*

## Chapter 28. Department of Corrections.

### Section

10. Commissioner of corrections
20. Duties of department
30. Regulations

**Sec. 44.28.010. Commissioner of corrections.** The principal executive officer of the Department of Corrections is the commissioner of corrections. (E.O. No. 55, § 38 (1984))

**Sec. 44.28.020. Duties of department.** (a) The Department of Corrections shall administer the state programs of corrections, including

- (1) state adult penal institutions;
- (2) probation and parole supervision; and
- (3) extraditions and detainees.

(b) The department shall, with the approval of the Council on Domestic Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation programs for perpetrators of domestic violence as defined in AS 18.66.990. For purposes of AS 12.55.101, AS 18.66.100(c), and AS 33.16.150(f), the department shall determine whether a program meets the standards. (E.O. No. 55, § 38 (1984); am § 65 ch 64 SLA 1996)

*Effect of amendments.* — The 1996 amendment, effective July 1, 1996, added subsection (b).

**Sec. 44.28.030. Regulations.** The commissioner may adopt regulations to carry out or assist in carrying out the powers and duties of the department. (E.O. No. 55, § 38 (1984))

## Chapter 29. Department of Health and Social Services.

### Article

1. Organization (§§ 44.29.010 — 44.29.024)
2. Advisory Board on Alcoholism and Drug Abuse (§§ 44.29.100 — 44.29.200)
3. Alcoholism and Drug Abuse Revolving Loan Fund (§§ 44.29.210 — 44.29.230)

*PERCENT FOR ART*

*SAMPLES OF PERCENT FOR ART PROJECTS  
FROM ACROSS THE STATE*

*Prepared by the Alaska State Council on the Arts*



The Tradition, Innovation and Continuity collection is a permanent installation at the Anchorage International Airport. Traditional and contemporary Native Alaskan Artwork was collected over several years, and the final display cases were completed in FY97.

Located in the Domestic terminal of the airport, this display provides immediate information on some of the cultural resources so vital to our state. Some of the visitors at the airport have commented that "the artwork was breathtaking and shows the best that Alaska has to offer." This first view can inspire visitors to purchase other locally crafted items for their own collections.



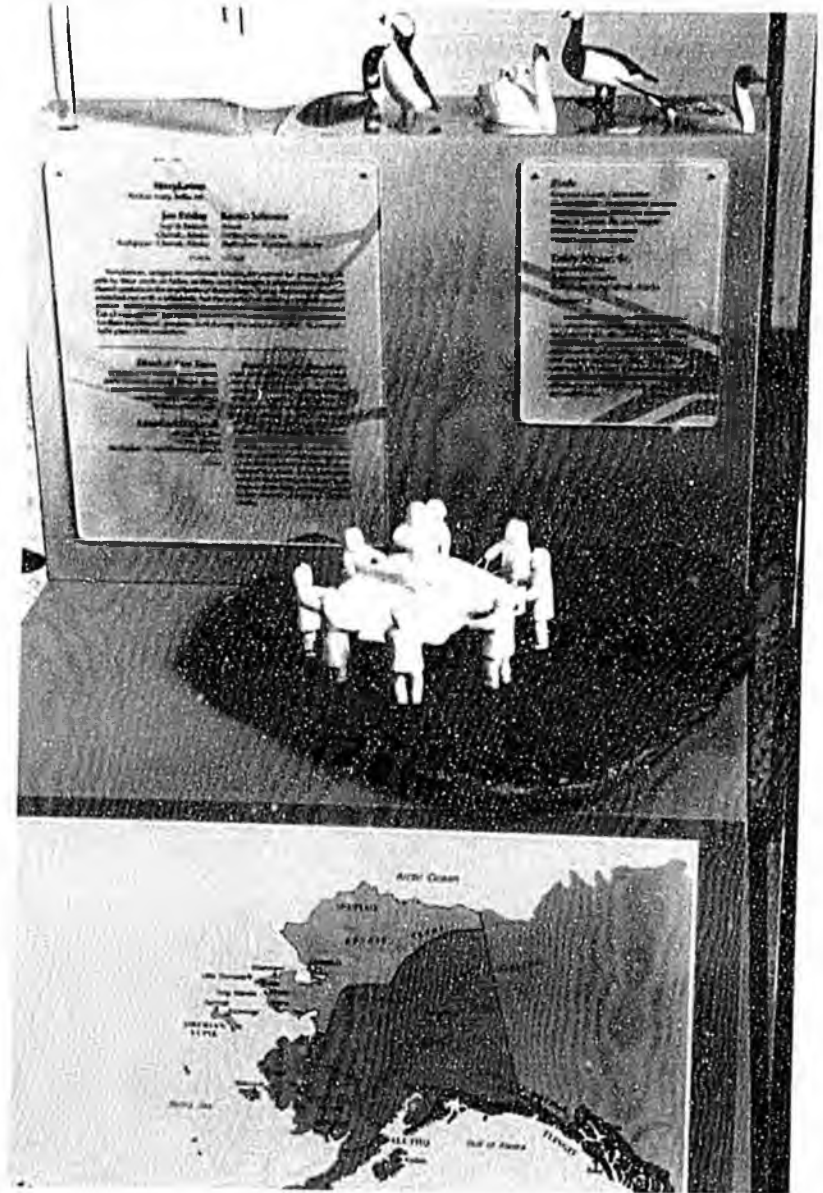
A wonderful collection of dolls at Anchorage International Airport.

Some of the artists represented here are Dolly Spencer, recipient of a National Heritage Award. Also included are Floyd and Amelia Kingeekuk, and Theresa Smart.

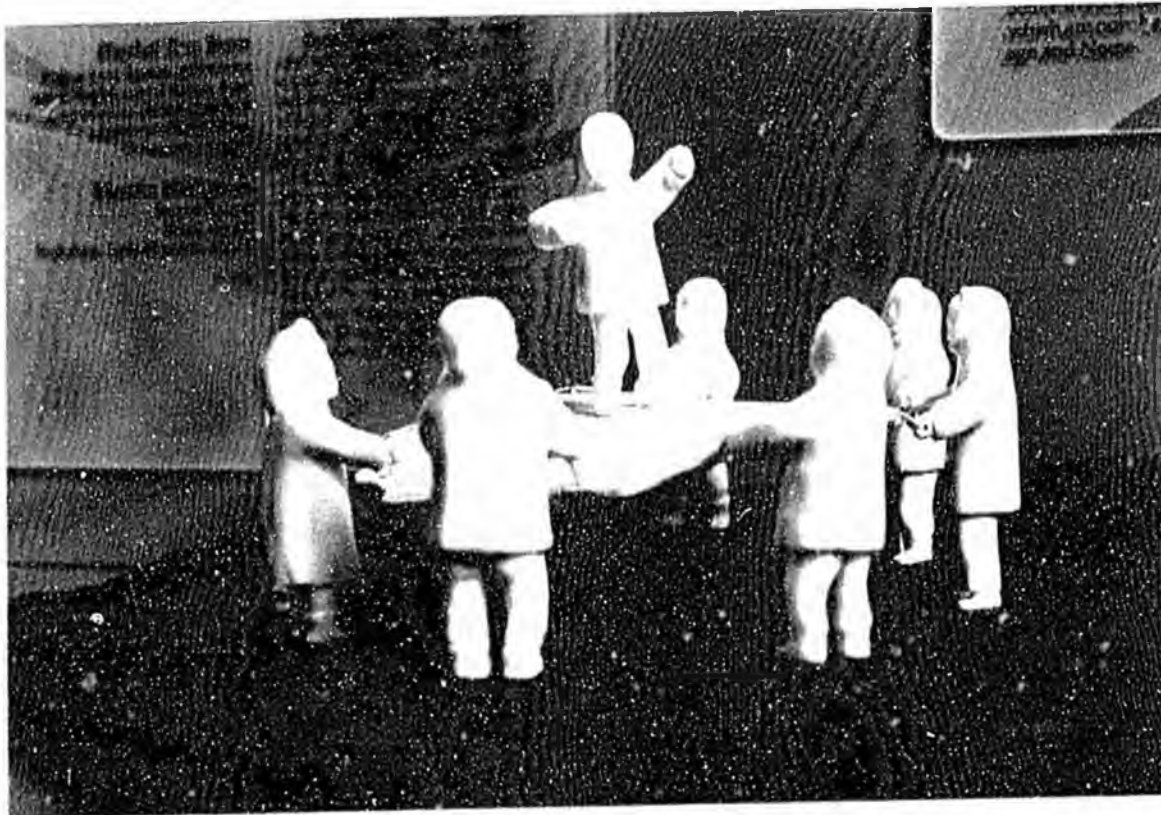
This case displays masks and drums, as well as models of performers from the cultures throughout the State. The display is intriguing to those who view it.

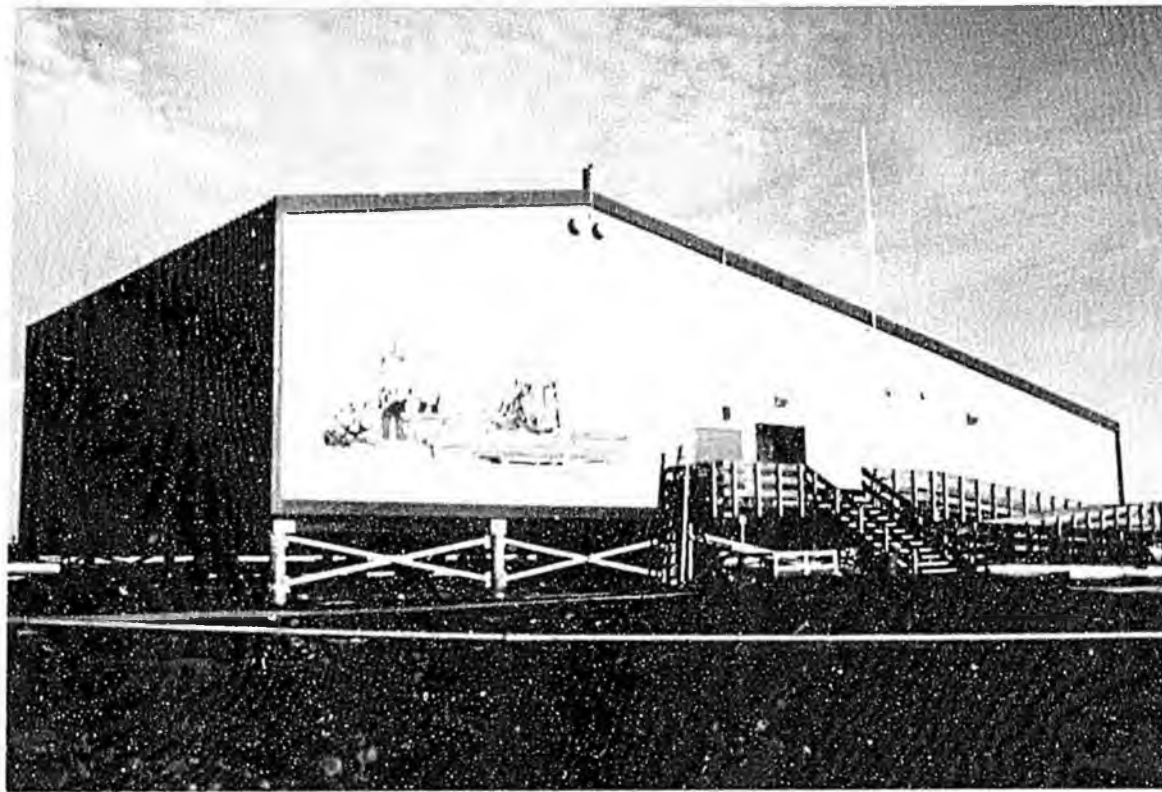


The Ivory Collection. The work of Joe Friday from Chevak; Kevin Johnson, Dillingham; and the Blanket Toss Scene by Lincoln Milligroek, Nome.

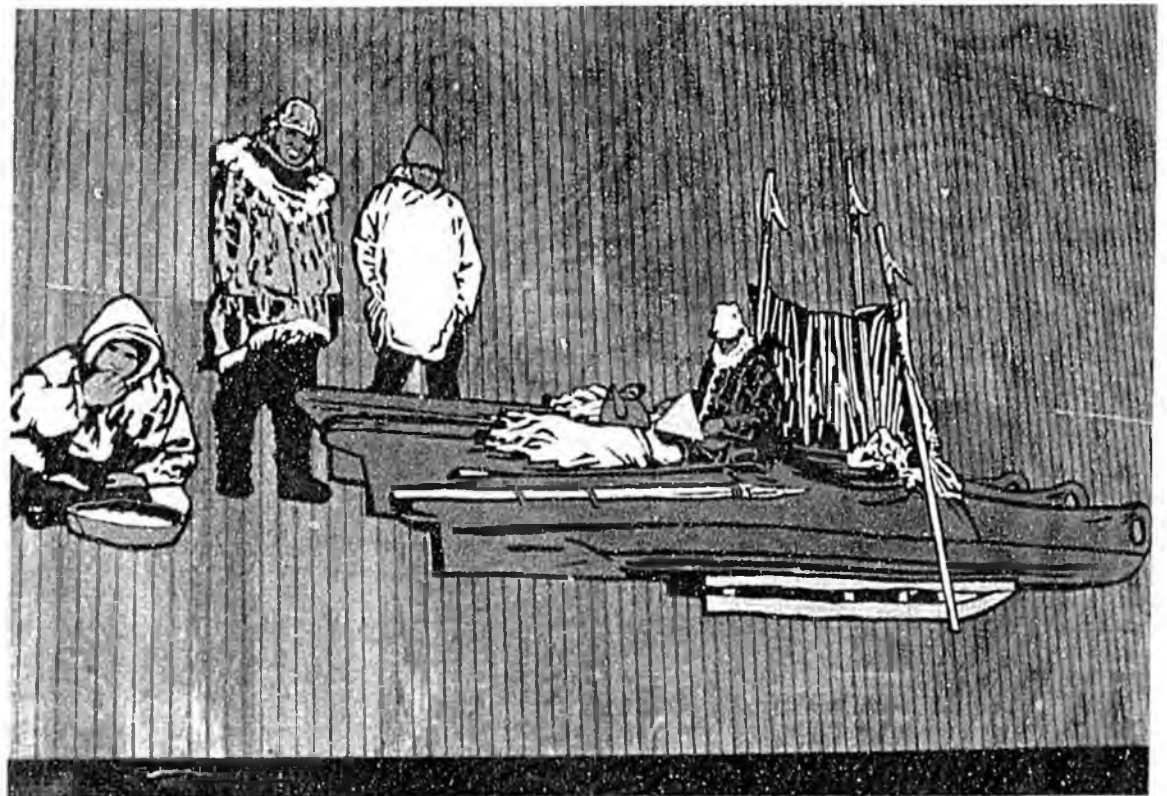


This is a small portion of the total collection.

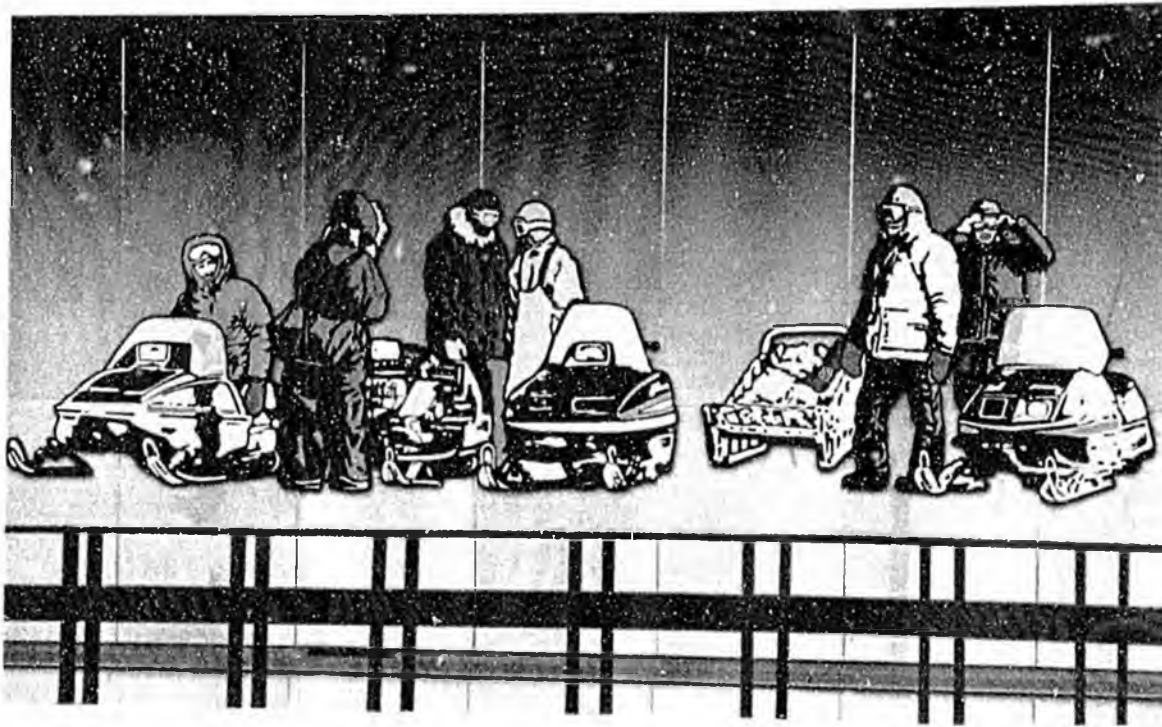




Rural Schools participate in the 1/2% for the arts program. This example is from Chebournak High School. "SEAL HUNTERS", by Jimmie Froehlich, show the effect on building



Detail of "SEAL HUNTERS"



Jimmie Froehlich's "SNO-GOS AND GUYS" at Bethel Regional High School. This is a good example of the different themes that can be presented through the program. The local community members selected this theme for their school.

Sandra Stolle, an artist living in Seward carved this panel "NIULON", representing subsistence fishing for the Kotzebue Courthouse.





"DANCING TOGETHER ON THE WINDS OF CHANGE" A stained glass commissioned for the Willowaw Elementary School in Anchorage by Chugiak artist Vivienne McConnell. Ms. McConnell was very excited about the process used by the schools. Photos of the students were taken, and students participated in the drawings.





Carla Moss, Bronze Eagles  
installed at Gruening Jr. High

Cordova Artist Susan Ogle  
designed and painted these  
large Robert Service  
*Call of the Yukon*  
paintings for Service  
High School in Anchorage.

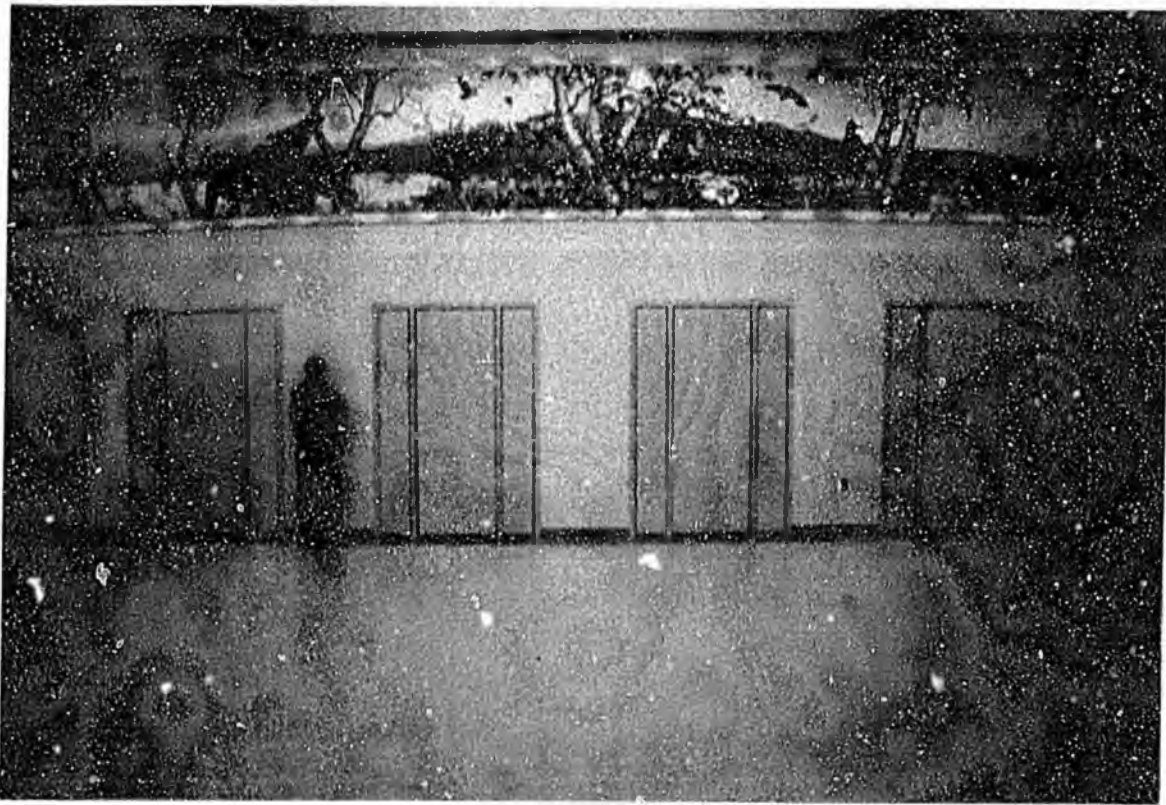




Mike Sirl designed and fabricated this Mother and Baby moose sculpture in Homer from Corten steel for Kasuun Elementary School in Anchorage.

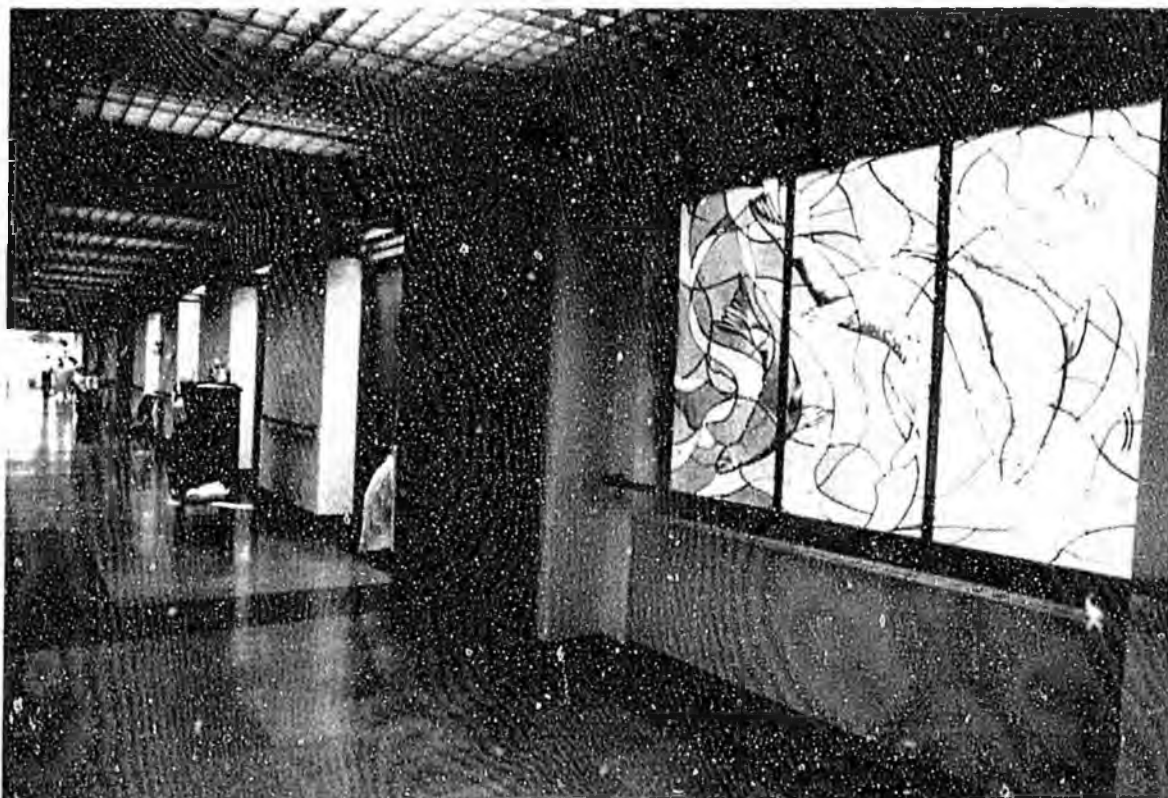
Everyone loves these MOOSE.





Tom Stewart, an Anchorage painter stands under his forty foot mural depicting the "Birchwood Calendar" at Birchwood Elementary School in Eagle River. The scene below is from the spring section of the mural.





Stained glass panels by artist Michal Kennedy brighten the hallway of the Anchorage Pioneer Home.





Ketchikan Pioneer Home  
"SOUTHEASTERN RAINFOREST"  
by Ken DeRoux

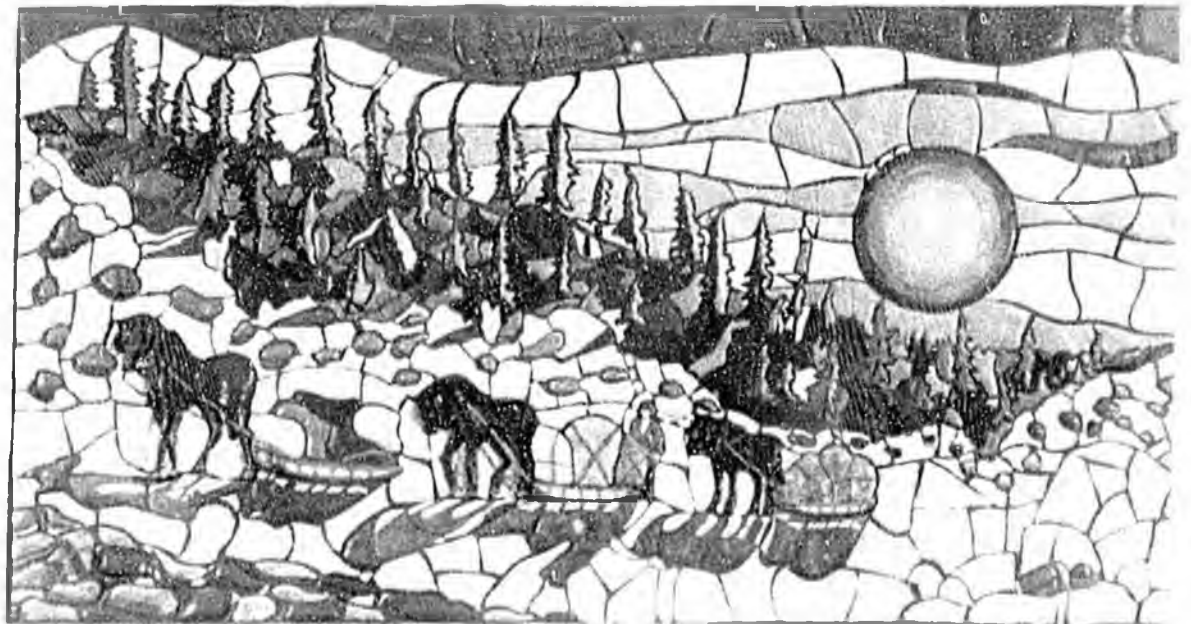


Homer artist, Gail Parsons: "WILDFLOWERS",  
originally commissioned by the  
Anchorage Pioneer Home.  
Because of remodeling, the series has been  
moved to the Anchorage Courts Administration offices.



Harold Balaz designed this mural of fish for the Trail Lakes Fish Hatchery.

"DOUBLE ENDERS ON THE VALDEZ TRAIL," by Fairbanks artist Liz Biesiot, installed at the Ft. Greely School.



**State Percent for Art Program Activity, FY97**

Agency	Building	Location	Budget	Project Detail	Status
Alaska Gateway School District	Tok School	Tok	\$61,610	8 contracts for 15+ art works	Contracts signed, 80% work installed
City & Borough of Juneau	River Bend School	Juneau	\$84,000	N/A	Selection Process pending, RFP's out May 15
City & Borough of Juneau	Capital School Park	Juneau	\$18,000	Restoration/Installation of Totem	Complete
DOT/PF	M/V Kennicott	n/a	\$102,000	pending	In progress, RFP out
Fairbanks N.S.B. School Dist.	Arctic Light Elementary	Fairbanks	\$89,000	3 major installations & various smaller work	Complete
Fairbanks N.S.B. School Dist.	Anne Wien Elementary	Fairbanks	\$90,000	4 major installations	Contracts signed, installations due Fall 97
Fairbanks N.S.B. School Dist.	Crawford Elementary	Eielson AFB	\$97,878	Pending	Project RFP out, selection due June 97
Ketchikan Gateway Borough SD	Ketchikan High School	Ketchikan	\$70,000	3 installations	Contracts signed, installation due Oct. 97
University of Alaska Anchorage	Business Education	UAA Campus	\$160,000	4 major installations & various smaller work	In Progress, RFP out March 97
University of Alaska Anchorage	Aviation Tech. Center	Merrill Field	\$20,000	One major installation ???	In Progress
University of Alaska Anchorage	Machetanz Building	Mat-Su Campus	\$25,255	??	Nearly complete
University of Alaska Fairbanks	Natural Sciences	Fairbanks	\$230,373	4 major installations	Contracts signed, installations nearly complete
University of Alaska Southeast	Student Housing	Auke Lake Campus	\$24,000	9 installations	RFP out, selection due June 97
<b>FY97 Total</b>			<b>\$1,072,116</b>		

**FY98 Activity**

University of Alaska Fairbanks	Butrovich Bldg.	Fairbanks	\$183,199	N/A	Selection Process begins Oct. 97
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March 20, 1997

House State Affairs Committee Hearing on HB 143

Testimony of Shannon Planchon, ASCA Grants Administrator (Percent for Art Coordinator)

Alaska State Council on the Arts

Representative James and Members of the House State Affairs Committee:

Thank you for the opportunity to testify. For your convenience and the record, I have provided a copy of my remarks to the staff. I have two handouts, a two-page program brief, and a summary of percent for art projects to which the Council provided technical assistance in the current fiscal year.

I am here to testify against the passage of HB 143. I'll open with a few general comments on the importance of public art, and then move on to specific comments on the Percent for Art program.

Public art has been commissioned since the antiquities. It is one of the important ways in which we can come to know and understand civilization. Try to picture Rome, London, or Washington, DC without public art. Public art is a legacy to the leaders and cultures that produced it.

Today, there are over a hundred public percent for art programs in the United States. The Federal government, twenty-nine states, and scores of cities operate percent for art programs. Anchorage is the only city in Alaska to operate a municipal program, and it is managed by a full-time position at the Anchorage Museum of History and Art.

At the State level, the Percent for Art program operates without a direct administrative expense. Every dollar spent in the Percent for Art program goes directly to the art project. The program has no staff. Responsibility for compliance is that of the department constructing the building or facility. Departments are required to consult with ASCA (35.27.020 [b] and [e]). Until 1986 the Council's Visual Arts Coordinator provided Percent for Art program services, but due to budget cuts the position was eliminated in 1986. Although the Council has a strong interest in the proper operation of the program, we do not have management authority or responsibility over projects. Every department, agency, or school district maintains the authority to develop public art appropriate for their building or facility. This is important-- every art selection committee is locally based.

The Council considers Percent for Art an ideal program, and a fiscally conservative program. When the State's budget is robust, a very small percentage of a capital project is reserved for public art. When times are tough (as they are now), projects are cut back. Responsibility for the amount Percent for Art activity is held by the Legislature and its passage of the capital budget.

Art commissioned and installed under AS 35.27 becomes a permanent part of the building or facility. Amortized over the life of a building, the cost of public art is a modest investment in the enhancement of the public environment and the quality of life in Alaska.

Now, about the Art in Public Places Fund. This Fund has a balance of approximately \$34,044. As you know, under AS 35.27, a building or facility with an estimated construction cost of less than \$250,000, and/or a building or public facility without substantial public use, is exempt from the Percent for Art Program. For these buildings or facilities, AS 44.27.060 (Art in Public Places Fund) established a fund with which the ASCA can purchase art for permanent installation or loan. The balance of the fund is not a reflection of current spending, but the accrual of projects from 1987.

Will HB 143 save the State money? Yes, but its not what you think. The arts council is providing technical assistance and services to thirteen projects totaling approximately \$1,054,110. These projects are funded by capital appropriations dating back to FY94. I've distributed a handout that shows you a summary of this work.

HB 143 would negatively effect the two constituencies the Percent for Art program is designed to serve: the public and artists. Public Art is an aesthetic enrichment of the public environment that comments on who we are as Alaskans, and what it means to live, work, and study in this place. The biggest public impact of the repeal would be on Alaska's schools and children. The vast majority of current percent for art activity takes place in schools or university buildings. Artists would also be severely effected. The program is a vital means of supporting the development Alaskan artists' skills and careers. It means work for artists (about 875 Alaskan artists are on the Council's Percent for Art mailing list).

Again, the Alaska State Council on the Arts is opposed the passage of HB 143. I would be happy to answer any questions.

Thank-you.

G:\LEG\HSA143.WPD

The program is a vital means of supporting the development Alaskan artists' skills and careers. It means work for artists (about 875 Alaskan artists are on the Council's Percent for Art mailing list).

Repeal of the Percent for Art program would not affect the Capital budget. One percent is not added to the cost of capital projects, rather, once appropriated, it is dedicated to public art. If the program is repealed, this percent will be absorbed in other costs associated with projects. Here are six points to keep in mind:

**1. Percent for Art Activity Tracks State Spending**

In some ways the Council considers Percent for Art an ideal program. When the State's budget is robust, a very small percentage of a capital project is reserved for public art. When times are tough (as they are now), projects are cut back. Responsibility for the amount Percent for Art activity is held by the Legislature and its passage of the capital budget.

**2. Percent for Art Projects Are Permanently Installed**

Art commissioned and installed under AS 35.27 becomes a permanent part of the building or facility. Amortized over the life of a building, the cost of public art is a modest investment in the enhancement of the public environment and the quality of life in Alaska.

**3. Percent for Art in a Historical Perspective**

Public art has been commissioned since the antiquities. Public art is one of the important ways in which we can come to know and understand civilization. Try to picture Rome, London, or Washington, DC without public art. Public art is a legacy to the leaders and cultures that produced it.

Today, there are over a hundred public percent for art programs in the United States. The Federal government, twenty-nine states, and scores of cities operate percent for art programs. Anchorage is the only city in Alaska to operate a municipal program, and it is managed by a full-time position at the Anchorage Museum of History and Art.

**4. Capital Spending and Percent for Art**

The Council is working with active Percent for Art projects for the M/V Kennicott, the UAA Business Education Building, the UAF Natural Sciences Building, and the Mchetanz Building at the Matanuska-Susitna College in Palmer. This is not a comprehensive list, but a summary of projects with which the Council is currently involved. It often takes months or years after the budget is passed for Percent for Art Projects to be announced.

#### **5. Percent for Art Has No Central Coordination**

Responsibility for compliance is that of the department constructing the building or facility. Departments are required to consult with ASCA (35.27.020 [b] and [e]). Until 1986, the Council's Visual Arts Coordinator ran the Percent for Art program (due to budget cuts the position was eliminated in 1986). However, the Council has never had clear authority to either manage the program or enforce compliance. AS 35.27 and 44.27.060 (Art in Public Places Fund) do not provide for enforcement of the law. Without management authority and staff, it is sometimes difficult to track projects and/or compliance.

#### **6. Art in Public Places Fund**

The Art in Public Places Fund has a balance of \$34,044.32. Under AS 35.27, a building or facility with an estimated construction cost of less than \$250,000, and/or a building or public facility without substantial public use, is exempt from the Percent for Art Program. For these buildings or facilities, AS 44.27.060 (Art in Public Places Fund) established a fund with which the ASCA can purchase art for permanent installation or loan in other public places. The balance of the fund is not a reflection of current spending, but the accrual of projects dating back to 1987.

## House State Affairs Committee

March 20, 1997

HB 143

from: Michael Olson

I attended and made comments during the teleconference today but had to get to another meeting and was unable to elaborate on the formula for the one percent program. I am a volunteer member of the art selection committee for the new state ferry, M/V Kennicott so I'm deeply immersed in the process.

Here is the break down for the \$83 million construction of the ferry as pertaining to the \$105,429 for the percent for art program. This formula was provided by Joe Ver, Terminal and Ship Services Manager, Alaska Marine Highway System.

Design costs: \$3,268,800

Project/CE costs account for the remainder of the cost since ATP for total cost \$83 million.

FHWA % of total design and construction costs including project costs =  $65/83 = 78\%$

FHWA funds for design =  $\$3,268,800 \times .783 = \$2,559,470$ .

FHWA funds for construction =  $\$65,000,000 - \$2,559,470 = \$62,440,530$

State funds for construction =  $\$72,983,445 - \$62,440,530 = \underline{\$10,542,915}$

State funds for art work =  $1\% \times \$10,542,915 = \$105,429$

The existing contract includes 80 hours @  $\$42.33/\text{hr} = \$3,386$

The remaining funds for the design, construction, mounting and administration of works of art =  $\$105,429 - \$3,386 = \underline{\$102,043}$ .

From the \$102,043 we spent; \$2,100 in advertising for artists letters of interest. Before any art work is actually purchased we need to purchase display cases to house three-dimensional artwork and hire a contractor to frame and mount all flat artwork to assure safety on an ocean vessel. The cost of writing and sending out RFPs and contracts, teleconference calls between the 6 committee members and AMHWS (Juneau), Consultant (Seattle) contractor (Mississippi) other telephone/fax, shipping costs of artwork to Mississippi and the cost to fly, feed and house all 6 committee members to Juneau to review and select the art all comes off the top of the 1%.

Constructing the ship in Mississippi by construction workers in that state feed into their southern economy not Alaska's. Contracting Alaskan artists will be the only way to feed Alaska's economy from this project. Although the vessel will sail Alaskan waters the only tangible thing about

the ship to make it Alaskan will be the artwork. Our art committee chose to have an Alaska coastal theme to all the artwork on the vessel. This will give the ship character and create ownership to all Alaskans while sharing that character to all those traveling to our state.

Without the percent for art project this vessel would be a sterile, characterless transport ship (period).

Please **DO NOT** allow Mr. Vezey and his bill deprive people from experiencing a creative glimpse into Alaska based culture while visiting our public buildings or traveling to our state aboard our ferries.

Thank you.

Michael Olson

P.O. Box 2152      320 Third Ave.  
Seward, AK 99664 (907) 224-7162

March 20, 1997

Representative Jeanette James  
FAX: (907) 465-2381

Dear Representative James:

I am writing to ask that you ~~reject~~ House Bill 143 regarding the Percent for Art Program.

I enjoy a variety of art and believe that the vast majority of the public does as well. So much art seems geared to a special segment of society and not for the masses. This is the beauty of Percent for Art. It provides each of us "regular folks" with a view into an artist's imagination that we might not ordinarily get.

A great many of our public events, including community schools classes, take place in the public schools around town and it is a pleasure to drive up and marvel at the variety of colors, styles and materials that are used. My son and I always "spot the art" when we go by our local schools.

It increases my enjoyment of living in this state to see this fantastic art (I also have enjoyed the public art in Fairbanks). Although there may be one or two pieces that don't appeal to me, I guarantee you there are more public building designs that bother me than the art in and around them. My quality of life is increased by this wonderful art just as it is by good roads, bike trails and good law enforcement.

As a mother of two young children I appreciate all the things about this state that make living here a pleasure. Good art is one of them whether it's a totem pole, a clock tower or a mural.

I look forward to raising my children here knowing that there are those in our state government who care about people like me and my family who are not here for the fast buck. We are contributors and would like to see that acknowledged.

Thank you again for your thoughtful consideration of my message.

Sincerely,



Christa H. Metzger  
8449 Jupiter Drive  
Anchorage, AK 99507  
(907) 346-3449



March 19, 1997

Jeanette James  
The Alaska Legislature  
State Capitol  
Juneau, Ak. 99801-1182


This letter is in support of the current Percent for Art program. It is my understanding that a new bill has been introduced to repeal the current legislation. After twenty years in Alaska I have seen this attempted repeal introduced at least 9 times. Fortunately each time the legislature realizes that no financial saving will result, no increased amount for construction or smaller bottom line will occur.

In almost every case this is a reaction to some constituent who doesn't like a particular piece of art in a specific building. The reality is that this service enhances our quality of life, makes the buildings more appealing to the public and supports a number of artists and related workers involved in the construction and installation of the work.

Repeal of this bill will only continue to create unappealing public buildings that cost the same and offer no amenities to the public they serve.

Please reconsider any attempt to repeal this existing law.

Sincerely,



Darl Schaaff, Owner