

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672
11002 HOUSE RULES

SB

1900

Amendment # 1

*Adopted
w/out
amendments*

OFFERED IN THE House:

To: House CS for CS for SB 190(CRA) – KRSMA

1 Page 5, line 9,

2 following " municipalities", insert "adjacent to the Kenai River"

3

4 Page 5, line 10,

5 Following "groups.", delete "An"

6 insert "Unless appointed as a representative of a user group, resident

7 property owners] a municipality adjacent to the Kenai River, or other interest

8 group, an"

9

10 Page 5, line 12,

11 Following "board", insert "only as an ex officio member serving without a
vote.

12 Page 5, line 12,

13 Following "of the", insert "voting"

ALASKA STATE LEGISLATURE



Official Business

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January – May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December

145 Main Street Loop; Suite 226

Kenai, AK 99611

Phone: 907-283-7996 Fax 907-283-3075

May 5, 2004

MEMORANDUM

To: Representative Norm Rokeberg, Chairman
House Rules Committee

From: Senator Tom Wagoner 

Subject: SB 190 Committee Hearing

I would appreciate your scheduling a meeting with the House Rules Committee to hear Senate Bill 190 Kenai River Special Management Area.

I have attached a packet of information for you, and if you should have any question please contact my aide, Amy Seitz, x3421.

Thank you for your time and consideration.

CHANGES TO SB 190(STA) IN H(CRA)

Page 5, line 9

“adjacent to the Kenai River” was deleted

Page 5, line 11

“as an ex officio member serving without a vote” was deleted

Page 5, line 12

“voting” was deleted after “A majority of the”

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 190(STA)
 (S) Publish Date: 1/21/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Kenai River Special Management Area RDU Parks & Recreation Mgt.
 Component Parks Management
 Sponsor Sen. Wagoner
 Requester (S) STA Component No. 452

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 Gr						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill adds a number of parcels of land in the lower Kenai River area to the Kenai River Special Management Area (KRSMA). These lands are currently being managed by the Division of Parks and Outdoor Recreation. The proposed additions include a portion of those envisioned in both the 1997 Revised Kenai River Comprehensive Management Plan, adopted by DNR in 1997, and the Kenai Area Plan adopted by DNR in 2000. The bill also excludes state or federal employees from serving as public members of the Advisory Board.

There is no fiscal impact anticipated with implementation of this legislation.

Prepared by: Pete Panarese Phone 269-8700
 Division: Parks Date/Time 1/20/04
 Approved by: Thomas Irwin, Commissioner Date 1/20/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 190(STA)
 (S) Publish Date: 1/21/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Kenai River Special Management Area RDU Sport Fisheries
 Component Sport Fisheries Habitat
 Sponsor Senator Wagoner
 Requester Senate State Affairs Component No. 2698

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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 (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cos: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Kelly Hepler, Director Phone 465-4180
 Division Sport Fish Date/Time 1/16/04 4:18 PM
 Approved by: Commissioner Kevin Duffy Date 1/16/2004
 Agency Alaska Department of Fish & Game

ALASKA STATE LEGISLATURE



Official Business

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January – May
State Capitol, #427
Juneau, AK 99801
Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December
145 Main Street Loop; Suite 226
Kenai, AK 99611
Phone: 907-283-7996 Fax 907-283-3075

Sponsor Statement House CS for CSSB 190(CRA)

“An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area advisory board; and providing for an effective date.”

To provide the protection and management of the Kenai River system called for in the comprehensive management plan, certain state-owned land must be Legislatively added to the boundary of the Kenai River Special Management Area (KRSMA). KRSMA is managed as a unit of the Alaska State Parks system in the Department of Natural Resource under AS 41.21.500.

The lands that Senate Bill 190 will add to the Kenai River Special Management Area are primarily the 536 acres acquired as habitat and recreation lands under funds from the Exxon Valdez Oil Spill settlement. There are also a few isolated tracts of state land that had been overlooked during the initial 1984 KRSMA legislation.

Existing park staff assigned to the Kenai River Special Management Area will be adequate to cover additional management responsibilities for these acres.

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Sectional Analysis House CS for CSSB 190(CRA)

“An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area; relating to the Kenai River Special Management Area advisory board; and providing for an effective date.”

Section 1 States that the purpose of SB 190 is to add certain state-owned land and water to the Kenai River Special Management Area

Section 2 Amends AS 41.21.502(a)(4)(L) by adding in the parcels of land that will be in the Kenai River Special Management Area. These are primarily EVOS lands, with a couple parcels that were left out of the original bill.

Section 3 Amends AS 41.21.502(c) by rewording the statute so it reads more clearly.

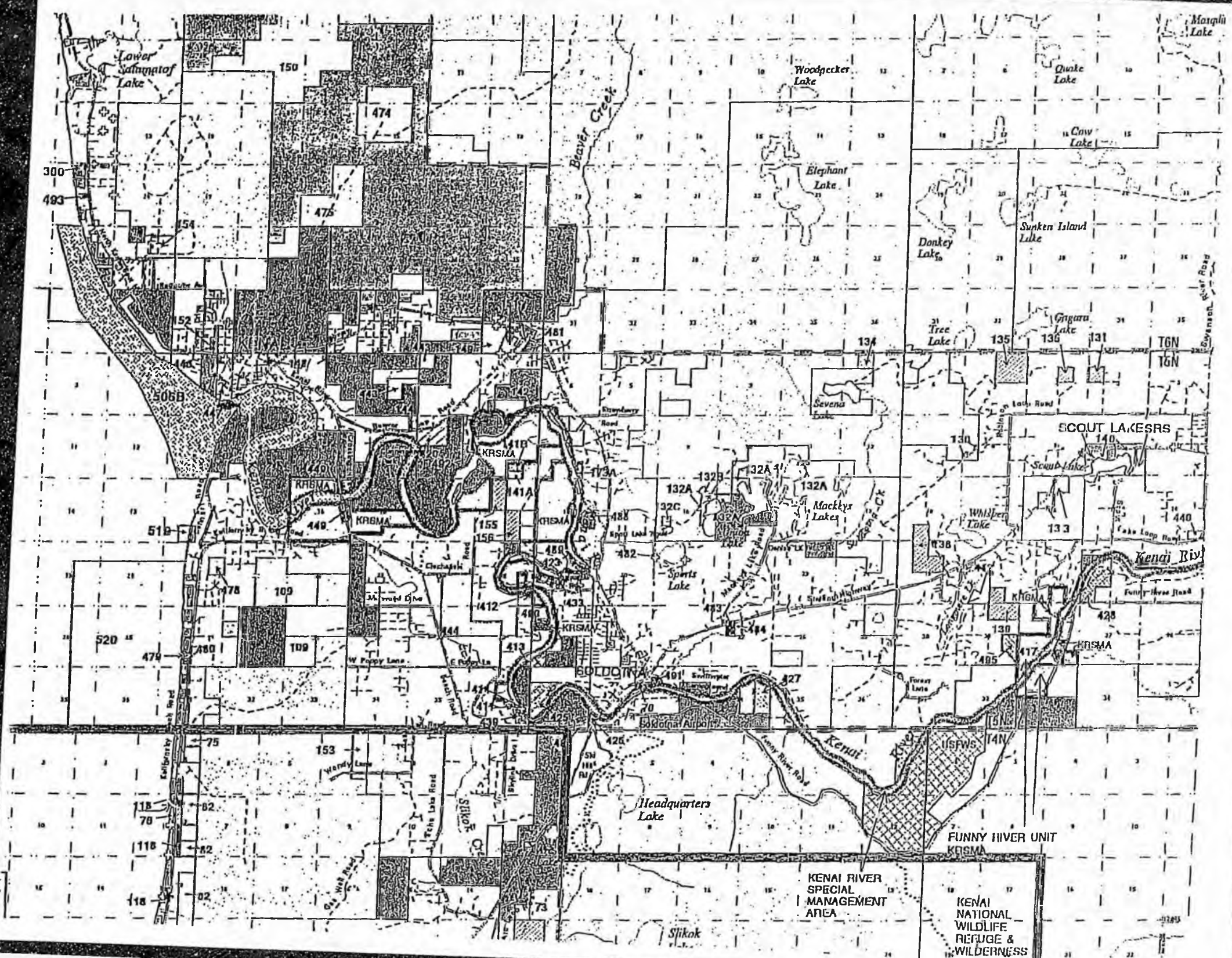
Section 4 Has a language change to AS 41.21.510(b), but does not make any changes to the board.

Section 5 Immediate effective date.

RE: SB 190, Kenai River Special Management Area
Department of Natural Resources
February 27, 2004
Senate Resources Committee

- The subsurface estate is the dominant estate.
- EVOS Conservation Easements only apply to the portion of the estate acquired with EVOS funds.
- The use of lands acquired with EVOS funds is controlled by the terms of the conservation easements on them. The KRSMA designation does not affect the conservation easements.
- Conservation easements associated with EVOS lands apply to the specific land interest acquired. If the subsurface estate was not part of the purchase, the conservation easement cannot limit access to the mineral estate any more than the surface owner of any parcel of land can limit access to the minerals underlying his estate.
- Typically we did not acquire the subsurface estate with EVOS funds. If we did acquire the subsurface estate on any of the EVOS funded parcels, utilization of the minerals on that specific parcel would be limited by the terms of the Conservation Easement.
- Typically the oil and gas rights on many of the EVOS acquired parcels were previously conveyed to the State of Alaska via patent and as such would not be subject to the terms of the Conservation Easement.
- Generally, the Conservation Easement on EVOS acquired parcels is consistent with Parks Management intent and the KRSMA designation.
- The conservation easement has no effect on adjacent parcels.

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02893

Advisory Board Statement of Purpose

The purposes for which this Board is organized are as follows:

1. To provide a forum for the collection and expression of opinions and recommendations on matters relating to State parks and outdoor recreation;
2. To promote protection of the natural and cultural features of State parks and other State lands;
3. To promote communication among the general public, other government agencies, and the administrators of State parks;
4. To inquire into matters of community interest relating to State parks and outdoor recreation; to bring matters of interest to the attention of the public;
5. To appear and testify at public and legislative hearings as representatives of State parks users and neighbors;
6. To make recommendations to the Director of the Division of Parks and Outdoor Recreation concerning, among other things, the following:
 - (a) promoting the protection and enhancement of the State's historic and recreational resources,
 - (b) promoting the interpretation and public presentation of the natural and human history of park lands,
 - (c) increasing public awareness of human impacts on parks,
 - (d) promoting orderly and consistent planning development and management programs for State parks and cultural and outdoor recreation resources,
 - (e) identifying diverse public recreation uses,
 - (f) mitigating conflicts among user groups;

**KENAI RIVER SPECIAL MANAGEMENT AREA
ADVISORY BOARD**

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**KENAI RIVER SPECIAL MANAGEMENT AREA
ADVISORY BOARD**

	Term Expires
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<p>Ted Wellman Davis, Wright, Tremaine 701 West 8th Avenue Suite 800 Anchorage, AK 99501 e-mail: tedwellman@dwt.com</p>	<p>Phone: 257-5300 (W) 345-4654 Fax: 257-5399 10/01/05</p>
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<p>Jim Golden P O Box 1723 Soldotna, AK 99669 e-mail: jbgolden@alaska.net</p>	<p>Phone: 262-7491 (W) 262-7482 (H) 10/01/04 -</p>
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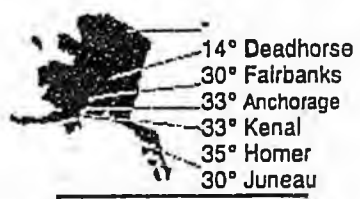
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Web posted Sunday, April 18, 2004

Wagoner bill gets KRSMA backing

By **MATT TUNSETH**
Peninsula Clarion

Something's better than nothing.

The Kenai River Special Management Advisory Board on Thursday endorsed a bill in the Alaska State Senate that would add approximately 536 acres to the Alaska State Parks management area < but not before board members voiced their frustration that the inclusion falls short of what they'd like to see added.

"I find it to be woefully inadequate," said board member Paul Shadura.

"This is another frustrating wall we've hit here," echoed board member Jim Golden.

The board members directed their remarks toward staff members from the office of Sen. Tom Wagoner, R-Kenai, who were participating in the meeting via teleconference. Wagoner is the sponsor of the bill in question < SB 190.

Their comments seemed to strike a nerve with Wagoner's staff, who wondered aloud about board members' assertion that the bill doesn't go far enough to add lands into the special management area.

"If it wasn't worth your trouble, why did you bring it to the senator?" asked Mary Jackson, a member of Wagoner's staff.

Jackson's remarks seemed to cause board members to soften their position.

"That's 500 acres more than we had before," pointed out board member Jeff King.

Another issue for the board to consider regarding the bill had to deal with the provision that state officials not be allowed to serve on the board. Currently, the board includes seats for members of state and federal agencies. Under Wagoner's bill, those seats would remain, but agency officials would be included as ex-officio members without the right to vote.

by topic, or click on the day to see the stories from the past week.

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On that issue, the board seemed to feel that although agency officials provide valuable input, taking away voting privileges was less of an issue than getting at least some land added to the management area.

"To me, the land inclusion < even if it is 500 acres < trumps that," King said.

Shadura, however, said he believes agency representatives provide valuable input and shouldn't be excluded from being full members.

"One of the reasons I come to this board is to be able to sit with federal and state agencies," he said.

Jackson said Wagoner believes agency members do provide valuable input, and that the ex-officio provision would still allow those agency members to lend their expertise to the board.

"It's just flat stupid to turn away talent," she said.

In the end, the board decided the inclusion of the 536 acres was worth its endorsement and voted 10-3 to relay the message to Wagoner that he should continue pushing the bill.

The board, however, did not speak in favor of a potential addition to the bill being pushed by Rep. Kelly Wolf, R-Kenai. Jackson said Wolf is seeking to include a provision that would disallow "derby-style fishing events" that attract large amounts of anglers to the river.

Board members who spoke to Wolf's proposal were unanimous in their belief that the proposal is a thinly-veiled attack on the Kenai River Sportfishing Association's annual Kenai River Classic, and they took issue with Wolf's desire to include a provision that seems to have little to do with the original bill.

"I don't like it to be tagged on to the bill," said board member Ted Wellman, who likened Wolf's proposal to comparing apples and oranges. "I think that's inappropriate."

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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

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FAX: (907) 269-8918

March 4, 2004

Mona Painter, President
Cooper Landing Community Club
PO Box 508
Cooper Landing, AK 99572

Dear Mrs. Painter:

Thank you for your February 3, 2004 letter concerning your support for adding lands along the shoreline of Kenai Lake to the Kenai River Special Management Area (KRSMA), and your recommendation that these lands be added to SB 190. I understand that there has long been interest in Cooper Landing to see additional lands added to the KRSMA.

This session, Senator Tom Wagoner introduced SB 190 to only add lands in the lower Kenai River watershed to the KRSMA. I am not aware that the upper Kenai River watershed state lands are vulnerable to threats that might warrant their addition to KRSMA, plus the Division of Parks and Outdoor Recreation's operating budget is so limited that it might be difficult for our agency to take on the additional responsibility for new lands added to the park system. We feel it is up to the local community and your legislative delegation to recommend any additional lands to KRSMA.

I recommend that you contact Senator Wagoner to discuss amending SB 190, consistent with the wishes of the local community. Thank you again for taking the time to share your recommendations for the upper Kenai River watershed.

Sincerely,



Thomas E. Irwin
Commissioner

cc: Senator Tom Wagoner
Gary A. Morrison, Director, Parks and Outdoor Recreation

Track # 04-1021

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STATE OF ALASKA

FRANK H. MURKOWSKI
GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

February 20, 2004

The Honorable Thomas Wagoner
Alaska State Senate
Room 427, State Capitol
Juneau, AK 99801

Dear Senator Wagoner,

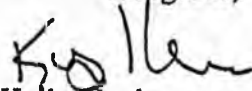
The Alaska Department of Fish & Game supports Senate Bill 190.

Section 2 of this bill adds lands purchased specifically for conservation purposes into the Kenai River Special Management Area (KRSMA). Most of these lands are wetlands not available for other uses, but which are critical habitats, and as such, we support their inclusion into the KRSMA.

Section 4 excludes employees, elected officials, or other representatives of a federal or state governments from being appointed to the Kenai River Special Management Area Advisory Board. Alternatively, it allows such individuals to serve as non-voting advisory members. We support this change. We do not believe it is appropriate for these individuals to hold voting seats, but do feel their input is necessary and valuable.

Please let me know if you have any questions.

With best regards,



Kelly Hepler
Director, Division of Sport Fish
Alaska Department of Fish and Game

Subject: KRSMA board SB190

Date: Sun, 21 Mar 2004 15:03:30 -0900

From: "Mona Painter" <painter@arctic.net>

To: <Mary_SIROKY@legis.state.ak.us>

CC: <cameron_yourkowski@legis.state.ak.us>

Dear Chairman Carl Morgan:

My name is Jim H. Richardson from Cooper Landing, AK. After retirement I served for over five years as a public member from Cooper Landing for the Kenai River Special Management Area Board. This board has been the most effective body for receiving public input and preparing consolidated recommendations to D. N. R. for action that I encountered in my entire 33 year career of natural resource management with B.L.M. Many of the questions or issues brought before the board could be answered or resolved on the spot because all the key agency people were there. The recommendations in the Kenai River Plan were the result of public meetings in Soldotna, Cooper Landing, Anchorage, and elsewhere to gather public comments and formulate them into specific proposals.

I am deeply concerned by the portion of S. B. 190 that would take away the voting rights of agency and other members. This would discourage active agency participation and result in for less useful recommendations.

I recommend that this portion of the bill be deleted and the KRSMA Board be left to operate as t has so effectively in the past.

Jim H. Richardson

P. O. Box 757

Cooper Landing, AK 99572

Email:mrich@alaska.net

STATE OF ALASKA

Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair
PO Box 721
Cooper Landing, AK 99572-0721
Phone: 595-1540

March 20, 2004

Honorable Carl Morgan
Chair, House Community and Regional Affairs Committee
State Capitol Building,
Juneau, AK 99801-1182

SENT BY FAX 2 PAGES

SUBJECT: Senate Bill 190

Dear Chairman Morgan and Committee Members

At our meeting of March 18, 2004, the members of the Cooper Landing Advisory Committee voted unanimously to OPPOSE Section 4 of Senate Bill 190, changing the KRSMA Advisory Board Membership, and asked me to relay this opposition to our District Representative Paul Seaton which I did. His office informed me that your House Committee would be holding a hearing on March 23 and suggested that I contact you direct with our concerns.

The Cooper Landing AC SUPPORTS adding Lower River Lands to KRSMA, Section 2 of SB 190, and hope more additions can continue to be added in the future. However, we strongly feel that the proposed change to the voting membership of the KRSMA Advisory Board, Section 4 of SB 190, is certainly not in the best interest of Community of Cooper Landing and is bad policy for all Alaskans. We ask you to OPPOSE this section and AMEND TO REMOVE Section 4 before enactment of SB 190.

Cooper Landing is an unincorporated community whose residents depend on the health of the Kenai River Watershed and its adjacent land for their economic well-being and quality of life. While our voting population is small, much of the river's resources and viable habitat are in our area. The Community has depended for many years on good working relationships with ADF&G, DNR Lands and Parks, the Kenai National Wildlife Refuge, and the Forest Service for the management of our area's most vital resources. As proposed in Section 4 of SB 190, these land managers and resource experts would no longer vote on Kenai River issues vital to Cooper Landing while leaving the Municipalities of Soldotna, Kenai and the Borough as voting members. This change would shift the power to manage the Kenai River to the population base at the mouth of the river and be to the detriment of the residents of the Upper Kenai River and all Alaskans and other users in general.

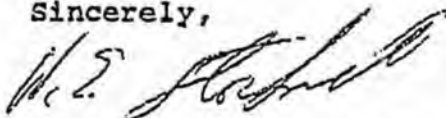
PAGE 2 COOPER LANDING ADVISORY COMMITTEE MARCH 20, 2004

We believe that the changes proposed in Section 4 of SB 190 violate the original intent of the 1984 KRSMA Act. In Section 1, Findings, of the 1984 Act it states: "A multitude of state and federal agencies with jurisdiction over various aspects of the river and adjacent public lands creates a labyrinth of regulation without effectively preventing the river's deterioration. The river's fishery and wildlife are its most important resources. The highest priority uses of the river and its adjacent land derive from its fishery and wildlife which must be protected and preserved to ensure their renewability and continued usefulness. To solve the river's problems a need exists for a comprehensive management plan for the river and its adjacent land and for coordinated management."

Coordinated management of the Kenai River Watershed requires that all land and water managers, resource managers, users and the public have equal seats at the table and that all have an equal voice and vote. To do otherwise violates the original findings of the act. Depriving all governmental entities except municipalities from vote is both unwise and poor public policy. While the health the Kenai River is of importance to adjacent municipalities, their expertise is not in management of fish and wildlife habitat and resources but in the development of land for growth and tax purposes. To leave the municipalities adjacent to the Kenai River as the only governmental entities with vote certainly seems to violate the finding that "The river's fishery and wildlife are its most important resources."

Thank you for allowing us this opportunity to provide testimony on Senate Bill 190 and thank you for examining our concerns and comments. We ask that Section 4 of SB 190 be removed in fairness to all Alaskans. If you need more information or have any questions, please contact Bill Stockwell by phone or fax at 595-1540.

Sincerely,



Bill Stockwell, Chair

cc: Representative Paul Seaton
ADF&G Board Support

**ADVISORY BOARD**

February 20, 2004

The Honorable Tom Wagoner
Alaska State Legislature
State Capital
Juneau, AK 99801

Dear Senator Wagoner:

During the February 19th meeting of the Kenai River Special Management Area Advisory Board, a discussion of SB 190 was held. As you are aware, the KRSMA Board has long advocated for additional lands being added to the KRSMA, so that lands important for fish and wildlife resources and habitat and for recreation are protected for the benefit of all.

We support the addition of the 550 acres of land in the lower river that are identified in SB 190. We decided to offer no comments on the section of the bill relating to the Advisory Board makeup with the exception that we recommend that the wording be changed to permit a public member to serve as a voting member, even if they happen to be an employee of a state or federal agency. That person would not be serving as an agency representative, and under the current wording, one of our board members who was recommended by the community of Cooper Landing would be unable to serve as he also happens to be an employee of the state. We don't believe that it was your intention to prevent this type of service, and urge you to amend this section accordingly.

Thank you for the opportunity to comment on this bill.

Sincerely,

Ken Lancaster
President, KRSMA Advisory Board





February 20, 2004

CITY OF KENAI

" Oil Capital of Alaska "

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99511-7794
TELEPHONE 907-283-7535
FAX 907-283-3014



Senator Thomas H. Wagoner
State of Alaska
State Capitol, #427
Juneau, AK 99801

RE: **SENATE BILL 190 - LETTER OF SUPPORT**

Senate Bill 190 has been crafted to add certain state-owned lands into the Kenai River Special Management Area (KRSMA), as well as change the membership of the Board, identifying agency representatives as ex-officio non-voting members.

At their regular meetings of January 21 and February 18, 2004, the Kenai City Council reviewed Senate Bill 190 and the properties to be added to the Management Area.

Addition of Properties: Of those properties proposed to be added to the Management Area, two are situated inside the boundaries of the City of Kenai -- Government Lot 9 and Tract A-1B. The Kenai City Council voiced no objections to these properties being added to the Management Area.

Board Restructuring: Though voting privileges will be removed, the proposed amendments continue to acknowledge the importance of inclusion of agency representation and participation on the Board. The Kenai City Council voiced no objections to these proposed amendments.

The Kenai City Council supports the proposed amendments to AS 41.21.502 and AS 41.21.510 included in Senate Bill 190. The Council also emphasizes the importance of the amendment to AS 41.21.501(b) to ensure the representation of user groups, resident property owners, and municipalities are those who are "adjacent to the Kenai River."

If you have any questions, please contact us at 283-8231.

CITY OF KENAI

A handwritten signature in cursive that reads "James C. Bookey, III".

James C. Bookey, III
Vice Mayor

JCB/clf

Subject: SB190 Resources Committee Testimony

Date: Mon, 16 Feb 2004 14:39:40 -0900

From: <akscitec@alaska.net>

To: Senator_Thomas_Wagoner@legis.state.ak.us

Dear Senator Wagoner,

This is testimony of the Friends of Cooper Landing (FOCL), for the Senate Resources Committee hearing on SB 190, Monday, February 16, 2004.

We are a broad-based community organization, which understands from long experience how important a healthy Kenai River and watershed are to the life and economy of people living on the Kenai Peninsula. For that reason FOCL supports adding critical parcels of land to the Kenai River Special Management Area.

Unfortunately we cannot support SB 190 in its current form, because it will negatively impact river management. State and Federal agencies are responsible for maintaining the health of the Kenai River System. Removing State and Federal agency voting memberships will simply politicize the KRSMA Board, and potentially allow special interests to dominate. That would be very unwise, as well as be inappropriate for a management board. We strongly oppose this section of SB 190, which is unacceptable as written.

Thank you,

Bob Baldwin, President
Friends of Cooper Landing
akscitec@alaska.net



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 98689-7699
BUSINESS (907) 262-4441 FAX (907) 262-1892

**DALE BAGLEY
MAYOR**

VIA FAX: 907 465-4779

Senator Tom Wagoner
State Capitol, Rm. 427
Juneau, AK 99801-1182

Dear Senator Wagoner:

I support the provisions of Senate Bill 190 that provides for more local control of the Kenai River Special Management Area Advisory Board by making state and federal agency representative ex-officio members of the board.

I strongly oppose having any additional land added to the Kenai River Special Management area.

Sincerely,

A handwritten signature in cursive script that reads "Dale L. Bagley".

Dale Bagley
Kenai Peninsula Borough Mayor

January 30, 2004

Honorable Tom Wagoner
Senator, Alaska State Legislature
State Capitol
Juneau, Alaska, 99801-1182

Dear Senator Wagoner,

I met you and your wife, Dorothy, at Diana and Jim Zirul's party this past New Year's Eve. We talked a short time about your home dry wall needs, SBS being closed on Sundays, and our new Home Depot being open.

I hear you have a keen interest in the long term health and well being of the Kenai River and are sponsoring SB-190 to legislatively add State-owned public lands to the Kenai River Special Management Area Plan (KRSMA). I strongly support your leadership in doing this. Even though I'm a member of the KRSMA Advisory Committee, I'm writing to you as a very interested private property owner and stakeholder in the economy of the Kenai Peninsula. I believe aggressive management of the Kenai River and Kasilof River watersheds is vital to the long term prosperity of our community. However, I would like to try to convince you to strengthen SB-190 by adding the state-owned public lands and waters in the upper Kenai River watershed, as listed in CS HB-165. Those lands and waters provide a significant portion of habitat and spawning areas for Kenai River sockeyes. I worry that leaving these upper River State-owned lands and waters in limbo risks sale and development or uncontrolled impacts on these habitats, to the detriment of the watershed and our economy. As you may know, CS HB-165 passed the House in 2001 essentially on a unanimous vote. For reasons unknown to me, CS HB-165 "died" in committee in the Senate in 2001 because of objections raised by your predecessor, John Torgerson. Since he is apparently no longer a factor in this matter, it seems likely that SB-190, if supplemented by the additional public land tracts listed in CS HB-165, with one possible exception, would be a non-controversial bill in both the Senate and the House. That possible exception could be the tract of land along the SW shore of Kenai Lake, which contains the Chugach Electric Association (CEA) aqueduct from Cooper Lake to CEA's power generating station. Since it seems that CEA could be concerned that designating this land as KRSMA might impact their re-licensing process, it

might be prudent to set that tract aside for now and concentrate on the rest of the upper watershed lands and waters that are not controversial.

For your information, I have sent a letter to US Senator Ted Stevens requesting he personally endorse SB-190, and a similar letter, with the recommendations and rationale above, to Senator Gary Stevens and suggested he join you in sponsoring SB-190. I have also sent similar letters to Representatives Mike Chenault, Kelly Wolf and Paul Seaton requesting they support your (hopefully supplemented) bill in the House. If all the pertinent State-owned lands are legislatively added to the KRSMA through SB-190, there is no doubt in my mind it would be a key milestone in contributing to the health and well being of the Kenai River, and provide long lasting economic benefits to the Peninsula.

Thank you for any response or action you may take on these requests. I have included a separate, short biographical sketch to help you understand my interest and involvement in the requests in this letter.

Sincerely,



Richard Hahn

P.O. Box 2754

Soldotna, Alaska, 99669

907-262-8575

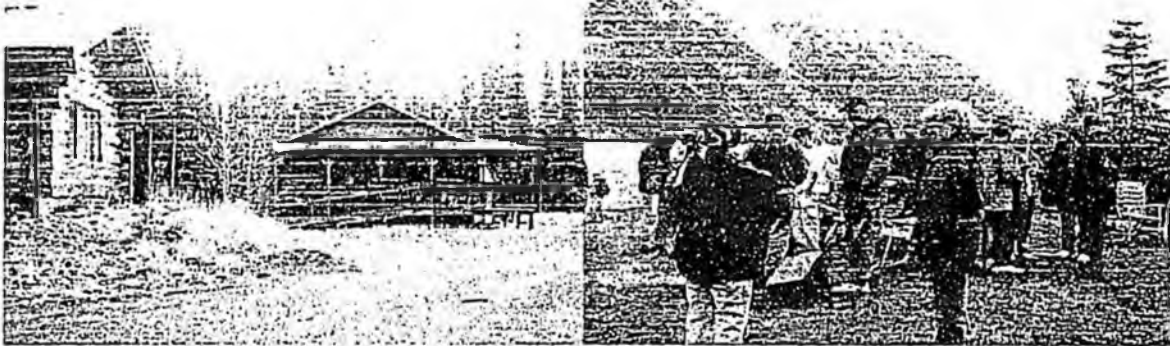
email rdhahn@ptialaska.net

Cooper Landing Community Club

Since 1949---community center park, cemetery, rifle range recreation property, museum property,
Helen Rhode Memorial Park permit, ambulance and fire department property lease...

PO Box 508 Cooper Landing, AK 99572

February 3, 2004



At community center park, Bean Creek Road

At Snail-a-thon Beach (KAP Unit 390)

Tom Irwin, Commissioner
Department of Natural Resources
400 Willoughby Avenue, Suite 500
Juneau, AK 99801

Dear Commissioner Irwin:

After receiving several emails and two phone calls regarding Senate Bill 190, I brought this matter before the Cooper Landing Community Club members at the Jan. 29, 2004 meeting. I read the letter the CLCC wrote to Commissioner Shively Jan. 30, 2000 (copy enclosed) during discussion. The CLCC passed a motion to once again confirm our belief in the Cooper Landing Advisory Planning Commission's comments regarding the Kenai Area Plan included in the 1996 Cooper Landing Land Use Classification Plan For Borough-Owned and Borough Selected Lands. I will enclose a copy of that section of the plan. The focus of the attention was on section c on page 31 of 35 recommending that shoreline lands along Kenai Lake be included in the Alaska State Park System... These lands were not included in SB 190.

Sincerely,

Mona Painter, President

(907) 595-1248
painter@arctic.net

copies:
State Parks Kenai Area Supt. Degernes,
Kenai Pen. Borough Mayor Bagley,
Senator Tom Wagoner
Senator Gary Stevens
Representative Dan Ogg



COOPER LANDING COMMUNITY CLUB, INC.

Since 1949---Library, Park, Cemetery, Ambulance Squad, Dall Homemakers, Gun Club
P.O. Box 508 Cooper Landing, AK 99572

John Shively, Commissioner
Department of Natural Resources
400 Willoughby Avenue, 5th Floor
390

Juneau, AK 99801

January 30, 2000

re: Kenai Area Plan, particularly Unit 390

Dear Commissioner Shively:

We reaffirm the Cooper Landing Advisory Planning Commission's comments regarding the Kenai Area Plan in the Cooper Landing area which were written to Bruce Talbot and Nancy Pease of the Department of Natural Resources on May 11, 1995. These comments are included in our Cooper Landing Land Use Classification Plan For Borough-Owned and Borough Selected Lands adopted by the Kenai Peninsula Borough via Ordinance 96-37: An Ordinance Incorporating The 1996 Cooper Landing Land Use Plan Update as an Element of the Kenai Peninsula Borough Comprehensive Plan.

Unit 390, which includes lands between Snug Harbor Road and Kenai Lake in which our Snail-a-thon beach/community picnic site is located, is of particular concern to us since Kenai Peninsula Borough Mayor Dale Bagley has requested this state land be available for Kenai Peninsula Borough selection. We want this area kept for public access recreation, scenic value, and habitat protection. We do not want this land developed. The annual Snug Harbor Snail-a-thon is the biggest community fund raiser for support of the community park and the Cooper Landing Elementary School bringing in over \$45,000. through the years. Approximately 100 people gather annually on that beach for this one event.

Cooper Landing residents enjoyed the use of the Snail-a-thon beach/community picnic site even before the Snug Harbor Snail-a-thon began in 1980. This is one place on the Cooper Landing end of Kenai Lake that people can access without going through private property, a USFS campground, or through the power transmission line right-of-way. Residents who cannot walk from the Snug Harbor Road can be driven to the beach so that even physically challenged folks can enjoy this beautiful site.

Our affirmation comes to you through a motion which passed unanimously at our regularly scheduled meeting January 27, 2000. The meeting and agenda were publicized in advance.

Sincerely,

CC: DNR Talbot, DNR Loeffler, DNR Degernes,
Senator Torgerson Representative Davis
K. P. Borough Mayor Bagley
CLAPC Wilson

Mona Painter, President
(907) 595-1248
painter@arctic.net

V. STATE LAND

1. Recommendations to the State re: State Lands

Although this plan (1996 Cooper Landing Land Use Plan Update) applies to land which has all ready been selected by the Borough, significant consideration was given to the Kenai Area Plan as set forth by the State of Alaska Department of Natural Resources because of the likelihood of selection of these lands by the Borough in the future.

On May 11, 1995, the CLAPC forwarded a letter to DNR outlining the Commission's concerns and recommendations for the lands in the Cooper Landing area addressed in the Kenai Area Plan. Appendix #3 is a copy of this letter.

Map "D", in the back of this document, shows some of the Kenai Area Plan Recommendations.

In cases where the State is still considering the Borough's selections, Unit Numbers have been assigned to these areas and are being discussed as part of the Kenai Area Plan. A Final Decision issued by the State of Alaska gives the Borough management authority on those lands and issuance of a Patent may or may not include certain conditions on the transfer of ownership and/or changes in the amount of acreage conveyed.

The following is a brief summary of the recommendations forwarded to the State DNR:

- a. The CLAPC considers Units numbered 388, 389, 390, 391, 393A, 393B, 394A, 394B, 395, and 396 as falling within the planning area, and/or having a significant affect on the community of Cooper Landing.
- b. That the Kenai Area Plan Planning Team consider certain portions of the 1992 Community Recommendations On A Land Use Plan for Borough Lands; specifically, the portion beginning "Land Status and Existing Land Use" and the Survey Results (of) Cooper Landing Community Goals. The directions for community growth and expansion expressed in this document reflect our goals for both state and borough lands. The plan should be useful to State Land Management Planners in formulating State Land Use Decisions in the Cooper Landing area.
- c. The CLAPC recommends that the state shoreline lands along Kenai Lake and its tributary streams be included in the Alaska State Park System for habitat protection, scenic value, and public access as specified in Kenai River Special Management Area, 1986. These

Cooper Lake Roads are appropriate per Section 1A of Cooper Landing community Goals Survey, August 1991.

GENERAL COMMENT: While the CLAPC supports traditional firewood and house-log use of Units 388 and 389, we question the utility of sales like the current hemlock rich, 240 acre Cooper Lake sale. We oppose extensive permanent road construction in this area and support the State's designation of winter removal on proposed sales. The community would rather limit permanent roads to planned development projects.

The Commission is concerned with the broad commercial leasing guidelines for Unit 388 and would like to work with the state on more refined designations with greater protection of habitat and recreation values around Cooper Lake. The community recommendations for borough-selected lands were crafted during the winter of 1995-1996. It is the intention of the Commission members to continue working with the state on Cooper Lake designations and guidelines to balance community expansion needs with retention of current recreation values. Future commercial and residential land disposals in Unit 388 and 389 must be coordinated with development plans on borough-selected lands and must be subject to community comment and approval.

VI. POTENTIAL NEW SELECTIONS UNDER AS 29.65

1. Recommendations to the Borough re: State and Borough Lands.

Although the above recommendations were addressed to the State, the following sections are included herewith as recommendations for selection/classification process (and other suggestions) to be considered by the Kenai Peninsula Borough.

- a. The selection of the 1,138-acre Unit 395 for community expansion as a residential subdivision with consideration for the integrity of the Resurrection Pass Trail System and surrounding fish and wildlife habitat. Also, all residential recommendations are contingent upon the ability of the developer to provide adequate road access, adequate sewage disposal facilities, and a potable water supply.

The commission recommends a 200 foot preservation greenbelt along either side of the Juneau Bypass state right-of-way, with limited access, and no roadside commercial development.

- b. The selection of the 523-acre Unit 394B for community expansion as commercial and residential subdivision. The northeast corner of this parcel where the Sterling Highway runs directly along the Kenai River to the south of Cooper Creek Campground is an important bald eagle winter feeding area and should be protected either by inclusion in State

- b. There is to be NO access to or from the new alignment other than the departure from the existing road at either end of the bypass. The NO ACCESS issue is not a matter taken lightly by the community

Diverting traffic away from the business district could be damaging to the community's economic base. Most businesses rely heavily on tourism and it is difficult enough to operate on a seasonal basis. It is important to the residents that Cooper Landing remain a viable, thriving community.

VII. IMPLEMENTATION

While this 1996 Update to the 1992 CLLUP provides recommendations to the KPB on the classification of its land, it is not a revision of the 1992 CLLUP. The CLAPC is encouraged to update the 1992 CLLUP to address the many significant issues affecting the Cooper Landing community as mentioned in the introduction.

KPB 17.10.080(l) states that "classification or reclassification shall be compatible with any land use plan adopted under the borough comprehensive plan or another plan approved the assembly. If a proposed classification or reclassification is not compatible with an approved land use plan, a plan revision shall be necessary before the classification or reclassification is adopted." Classifications are general land use recommendations. Within each classification definition there is significant latitude to implement the classification. It is not until KPB land is disposed or developed for a public purpose that classification is ultimately implemented. Prior to development, large tracts of KPB land need to be, at a minimum, surveyed, soil tested, and subdivided. This could cause the modification of classification boundaries. Specific decisions on items such as lot size and alignment of roads can only be decided during the subdivision planning and development stage.

Certain preexisting land uses have been determined through filing of subdivision plats and reservations in conveyance instruments. Specifically, land that has been subdivided has established or dedicated access, easements, and, in some cases, development setback and non-development buffer areas. Where these decisions have been made through the platting process, classification recommendations do not supersede the subdivision plat. Additionally, land use plans and KPB classifications are subject to any restrictions and reservations imposed on the property by patent or conveyance documents from the State of Alaska, the United States or the Kenai Peninsula Borough.

The Southern Intertie Route Selection Study Phase 1, dated May 3, 1996 shows Cooper Landing as being affected by one of the alternate corridors. The alternate alignment generally parallels the existing Quartz Creek transmission line. Should this alignment be selected the right-of-way for the intertie would be an additional 150 feet.

Thanks for SB 190

Subject: Thanks for SB 190

Date: Thu, 22 Jan 2004 17:27:21 -0800

From: "Wellman, Ted" <tedwellman@DWT.com>

To: "'Senator_Thomas_Wagoner@legis.state.ak.us'" <Senator_Thomas_Wagoner@legis.state.ak.us>

Thanks for introducing SB 190. I would like to encourage you to consider adding other lands in the upper part of the river to KRSMA that are equally or more critical to the health of the river in future legislation. The original bill Ken introduced contained the main tributaries of the river such as Trail River and areas around Trail Lake, Funny River, Quartz Creek, a few parcels around Kenai Lake, Cooper Landing and other other similar areas. If memory serves me correctly, none of the land had to be purchased. If there is controversy, affected parcels could be left out. What I would like to see is the salmon streams be protected before development makes a mess of the rearing habitat as has been done on the Lower Kenai. . I would happy to show you on the map these other lands when convenient for you. Thanks again for your help

Ted Wellman<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Davis Wright Tremaine, LLP

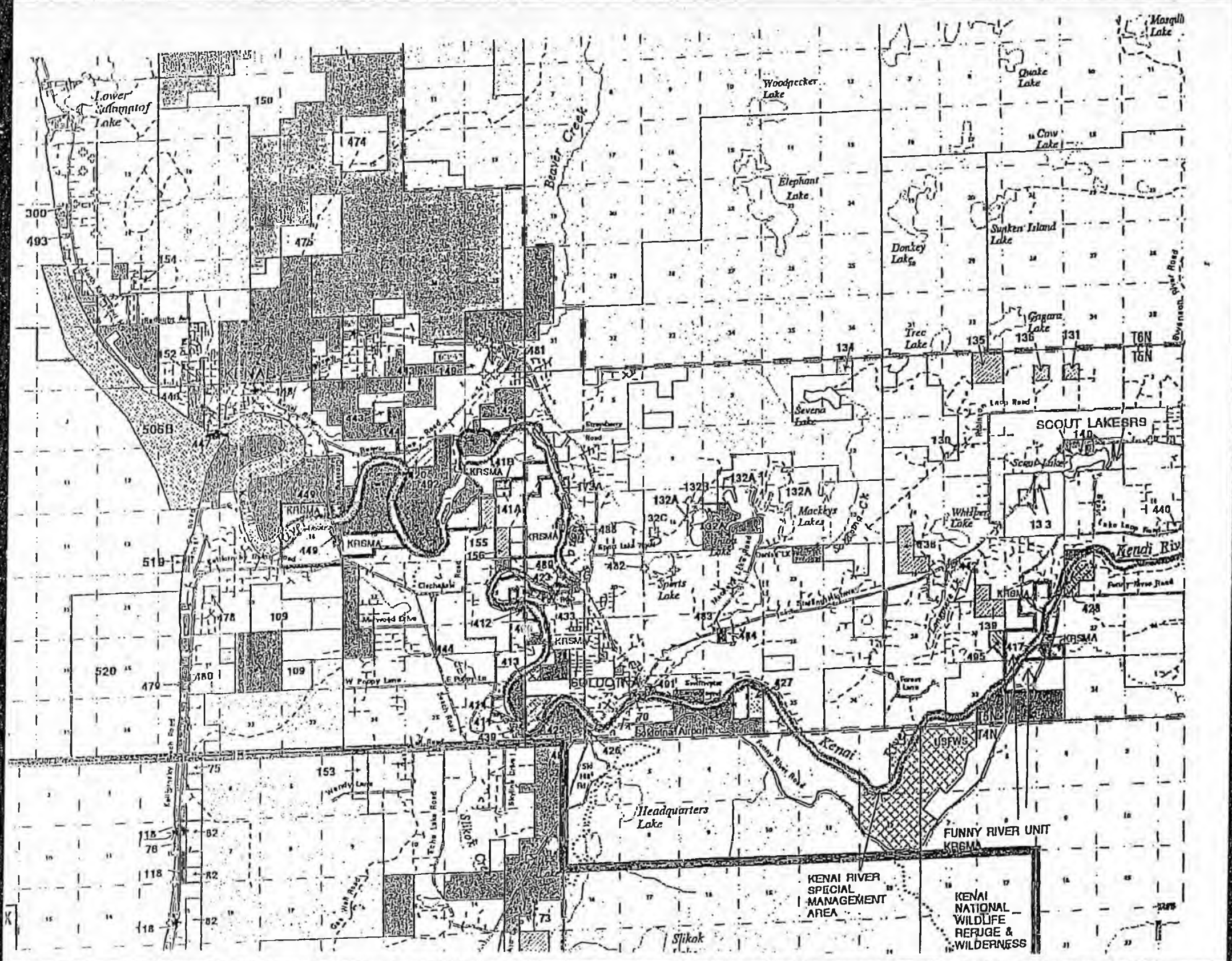
tedwellman@dwt.com

(907) 257-5326

Fax (907) 257-5399

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*Called
507 3:30*



KENAI RIVER
SPECIAL
MANAGEMENT
AREA

FUNNY RIVER UNIT
KRSMA

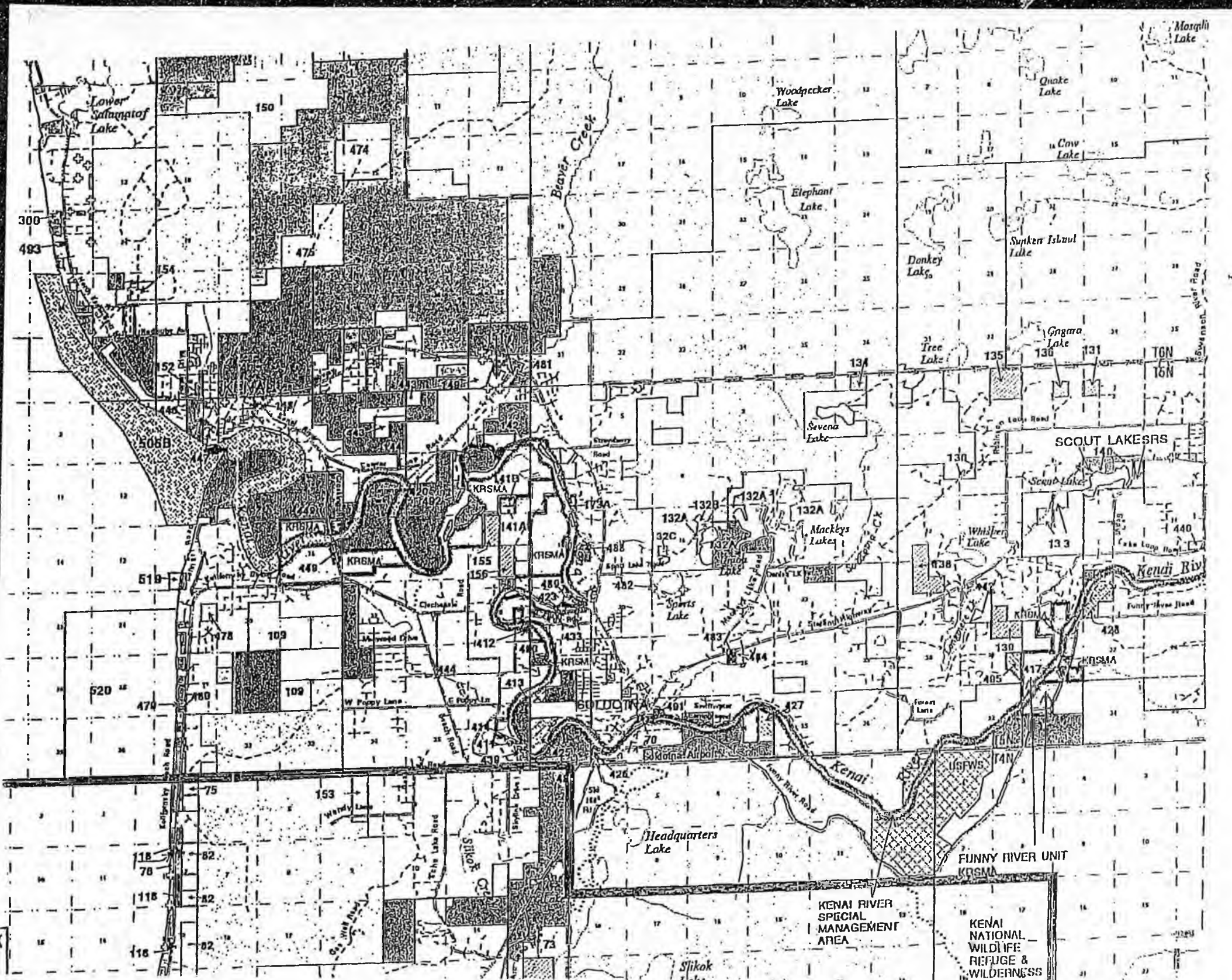
KENAI
NATIONAL
WILDLIFE
REFUGE &
WILDERNESS

SCOUT LAKESRS

Headquarters
Lake

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5275



Mosquito Lake

Quake Lake

Woodpecker Lake

Cow Lake

Elephant Lake

Sunken Island Lake

Dankey Lake

Grigara Lake

Tree Lake

T6N
T6N

Sevona Lake

SCOUT LAKESRS

Scout Lakes

Whisper Lake

Kenai River

Mackeys Lakes

Sports Lake

Kenai River

Headquarters Lake

FUNNY RIVER UNIT
KRSMA

KENAI RIVER
SPECIAL
MANAGEMENT
AREA

KENAI
NATIONAL
WILDLIFE
REFUGE &
WILDERNESS

Slikok



43961 Kalifornsky Beach Road • Suite F • Soldotna, Alaska 99669
(907) 262-2492 • Fax: (907) 262-2898 • E Mail: kpfa@alaska.net

May 7, 2004

State of Alaska
Speaker of the House
Representative Pete Kott
State Capitol, Rm. 208
Juneau, AK 99801-1182

Dear Representative Kott,

The Kenai River Special Management Advisory Board has been in existence since 1984. The purpose of the statute (41.21.500 to 41.21.514); is to protect and perpetuate the fishery and wildlife resource and habitat in the unit and adjacent area and to manage recreational uses and development activities in the unit and adjacent area.

Members of the House should be aware that in the 20 year history of actions from this board there has been no known contention to state, federal or other agency representative's votes made that changed or dominated the will of the public members.

In the meeting of April 15th 2004, the KRSMA board voted to support the inclusion of 500 acres included in the advisory boards management area. However, board members felt that this was a fraction of the total of 8,000 acres that were identified in the original bill. Some also noted that this land was already purchased by EVOS trust funds and adoption of this bill would change or protect nothing that is not in the states control at present.

The discussion of changes in the voting status of members of the board was viewed by all as an unnecessary amendment to the bill. Many were mystified as to the reason for the change in the makeup of the board. When questions were asked of Division of Parks and Recreation Director at a previous KRSMA meeting, it was noted that this legislation was not supported by the division and that they had not been consulted on the reasons of this action. The board either did not support or were indifferent about this part of SB 190.

It was noted on the meeting of April 15th, 2004 that the sponsor of this bill did not consult with or ask the board if this legislation fulfilled the intent of the initial board's recommendations. The sponsor's staff did not ask this question at this meeting or at any other time.

KPFA and its Board of Directors are confused as to the necessity of this legislation. We believe that this bill falls extremely short in accepting 6% of the total requested land in the original bill. What protection does this afford the states resource and to the resource users of the Kenai River drainages? What will happen to the other 94% of recommended territory?

On the question of changing the representation and voting status of the members, we find that this action is unnecessary and possibly unethical. No action from the board initiated this legislation. State and federal representatives work with the public to advise the Department of Natural Resources on many Kenai River watershed issues. It is the applied consent of all the different governing entities that make the actions of the board useful to the local community and the people of the state and the country as a whole. Without these agency and community volunteers, this board would have little validity. It is extremely rare that federal, state, borough and local governing bodies can work together to build consensus on a variety of issues. Restricting the vote for these individuals will not improve this process, it will only hinder progress.

What is the real reason for this legislation? We request that our honorable legislators take a hard look to determine if this is good for the people or is it just a mechanism to distort the will of many for the personal agenda of a few.

The Kenai Peninsula Fishermen's Association believe strongly that our state government should be, for the people, by the people.

Respectfully,



Paul A. Shadura II
President

cc Senator Tom Wagoner, Senator Gary Stevens, Representative John Coghill Jr., Representative Ethan Berkowitz, Representative Kelly Wolf, Representative Mike Chenault, and Representative Paul Seaton

ALASKA STATE LEGISLATURE



Official Business

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January - May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May - December

145 Main Street Loop; Suite 226

Kenai, AK 99611

Phone: 907-283-7996 Fax 907--283-3075

In response to Paul Shadura's May 7th letter:

Senate Bill 190 protects properties on the lower Kenai River acquired as habitat and recreation lands through the Exxon Valdez Oil Spill funds. These lands are critical habitat areas.

Ken Lancaster, the KRSMA board president and former Representative who sponsored the KRSMA bill during the 22nd Legislature, requested that I sponsor SB 190. My office has worked with Ken, Chris Degernes, the Peninsula Area superintendent of the Division of Parks and Outdoor Recreation, the Department of Natural Resources, and the Department of Fish and Game. Before introducing SB 190 last year, my office had multiple contacts with Ken and Chris.

A concern was raised, just before SB 190's first hearing in January of this year, that by not having the state and federal agency representatives on the board, the board would lose the valuable information they provide. I addressed the concern and amended the bill adding language that would allow agency representatives to hold a seat as an ex officio member. The Department of Fish and Game stated in a letter they "do not believe it is appropriate for these individuals to hold voting seats".

The agency representatives will still be working with the board and the public. They will attend the meetings as nonvoting members, but will still take part in the discussions, answering questions, and providing pertinent information.

Tom Wagoner

To: Kelly Wolf

From: Roland R. Maw

Date: May 6, 2004

RE: SB 190 KSRMA

As a public member of the Kenai River Special Area Advisory Board, I enjoy working with the board members representing both the state and federal agencies. At no time have either the state or federal agency members been a deciding vote on any issue. I fully support both the state and federal agency representatives to be voting members. It is difficult at the best of times to get public, state, and federal individuals to mutually work toward common goals. The KRSMA Board is unique and works together very well.

Sincerely,

Roland R. Maw, PhD
KRSMA Board member

SB

289

23-LS0396Q
Craver
5/8/03

HOUSE CS FOR CS FOR SENATE BILL NO. 89(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR SEEKINS

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the Regulation of Lobbying Act and the definition of 'lobbyist' as it
2 applies in the act setting standards of conduct for legislators and legislative employees;
3 and amending the Regulation of Lobbying Act and the legislative standards of conduct
4 to allow a lobbyist to give and a person covered by legislative standards of conduct to
5 accept tickets to a charity event during a legislative session."

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

7 * Section 1. AS 24.45.121(a) is amended to read:

8 (a) A lobbyist may not

9 (1) engage in any activity as a lobbyist before registering under
10 AS 24.45.041;

11 (2) do anything with the intent of placing a public official under
12 personal obligation to the lobbyist or to the lobbyist's employer;

13 (3) intentionally deceive or attempt to deceive any public official with

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*5/10/03
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adopted
as working
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Berbawitz
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L

1 regard to any material fact pertinent to pending or proposed legislative or
2 administrative action;

3 (4) cause or influence the introduction of a legislative measure solely
4 for the purpose of thereafter being employed to secure its passage or its defeat;

5 (5) cause a communication to be sent to a public official in the name of
6 any fictitious person or in the name of any real person, except with the consent of that
7 person;

8 (6) accept or agree to accept any payment in any way contingent upon
9 the defeat, enactment, or outcome of any proposed legislative or administrative action;

10 (7) serve as a member of a state board, or commission, if the lobbyist's
11 employer may receive direct economic benefit from a decision of that board or
12 commission;

13 (8) serve as a campaign manager or director, serve as a campaign
14 treasurer or deputy campaign treasurer on a finance or fund-raising committee, host a
15 fund-raising event, directly or indirectly collect contributions for, or deliver
16 contributions to, a candidate, or otherwise engage in the fund-raising activity of a
17 legislative campaign or campaign for governor or lieutenant governor if the lobbyist
18 has registered, or is required to register as a lobbyist, under this chapter, during the
19 calendar year; this paragraph does not apply to a representational lobbyist as defined
20 in the regulations of the Alaska Public Offices Commission, and does not prohibit a
21 lobbyist from making personal contributions to a candidate as authorized by AS 15.13
22 or personally advocating on behalf of a candidate;

23 (9) offer, solicit, initiate, facilitate, or provide to or on behalf of a
24 person covered by AS 24.60, during a legislative session, a gift, other than food or
25 beverage for immediate consumption, except for tickets to a charity event described
26 in AS 24.60.080(c)(10);

27 (10) make or offer a gift or a campaign contribution whose acceptance
28 by the person to whom it is offered would violate AS 24.60.

29 * Sec. 2. AS 24.45.171(1) is amended to read:

30 (1) "administrative action" means the proposal, drafting, development,
31 consideration, amendment, adoption, approval, promulgation, issuance, modification,

1 rejection, or postponement by any state agency of any rule or [,] regulation, [ORDER,
2 DECISION, DETERMINATION,] or any other quasi-legislative [OR QUASI-
3 JUDICIAL] action or proceeding whether or not governed by AS 44.62
4 (Administrative Procedure Act); "administrative action" does not include

5 (A) a proceeding or an action to determine the rights or
6 duties of a person under existing statutes, regulations, or policies;

7 (B) the issuance, amendment, or revocation of a permit,
8 license, or entitlement for use;

9 (C) the enforcement of compliance with existing law or the
10 imposition of sanctions for a violation of existing law;

11 (D) procurement activity, including the purchase or sale of
12 a property, goods, or services by the agency or the award of a grant
13 contract;

14 (E) the issuance of, or ensuring compliance with, an opinion
15 or activity related to a collective bargaining agreement including
16 negotiating or enforcing the agreement;

17 * Sec. 3. AS 24.45.171(6) is amended to read:

18 (6) "influencing legislative or administrative action" means to
19 communicate directly for the purpose of introducing, promoting, advocating,
20 supporting, modifying, opposing, or delaying or seeking to do the same with respect to
21 any legislative or administrative action [BY MEANS INCLUDING BUT NOT
22 LIMITED TO THE PROVISION OR USE OF INFORMATION, STATISTICS,
23 STUDIES, OR ANALYSES IN WRITTEN OR ORAL FORM OR FORMAT];

24 * Sec. 4. AS 24.45.171(8) is amended to read:

25 (8) "lobbyist" means a person who

26 (A) engages [A PERSON WHO IS EMPLOYED AND
27 RECEIVES PAYMENTS, OR WHO CONTRACTS FOR ECONOMIC
28 CONSIDERATION, INCLUDING REIMBURSEMENT FOR
29 REASONABLE TRAVEL AND LIVING EXPENSES, TO COMMUNICATE
30 DIRECTLY OR THROUGH THE PERSON'S AGENTS WITH ANY
31 PUBLIC OFFICIAL FOR THE PURPOSE OF INFLUENCING

1 LEGISLATIVE OR ADMINISTRATIVE ACTION IF A SUBSTANTIAL OR
 2 REGULAR PORTION OF THE ACTIVITIES FOR WHICH THE PERSON
 3 RECEIVES CONSIDERATION IS FOR THE PURPOSE OF
 4 INFLUENCING LEGISLATIVE OR ADMINISTRATIVE ACTION; OR

5 (B) A PERSON WHO REPRESENTS ONESELF AS
 6 ENGAGING] in the [INFLUENCING OF LEGISLATIVE OR
 7 ADMINISTRATIVE ACTION AS A] business, occupation, or profession of
 8 influencing legislative or administrative action; or

9 (B) receives wages or other economic consideration,
 10 including reimbursement of travel and living expenses, to communicate
 11 directly with any public official

12 (i) for the express purpose of influencing legislative
 13 or administrative action; and

14 (ii) during more than 40 hours in any 30 day period
 15 in one calendar year;

16 * Sec. 5. AS 24.45.171 is amended by adding a new subsection to read:

17 (13) "communicate directly" means to speak with a legislator,
 18 legislative employee, or public official

19 (A) by telephone;

20 (B) by two-way electronic communication; or

21 (C) in person.

22 * Sec. 6. AS 24.60.080(c) is amended by adding a new paragraph to read:

23 (10) tickets from a lobbyist for a charity event at any time, including
 24 during a legislative session; in this paragraph, "charity event" means an event the
 25 proceeds of which go to a charitable organization with tax-free status under 26 U.S.C.
 26 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets
 27 may entitle the bearer to admission to the event, to entertainment, to food or
 28 beverages, or to other gifts or services involved in the charity event.

29 * Sec. 7. AS 24.60.990(11) is amended to read:

30 (11) "lobbyist" means a person who is required to register under
 31 AS 24.45.041 and is described under AS 24.45.171 [AS 24.45.171(8)(A)], but does

1
2

not include a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission;

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

No. 1
Bill Version: SB 89
(S) Publish Date: 4/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Admin
Title An act amending the definition of "lobl" BRU AK Public Offices Com.
Component AK Public Offices Com.
Sponsor Sen. Ralph Seekins
Requestor Senate Judiciary Component No. 70

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time		1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary	1					

ANALYSIS: (Attach a separate page if necessary)

The Commission understands the intent of this legislation is to revise the number of hours an occasional lobbyist may be permitted to engage in lobbying activities before the requirement to register under AS 24.45 is triggered. The current legislation provides for 80 hours which the Commission believes to be too generous. The Commission is available to work with the sponsor in determining the number of hours that will be fair to the occasional lobbyist while protecting the public's right to know the identity and activities of those persons who pay and those who are paid to attempt to influence legislative or administrative action.

Prepared by: Brooke Miles, Executive Director Phone 907-276-4176
Division AK Public Offices Commission Date/Time 3/28/03 12:40 PM
Approved by: _____ Date 3/28/2003
Agency Administration

Subject: Official request

Date: Sat, 10 May 2003 10:53:49 -0800

From: "Andree" <mcleodak@alaska.net>

To: "Representative Berkowitz" <Representative_Ethan_Berkowitz@legis.state.ak.us>, "Representative Coghill" <Representative_John_Coghill@legis.state.ak.us>, "Representative Kerttula" <Representative_Beth_Kerttula@legis.state.ak.us>, "Representative Kott" <Representative_Pete_Kott@legis.state.ak.us>, "Representative McGuire" <Representative_Lesil_McGuire@legis.state.ak.us>, "Representative Morgan" <Representative_Carl_Morgan@legis.state.ak.us>, "Representative Rokeberg" <Representative_Norman_Rokeberg@legis.state.ak.us>

I am asking for fairness in the public process.

Since Pam LaBolle can speak to the Rules Committee.

And since the Rules Committee did not teleconference the meeting.

And since I am too broke to go to Juneau...

I am respectfully requesting for my letter to be literally read into the record.

If the Chair doesn't want to do it, could someone else please read it into the record on my behalf.

Andree McLeod

561-8595

ALASKA STATE SENATE

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax



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(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

SB 89 Sponsor Statement

An Act Amending the Definition of Lobbyist

Chapter 45 of Title 24—Regulation of Lobbying—leads off with a one sentence paragraph describing the Legislative Declaration of Purpose: *"The Legislature finds and declares that the operation of responsible representative democracy requires that the fullest opportunity be afforded to the people to petition their government for redress of grievances and to express freely to individual members of the legislature, to its committees, and to officials of the executive branch their opinions on pending legislation or administrative actions..."*, (emphasis added).

The second half of this lengthy sentence goes on to say, *"...and that the people are entitled to know the identity, income, expenditures, and activities of those persons who pay, are paid or reimbursed for expenses, or who make expenditures or other payments in an effort to influence legislative or administrative action."*

The full Statute goes on to describe Reports, Records, Exemptions, and so on until finally arriving at the ubiquitous section pertaining to Definitions. Number eight defines the term "Lobbyist" in two ways. Clearly, definition "B" is applicable to the "professional" lobbyist. The sponsors of the proposed legislation fully recognize and appreciate the public interest which is well served by definition "B". Senate Bill 89 does *not* alter this in any way.

On the other hand, definition "A" is somewhat ambiguous to the extent that applicability rests on two terms: these being "substantial" and "regular". These terms were not defined in Statute. So we must look to the Administrative Code for guidance, specifically 50.545. There, under item "f", we see that "substantial" and "regular" mean that a person is considered to be a lobbyist if, *"...within a 30-day period, he spends in excess of four hours in direct communication with a public official or legislative employee in activities directed toward influencing legislative or administrative action"*.

This definition amounts to less than 2.5% of a working month, given a standard eight-hour day. Webster's Dictionary tells us that substantial means "considerable" and that "considerable" means "large" and that "large" means "greater than average". Four hours out of 173 simply doesn't come close to fitting within any of these definitions.

Senate Bill 89 safeguards, as it should, the *second half* of the Declaration of Purpose by preserving definition (8)(B) pertaining to professional lobbyists. SB 89 seeks only to alter definition (8)(A) in the Statute by clearly defining the terms "substantial" and "regular". In so doing, this action accomplishes that which the legislature originally intended with respect to the Lobbying law. Specifically, by allowing the people the *fullest* opportunity to express their opinions freely to individual members of the legislature on matters regarding pending legislation.

Looking Out For Business...

A report from the Alaska State Chamber of Commerce - The Voice of Alaska Business

The laws and regulations enacted by Alaska's public policy makers have significant impact on how businesses operate in Alaska and what their costs of operation will be.

It is not uncommon for business people to travel to Juneau for a few days during the legislative session to talk with legislators or administration officials about issues affecting their business. Nor is it uncommon for them to accompany administration officials or legislators on trade missions, or talk to them at conferences and other events.

The Alaska Public Offices Commission (APOC) has determined that these activities, which may be a very small part of what an individual does for his business or company, make a businessperson a lobbyist.

Alaska law requires that anyone for whom a substantial or regular portion of their job is to influence legislation or administrative action, or anyone who contracts or is in the profession of lobbying, must register as a lobbyist. The Alaska State Chamber of Commerce recognizes the importance of regulating lobbying so the public knows the identity, income, expenditures and activities of professional lobbyists, and the Chamber has no problem with the current law.

However, in the regulations APOC has defined "substantial or regular" as just four hours in a 30-day period. The State Chamber believes this unjustly restricts business people who are not paid as lobbyists

"The State Chamber believes our state will benefit by providing business owners greater access to state government, not by further limiting their access."

"The APOC regulation unjustly restricts business people who are not paid as lobbyists from talking freely with the government."

from talking freely with the government. The State Chamber has requested that the legislature develop a new definition that, while continuing to regulate professional paid lobbyists, will not restrict business people who are not in the business of

lobbying and for whom lobbying is not part of their job.

If a businessperson exceeds the four-hour limit, they must pay a \$100 fee to register and then file

monthly, quarterly, and annual reports, and there are stiff penalties associated with the reporting requirements. The businessperson must also disclose the source and amount of their income. They are also precluded from engaging in many political activities, such as active participation in political campaigns and contributing to the candidates of their choice, which is a restriction of their first amendment rights.

This is an important issue to business and particularly troublesome for small businesses who can't afford paid lobbyists. It leaves them the choice of hiring someone to speak on their behalf or giving up some of their constitutional rights.

The media and state or municipal employees, by the way, are exempt from the law. News editors and columnists can write unlimited opinion pieces, with the intent of influencing legislative or administrative action, and not have to register or lose any personal rights. Public officials or employees can lobby unlimited hours, day in and day out, for laws and regulations that increase the cost of government, for which business pays, or increase the cost of doing business.

House Bill 106, which has the support of the State Chamber, defines "substantial" as 40 hours in a 30-day period, (one-quarter of a full-time employee's 160 hours a month) and "regular" as 30 days, or one quarter, of a 120-day legislative session.

The State Chamber believes our state will benefit by providing business owners greater access to state government, not by further limiting their access.

ConocoPhillips

*Proud to be the 2003 Diamond Partner of
the Alaska State Chamber of Commerce*



POSITION PAPER

In October of this year the Alaska State Chamber of Commerce ("ASCC") filed a complaint on behalf of its members in the State Superior Court against the State of Alaska and the Alaska Public Offices Commission ("APOC") asking that the court declare portions of Alaska's Regulation of Lobbying Act (the "Act") and its implementing regulations unconstitutional. As outlined more fully below, certain portions of that Act, and the way in which APOC is implementing them in particular, have proven to unconstitutionally restrict business people from any meaningful contact with legislators or the administration in order to express their support or concern about pending issues. Although we are confident that the lawsuit will be successful, we believe that those portions of the Act and the regulations that are unconstitutional can be more easily remedied in accordance with the original intent of the Act, through the Legislature making revisions to the Act.

We are convinced that APOC is wrong in its interpretation of the lobbyist statutes in that it does not follow legislative intent, and we believe that the position that APOC is taking regarding what activities require someone to register as a lobbyist, unconstitutionally impact a business owner's right to meet with legislators or the administration to discuss proposed legislation, regulations or other administrative action that could dramatically impact his or her business.

Background

Currently, under Alaska Statute 24.45.171(8), a "lobbyist" is defined to mean:

(A) a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person's agent with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which the person receives consideration is for the purpose of influencing legislative or administrative action; . . . [emphasis added.]

The lobbying statutes were enacted in 1976 and the definition of "lobbyist" has never been revised. Unfortunately, the Legislature did not specifically define "substantial or regular."

Following the enactment of the lobbyist statutes, APOC enacted regulations to implement the statutes. APOC defined several of the terms or phrases contained in the statutes. For instance, "substantial or regular" is defined at 2 AAC 50.545(f) as follows:

“Substantial or regular,” as used in AS 24.45.171(8)(A), means that a person who is not employed specifically for the purpose of influencing legislative or administrative action, or a person whose contractual services are not specifically for the purpose of influencing legislative or administrative action, is considered to be a lobbyist if, within a 30-day period, he spends in excess of four hours in direct communication with a public official or legislative employee in activities directed toward influencing legislative or administrative action as defined in AS 24.45.171(1), (6), (7), and this chapter; when a person becomes a lobbyist upon meeting the tests of this section, he must register in accordance with AS 24.45.041 and must report in accordance with AS 24.45.051 and 2AAC 50. [Emphasis added.]

Assuming a business person works an average of 40 hours a week, or 160 hours a month, four hours in a 30-day period represents only 3% of that person's time. Under common definitions and understanding, 3% of something would be defined as nominal or incidental rather than meeting any reasonable definition of “substantial.” Further disturbing, however, is that APOC has broadened the interpretation of what activities are included in “influencing legislative or administrative action” to create an even more limiting environment.

A business person, who does not represent him/herself as engaging in the influencing of legislative or administrative action as a business, occupation, or profession (A.S. 24.45.171(8)(B)) can only then be a lobbyist if he/she is employed or receives compensation to communicate with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which the person receives consideration is for the purpose of influencing legislative or administrative action. So the question is, “What constitutes a substantial or regular portion of one's work activities that might trigger one being considered a lobbyist?”

Based on our experience, APOC's interpretation of the statutory definition of “lobbyist” as contained in these regulations is extremely strained. For instance, APOC considers a social gathering that includes legislators or staffers, to be included within the four-hour limitation, even where there is no discussion or attempt to influence legislation. For example, when APOC read in the newspaper that a prominent businessman was attending a golf tournament with legislators and legislative staffers, it contacted his company, a member of ASCC, to verify that he was registered as a lobbyist. He was not registered as a lobbyist because his company did not believe that his work activities met the definition of a lobbyist. After discussions with APOC about this golf tournament, APOC sent a letter setting out its position in which it states:

Note that the regulations do not require that the activities influence legislative or administration action; they merely have to be directed toward influencing such action. The [golf tournament] was designed by lobbyists and their clients/employers. It may have been a social event, but it was certainly directed towards influencing legislative action. By spending time with legislators and their staffers, lobbyists hope to establish a rapport with them that will help the lobbyists when they later meet with legislators and/or staffers to influence action on legislation of interest to the lobbyists' clients. Sam Kito stated in an interview with a reporter about the purpose of the trip: "You interact with them, you get to know people . . . " See Anchorage Daily News article dated March 8, 2002. . . . participation in the [golf tournament] means that he spent more than four hours in a 30-day period in activities directed toward influencing legislative action.

Under its theory, APOC would likely find that merely accompanying a governor and his/her cabinet on a trade mission constitutes lobbying. More importantly, a business owner or executive talking with agency officials about proposed legislation, regulations or permit applications that would directly affect his/her business could cause a business person to be deemed a lobbyist even though only a nominal amount of the business person's time is spent on activities directed toward influencing such action. Is four hours a month, with all of the other activities that any business person engages in to advance his/her business, a "substantial or regular" portion of what the business pays him/her to do? These examples show that APOC has an extremely strained, incorrect interpretation of the statute and that it was never the intent of the Legislature for the lobbying laws to make such a broad sweep. APOC's application of its regulations makes it virtually impossible, without being deemed a lobbyist, for many business leaders to meet with and to discuss legislative or regulatory activity that would dramatically impact their companies.

Importantly, being deemed a lobbyist by APOC has very burdensome consequences that, as they are being currently applied, violates the constitutional rights of those impacted. Once someone is determined to be a lobbyist, in addition to the requirement to register; pay a fee; provide personal financial information; and make and file periodic reports; the lobbyist is prohibited from several activities outlined in A.S. 24.45.121. Most notably, someone who has been deemed a lobbyist because he/she has spent more than four hours in a 30 day period engaged in what APOC considers lobbying may not;

serve as a campaign manager or director, serve as a campaign treasurer or deputy campaign treasurer on a finance or fund-raising committee, host a fund-raising event, directly or indirectly collect contributions for, or deliver contributions to, a candidate or otherwise engage in the fund-raising activity of a legislative campaign or a campaign for governor or lieutenant governor if the lobbyist has registered, or is required to register as a lobbyist under this chapter, during the calendar year; this paragraph . . . does not prohibit a lobbyist from making

personal contributions to a candidate as authorized by AS 15.13 or personally advocating on behalf of a candidate.

Although A.S. 15.13.074(g) allows a registered lobbyist to make personal contributions, they are limited solely to contributions to candidates for the Legislature in a district in which the individual is eligible to vote and the lobbyist must report each contribution to APOC. A legislative candidate could be seriously hampered in his/her fund-raising if many of his/her supporters are found by APOC to be lobbyists under the current regulatory framework.

Notably exempted from the statute set out above by A.S. 24.45.161(a)(2) is an elected or appointed state or municipal public officer or an employee of the state or a municipality acting in an official capacity or within the scope of employment.

These state and municipal employees, who are exempt from the Act, are, at least partially, evaluated in their job performance by their success in getting funding for various projects that are important to the agency or governmental entity by whom they are employed. Why should these state employees be exempt when a private business owner essentially doing the same thing is not? Precluding someone who spends as little as four hours in one month in activities which APOC deems to be lobbying from serving as campaign manager or hosting a fund raiser, while at the same time allowing a state employee who is doing the same thing to so act, violates the First Amendment and the equal protection provisions of the Constitution.

The Current Legislation is Not Constitutional

First, the definition of "substantial or regular" in 2 AAC 50.545(f) is inconsistent with the legislative intent of the statute. Substantial or regular could not have been intended to apply to someone who has so little contact and who spends such an insignificant portion of his or her work hours with legislators in a 30 day period and could not have been intended to be applied so broadly to such activities as social gatherings where legislative action is not even discussed. For example, the Alaska State Chamber of Commerce, the Resource Development Council, AOGA, the Alliance and others, have a "fly-in" every year in which board members travel to Juneau and spend a day talking to legislators and administration members about issues. The activities usually include a lunch, reception, dinner or other "social" activities, all of which total more than 4 hours. The isolation of Juneau, in fact, usually requires that a business leader from any other region of the state visiting the capital must spend a day there. Obviously, it is economically more efficient for his/her employer if the employee sees as many legislators and/or administration officials as he/she can in the day spent in Juneau. Certainly that day spent in Juneau does not constitute a "substantial or regular" portion of his/her work activities for that month. Similarly meetings by a business leader with regulators over proposed regulations or other administrative action could take several days, but still not be a "substantial or regular" portion of his/her work activities in a 30-day period. Other examples of the possible application of the current framework includes:

● John Doe, an Alaska business owner, engages in Lobbying Activities with a member of the Alaska Legislature for four (4) hours and one (1) minute on January 1, 2002. The Lobbying Activities occur during Mr. Doe's regular work day. Except as stated above, John Doe does not engage in any other Lobbying Activities during 2002. Under the current framework, APOC would consider John Doe to be a lobbyist. However, Jane Smith, another Alaska business owner, engages in Lobbying Activities with an Alaskan Legislator for three (3) hours and fifty-nine (59) minutes on January 1, 2002, three (3) hours and fifty-nine (59) minutes on February 1, 2002, three (3) hours and fifty-nine (59) minutes on March 1, 2002, and on the first (1st) day of each succeeding month throughout the year of 2002. The Lobbying Activities occur during Ms. Smith's regular work day. Pursuant to APOC's interpretation of the applicable statutes and regulations, Ms. Smith would not be required to register as a lobbyist, even though she spent considerably more time lobbying than did Mr. Doe.

● Susan Jones, an Alaska business owner, earns a salary of \$125,000 per year, based on a requirement that she work 2,500 hours per year. On a per hour basis, Susan Smith earns \$50 per hour. On January 1, 2002, Susan Smith engages in Lobbying Activities with an Alaskan Legislator for four (4) hours and one (1) minute during working hours. For the time spent engaged in Lobbying Activities, Susan Smith earned a salary of \$200 (equaling 0.16% of her annual salary). Except as stated above, Susan Smith does not engage in any other Lobbying Activities during 2002. Nevertheless, pursuant to APOC's interpretation of the applicable statutes and regulations, Susan Smith would be required to register as a lobbyist. On the other hand, Michael Thomas, an Alaska business owner, earns \$125,000 per year and is required to work 2,500 hours per year. Mr. Thomas' per hour salary is also \$50. On January 1, 2002, Mr. Thomas engages in lobbying activities with an Alaskan Legislator for three (3) hours. On February 1, 2002, Mr. Thomas engages in lobbying activities with an Alaskan Legislator for three (3) hours. On March 4, 2002, Mr. Thomas engages in lobbying activities with an Alaskan Legislator for three (3) hours. Mr. Thomas engages in the same lobbying activities on the first day of each month for the remainder of the year making a total of 36 hours of lobbying activities during the year which would equate to 1.4% of Mr. Thomas' salary. Under this scenario, based on APOC's interpretation of the relevant statutes and regulations, even though a larger percentage of Mr. Thomas' compensation is being paid to him for the purpose of performing activities aimed at influencing legislation, Mr. Thomas would not be required to register as a lobbyist.

● Rebecca Dole is an employee of the Municipality of Anchorage. Ms. Dole's principal job is to Lobby for increased funding for the Anchorage School District. During the course of 2002, Ms. Dole spends eighty (80%) percent of her work time engaged in lobbying activities with Alaska legislators and their staffs. Ms. Dole's annual salary is \$75,000. For her lobbying activities, Ms. Dole receives compensation of \$60,000, plus an additional \$20,000 as payment for expenses incurred for her lobbying activities. Based on APOC's interpretation of the applicable statutes and regulations, Ms. Dole would not be required to register as a lobbyist.

Since one who is deemed a lobbyist is precluded from the political activities outlined above, we believe this regulation is unconstitutional because it impacts the right of free speech and the right of political expression and association. In Sweezy v. State of New Hampshire, 354 U.S. 234, 77 S.Ct. 1203, 1 L.Ed.2d 1311 (1957), the United States Supreme Court emphasized the importance of these freedoms:

Equally manifest as a fundamental principle of a democratic society is political freedom of the individual. Our form of government is built on the premise that every citizen shall have the right to engage in political expression and association. This right was enshrined in the First Amendment of the Bill of Rights. Exercise of these basic freedoms in America has traditionally been through the media of political associations. Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents. All political ideas cannot and should not be channeled into the programs of our two major parties. History has amply proved the virtue of political activity by minority, dissident groups, who innumerable times have been in the vanguard of democratic thought and whose programs were ultimately accepted. Mere unorthodoxy or dissent from the prevailing mores is not to be condemned. The absence of such voices would be a symptom of grave illness in our society.

Sweezy, 77 S.Ct. at 1211.

Similarly, the U.S. District Court of Alaska has held that:

the right of association is a basic constitutional freedom, that is closely allied to freedom of speech and a right which, like free speech, lies at the foundation of free society. Buckley v. Valeo. 424 U.S. 1, 25, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976)(internal quotations and citations omitted). The First and Fourteenth Amendments to the United States Constitution protect the rights of political expression and association . . . In view of the fundamental nature of the right to associate, governmental action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny . . . Id. at 25, 96 S.Ct. 612 (internal quotations and citations omitted).

Jacobus v. Alaska, 182 F.Supp.2d 881 (D.Alaska 2001). In reaching its conclusion in Jacobus that, (among other things) the restriction on donating volunteer professional services was unconstitutional, the U.S. District Court of Alaska relied on a case from Wisconsin entitled Barker v. State of Wisconsin Ethics Board, 841 F.Supp. 255 (W.D. Wisc. 1993). In Barker, six lobbyists contested a Wisconsin regulation that precluded them from providing volunteer services to political campaigns as violative of their First Amendment right of association and expression. The lobbyists argued that the statute imposed an unconstitutional burden on their First Amendment right of association and expression because it was overbroad and not narrowly drawn to advance a compelling state interest. The State Ethics Board did not dispute that the

statute burdened plaintiffs' First Amendment rights, but argued that the statute should be upheld because it was narrowly drawn to prevent corruption while interfering only marginally with rights under the First Amendment.

In addressing these issues, the Wisconsin court first stated the following:

There is no question but that [the statute] implicates a fundamental right: 'Our form of government is built on the premise that every citizen shall have the right to engage in political expression and association,' which 'right was enshrined in the First Amendment of the Bill of Rights.' Sweezy v. New Hampshire, 354 U.S. 234, 250, 77 S.Ct. 1203, 1212, 1 L.Ed.2d 1311 (1957). Associational rights include activities pursued in the cause of a campaign for public office. Elrod v. Burns, 427 U.S. 347, 370-71, 96 S.Ct. 2673, 2688, 49 L.Ed.2d 547 (1976). The freedom of political association 'is more than the right to attend a meeting; it includes the right to express one's attitudes or philosophies by membership in a group or by affiliation with it. . . . ' Griswold v. Connecticut, 381 U.S. 479, 483, 85 S.Ct. 1678, 1681, 14 L.Ed.2d 510 (1965). The United States Supreme Court has long recognized that when government regulates political expression and association 'the importance of First Amendment protections is 'at its zenith.' Meyer v. Grant 486 U.S. 414, 425, 108 S.Ct. 1886, 1894, 100 L.Ed.2d 796 (1973). An interference with association rights may be constitutional if the statutory infringement is no broader than it needs to be to accomplish its purpose or, in other words, if it is narrowly tailored. See, e.g., Austin v. Michigan State Chamber of Commerce, 494 U.S. 652, 657, 110 S.Ct. 1391, 1396, 108 L.Ed.2d 652 (1990)(citing Buckley v. Valeo, 424 U.S. 1, 44-45, 96 S.Ct. 612, 647, 46 L.Ed.2d 659 (1976).

Barker, 841 F.Supp at 258; see also Shrink Missouri Government PAC v. Maupin, 922 F.Supp 1413 (E.D.Mo 1996) (It is well established that the right to free speech (including political speech) and the right to free association (including political association) are fundamental activities protected by the First Amendment. Discussion of public issues and debate on qualifications of candidates are integral to the operation of the system of government established by our Constitution . . . the First Amendment protects political association as well as political expression.)

The lobbyists in Barker argued that the "narrowly tailored" standard outlined in Buckley required the state to demonstrate a compelling state interest and that it must employ means closely drawn to avoid unnecessary abridgement of associational freedoms. The State Ethics Board, on the other hand, argued that the statute should be upheld so long as the regulations promote a substantial government interest that would be achieved less effectively absent the regulation. The State Board asserted that the state had a compelling interest in avoiding the specter of corruption that would arise from the sight of lobbyists participating in political campaigns.

The Wisconsin Supreme Court rejected the Board's arguments and ruled that the statute at issue was unconstitutional. In dicta, the court also made another important statement. In Wisconsin the statute defining who is a lobbyist is seemingly even broader than the statute in Alaska. Under Wisconsin law, a "lobbyist" is any person "employed by a principal . . . who makes lobbying communications on each of at least 5 days within a reporting period of 6 months." Plaintiffs argued that this statute was overly broad because it took fewer than one lobbying communication a month to transform an ordinary citizen into a lobbyist under Wisconsin law. Although the defendants did not address this argument and it was not an issue for the court to decide, the court noted that, "an independent review of the statute suggests that plaintiffs' portrayal of the prohibition's extensive reach is accurate." Barker, 841 F.Supp. At 261.

Finally, the Barker court concluded that:

Wisconsin's lobby law overreaches insofar as it prohibits lobbyists from volunteering personal services to political campaigns because it does not provide an answer that relates sufficiently to the elimination of the dangers of corruption and the appearance of corruption.

Barker, 841 F.Supp. at 263.

The Alaska lobbying statute states as its purpose at A.S. 24.45.011 as follows:

The Legislature finds and declares that the operation of responsible representative democracy requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the legislature, to its committees, and to officials of the executive branch, their opinions on pending legislation or administrative actions; and that the people are entitled to know the identity; income, expenditures and activities of those persons who pay, are paid or reimbursed for expenses, or who make expenditures or other payments in an effort to influence legislative or administrative action. (Emphasis added.)

The definition of "substantial or regular" is not narrowly tailored to meet this purpose and improperly imposes an unconstitutional burden on many citizens' First Amendment rights as outlined by the courts in Jacobus and Barker.

Second, the definition of "substantial or regular" is overly broad because anyone who spends 4 hours and 1 second on January 1 in communication with legislators or staffers, and has no further communication for the rest of the year, would nonetheless be considered a lobbyist for the entire year and precluded from making certain contributions, hosting political fundraisers, etc., for the remainder of the calendar year. Again, this restriction is not narrowly tailored to fit the purposes of the statutes.

Finally, while the statute prohibits business owners, for instance, from spending more than 4 hours per month in contact with legislators for fear of being deemed a lobbyist, employees of the state are not similarly precluded. A state employee, acting in his/her official capacity or within the scope of his/her employment has no restriction on the amount of time he/she can spend influencing legislation and is not limited by any of the lobbyist prohibitions. This unequal treatment clearly violates the equal protection provisions of the constitution.

A similar issue was addressed by the District Court in New York. In Commission on Independent Colleges and Universities v. The New York Temporary State Commission on Regulation of Lobbying, 534 F.Supp. 489 (N.D.N.Y. 1982), one of the issues addressed was the plaintiffs' claim that New York's lobbying law violated the equal protection clause of the Fourteenth Amendment because it classified independent colleges who engaged in direct contact with legislators and administrative agencies as lobbyists while exempting their counterparts at SUNY and CUNY because they are state universities. In addressing this issue, the New York court noted that:

The Fourteenth Amendment guarantee of equal protection is designed to ensure that persons similarly situated are treated equally in terms of benefits conferred or duties imposed . . . Village of Belle Terre v. Borass, 416 U.S. 1, 94 S.Ct. 1536, 39 L.Ed.2d 797 (1974) . . . The traditional standard of review employed by the courts is whether the law in question is wholly arbitrary or without a rational basis. [citations omitted.] When fundamental constitutional rights are involved, however, it is necessary to find a compelling state interest to validate the law making the classification. [citations omitted.]

Commission, 534 F.Supp. at 503. We cannot think of any compelling state interest that would support the discrimination between state and non-state employees.

These are important issues that dramatically effect the rights and interests of Alaska businesses. For business owners, or CEO's of businesses to be precluded from discussing legislation or a regulation that directly impacts their companies without the risk of being deemed a lobbyist and losing their right of free association regarding political campaigns is inappropriate. While some companies may be financially able to hire professional lobbyists, many others are not. Moreover, many company owners and management level employees know and understand better than a hired lobbyist, the impact of proposed legislation on his/her company.

Before closing, we want to emphasize a few important points. First, our proposed legislation would provide a more reasonable level of access for Alaska business men and women to their elected representatives, their staffers, and state agency personnel. Our proposal would not change the rules for professional lobbyists. Those individuals who are in the business of lobbying on behalf of clients and those who hold themselves out to be professional lobbyists would not have a reduced level of scrutiny under our proposed legislation.

Second, the principal problem with the current system is APOC's definition of the terms "substantial or regular" which are found in the definition of "lobbying" at A.S. 25.45.171. It was the Legislature which enacted the statutory definition of the term "lobbying", including the use of the terms "substantial or regular". Therefore, the Legislature should define those terms in order to protect its intent. Essentially, by allowing APOC to define those terms, we believe that the Legislature has allowed APOC to subvert the original intent of the legislation. Given the fact that the Legislature convenes in Juneau, it has historically worked hard to increase access by ordinary citizens, including Alaska's business men and women. The APOC definition of the terms "substantial or regular" flies in the face of the Legislature's efforts to increase, rather than restrict, access to state government.

Finally, our proposed legislation offers a simple fix to the current problem which we believe is absolutely consistent with the intent of the original lobbying legislation. Alaska's business men and women should not be branded as lobbyists based merely on four hours of communications with legislators, staffers, members of the administration, or personnel of state agencies.

The current system not only harms Alaska businesses, but it also harms the Legislature, the administration and state agencies by denying them access to important information which is available from business men and women. In short, the current system simply can't work.

Attached are proposed amendments to the current lobbying statute which would resolve this issue.

Enclosures

AS 24.45.171(8)(A) is amended as follows [amendment underlined]:

(A) a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person's agents with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which the person receives consideration is for the purpose of influencing legislative or administrative action where "substantial" means in excess of 80 hours in a 30 day period and "regular" means more than 60 days while the legislature is in session; or

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website: www.fairbankschamber.org

Introduced by: Governmental Affairs
 Date Introduced: March 11, 2003
 Date Passed: March 11, 2003
 Date Transmitted: March 11, 2003

RESOLUTION 03-03112

A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF
 COMMERCE SUPPORTING AN AMENDMENT IN ALASKA STATE LAW
 CLARIFYING THE DEFINITION OF LOBBYIST AND SUCH TERMS THAT
 DESCRIBE LOBBYIST ACTIVITY

WHEREAS In the definition of the term "Lobbyist" in Alaska Statute 24.25.171(8), it states that a lobbyist is a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, who communicates directly or through the person's agent with any public official for the purpose of influencing legislative or administrative action if a *substantial or regular* portion of the activities for which the person receives consideration; and

WHEREAS the Alaska Public Offices Commission (APOC) had defined in 2 AAC 50.545(f) "substantial or regular" to mean that a person is considered a lobbyist if, within a 30-day period, the person spends in excess of four hours in direct communication with a public official or legislative employee in activities directed toward influencing legislative or administrative action; and

WHEREAS this strict interpretation could require anyone who travels to Juneau during the legislative session for one day to discuss legislative issues, and is reimbursed by their company or business, to register as a lobbyist; and

WHEREAS public employees are exempt from this provision; and

WHEREAS registering as a lobbyist is burdensome and contains many stipulations; and

WHEREAS this interpretation would hamper the volunteer members of the Greater Fairbanks Chamber of Commerce, and other non-profit agencies, from engaging in regular communication with our local legislators; and



GREATER * FAIRBANKS CHAMBER OF COMMERCE

250 Cushman St., Suite 2D, Fairbanks, AK 99701-4665
phone: (907) 452-1105, fax: (907) 456-6968

e-mail: staff@fairbankschamber.org
website: www.fairbankschamber.org

WHEREAS many annual "fly-ins" to Juneau would not take place as most participants would be required to register as a lobbyist; and

WHEREAS the Greater Fairbanks Chamber of Commerce does not believe the APOC interpretation follows legislative intent; and

WHEREAS the Greater Fairbanks Chamber of Commerce supports fair and reasonable regulations governing lobbyists.

NOW THEREFORE BE IT RESOLVED that the Greater Fairbanks Chamber of Commerce strongly supports passage of an an amendment in Alaska State Law clarifying the definition of lobbyist and broaden such terms that describe lobbyist activity to allow business owners and other non-profits agencies to communicate with our elected officials.

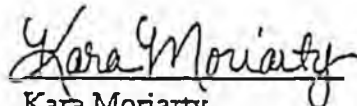
BE IT FURTHER RESOLVED that this resolution be distributed to:

Senator Ralph Seekins
Interior Delegation
Governor Frank Murkowski

PASSED in Fairbanks, Alaska this 11th day of March, 2003 by the Greater Fairbanks Chamber of Commerce Board of Directors.



Terry Aldridge
Board Chairman



Kara Moriarty
President/CEO



Voice of the Times

A CONSERVATIVE VOICE FOR ALASKANS

WILLIAM J. TOBIN
Senior editor

Alaska's lobby law is out of whack

By PAUL JENKINS

Are you wondering why the anti-everything bunch is in such a lather to keep intact Alaska's oddball lobbying law and regulations?

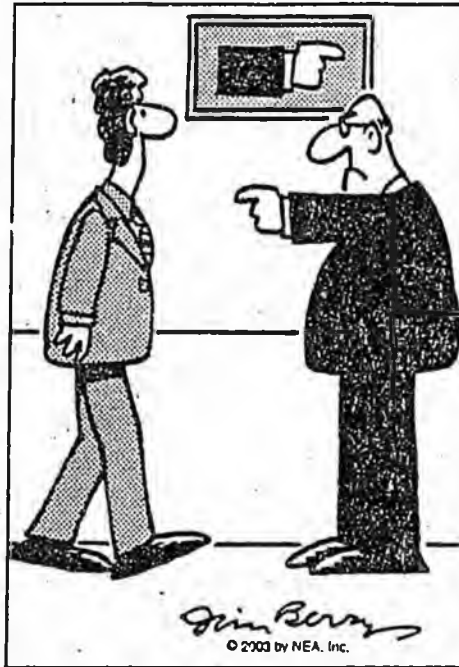
Make no mistake, these folks are not doing it in the noble cause of better government. Nope, they are on a mission to silence their adversaries for political advantage, this time by insisting that the voice of the state's business community remain muted.

At issue are two provisions: one, a regulation, requires registration as a lobbyist if you directly communicate with a lawmaker for four hours in a month to influence legislation; the other, a law, bars those registered as lobbyists from making political campaign contributions outside their election districts — and flies in the face of U.S. Supreme Court decisions.

The regulation is an example of Alaska Public Offices Commission capriciousness. The law that it is based on says you must register as a lobbyist if you are paid and spend a "substantial or regular" portion of your time lobbying. That somehow became four hours in 30 days in the APOC regulations. It's anyone's guess how four hours a month can be considered "substantial or regular."

The law barring campaign contributions outside a lobbyist's home district is a troubling attack on the First Amendment. The nation's high court again and again has held that campaign contributions are a form of constitutionally protected free speech. This particularly offensive usurpation of a basic right is the result of a calculated political strategy of the left, wrapped neatly to look like election reform a few years back.

You don't have to believe me, just look at who supports retaining the APOC regulation and law in question as-is. Some of them cynically care nothing about any First Amendment rights but their own.



The law and the regulation clearly have a chilling effect on ordinary businessmen and women who want to present their cases to the Legislature. Four hours? How does one measure that? Who can enforce the limit? When does the clock start? Some, in an effort to avoid problems with APOC, register, but then find themselves unable to participate fully in the political process.

Is Alaska alone in this nonsense? How do other western states handle the thorny question of lobbying and political contributions? There are many different approaches.

When it comes to defining lobbyists, California, Oregon, Washington, Colorado, Nevada, New Mexico, Arizona, Idaho, Utah, Montana and Wyoming have different requirements. Most have classifications for lobbyists — paid, unpaid, volunteer, etc. — and various exemptions for everything from newspaper publishers to state bureaucrats, but a common thread among them is that if you try to affect legislation or administrative acts, and you are paid, you must register as a lobbyist.

In Oregon, the trigger for registration is 24 hours lobbying, or \$100 spent, during a calendar quarter. In California, one paid lobbyist classification calls for

registration if the person spends more than one-third of their time lobbying. Another sets a \$2,000 limit on income.

But registration has a much different effect in most of these states than in Alaska.

New Mexico, Arizona, Colorado and Utah bar political donations from lobbyists only during a legislative session. In Idaho, Montana, Wyoming, Washington and Oregon there are no such prohibitions. In Nevada, political donations are barred a month before, and after, the biennial legislative sessions. California recently enacted a law that bars elected state officers or candidates for elected state office from accepting contributions from lobbyists.

The Alaska State Chamber of Commerce, recognizing that the political voices of its members were being stilled, got the ball rolling to fix the APOC regulation, with its arbitrary and indefensible four-hours-in-a-month proviso, and the onerous law that denies too many Alaskans their constitutional rights.

The House Judiciary Committee chairwoman, Rep. Lesil McGuire, R-Anchorage, and Sen. Ralph Seekins, R-Fairbanks, head of the Judiciary Committee in the Senate, are looking at legislation to address the problems.

It's long overdue.

Let's face it, few people are enthralled with the notion of lobbyists, but they serve a purpose and perform a valuable service. What we have now in place to set the bar for them largely is an unenforceable, arbitrary APOC regulation — based on an overly broad state law. And those who then obey that law and regulation find themselves punished by being denied their right to participate in political campaigns. How in the world can that be a good thing?

Alaska needs a common sense, clear, concise, enforceable law — not a regulation left to bureaucrats — defining a lobbyist. And those who obey that law's requirement should not be forced by the state to give up their free speech rights.

What we are suffering under now is the result of politics at its worst.

Paul Jenkins is an editor of the Anchorage Times.



Jenkins

The Anchorage Times

Editors: TOM BRENNAN, 264-8191; PAUL JENKINS, 264-8192; WILLIAM J. TOBIN, 264-8193;

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DON'T LIMIT public's dialogue with lawmakers**POINT COUNTERPOINT: Alaska's lobbying law**

By Sen. Ralph Seekins, R-Fairbanks

(Published: April 3, 2003)

Like many Alaskans, I have freely expressed my opinions on legislation and administrative actions over the years. I have always believed our democratic system of government encourages such dialogue.

Indeed, the Legislature has said, "The operation of responsible representative democracy requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the Legislature, to its committees, and to officials of the executive branch, their opinions on pending legislation or administrative actions."

Yet when I attended the orientation for new senators in January, I learned that the Alaska Public Offices Commission limits "full" and "free" expression to a meager four hours in a 30-day period.

A person exceeding the four-hour limit is required to register as a lobbyist, pay a \$100 fee, file numerous reports, and surrender his or her rights to be equally engaged in the electoral process.

The problem rests with APOC's definition of two words, "regular" and "substantial." The law says a person must register as a lobbyist if a "substantial or regular" portion of the activities for which a person receives consideration is for the purpose of influencing legislative or administrative action.

Because "substantial" and "regular" are not defined in statute, APOC defined it in the Administrative Code as being four hours within a 30-day period. Even APOC, as the watchdog, acknowledges this four-hour threshold is much too restrictive.

My bill will expand the definition of "substantial or regular" to a more reasonable time period to allow ordinary Alaskans the opportunity to engage in the legislative process without the specter of being forced to become a professional lobbyist.

Professional lobbyists will still be required to file all the reports currently required and will also still be regulated in exactly the same manner as they have been in the past.

There should be no law that removes or attempts to remove any Alaskan's First Amendment rights to freedom of speech. I support the proposition that every Alaskan should always have the absolute right to communicate with members of the Legislature, legislative staff or other public officials.

I value that input and will fight hard to protect every Alaskan's right to do so — regardless of his or her occupation. As a citizen legislator, I want to hear from you, and you should be able to do so without unnecessary restriction.

Ralph Seekins is a first-term Republican state senator from Fairbanks.

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ALASKA LEGISLATIVE COUNCIL**--Minutes--****LEGISLATIVE COUNCIL****April 8, 1999****1. ROLL CALL**

The Legislative Council meeting was called to order at 12:05 p.m. by Senator Miller, Legislative Council Chair, in the Butrovich Room, Capitol Room 205.

The roll was taken. In attendance were Council members Miller, Donley, Hoffman, Kelly, Pearce, Torgerson, Cowdery, Ogan, G. Phillips, Porter and Rokeberg. Members absent were Lerman, Barnes, and Berkowitz. Staff present were Varni, Cook, Ibesate, Kempton, and Schofield.

2. APPROVAL OF MARCH 24, 1999 MEETING MINUTES

Senator Donley moved the minutes of the March 24, 1999 meeting be approved. The motion was approved unanimously.

3. APPROVAL OF LEGISLATIVE PARTICIPATION IN CHARITABLE FUNCTIONS

Senator Donley moved the Council authorize the Legislative Branch to participate in the Fahrenkamp Classic legislative charity putting tournament, and the legislative skits. With no objection, the motion was approved unanimously.

Senator Donley moved the Council designate the Council Chair as the authority to approve future legislative branch participation in charitable functions. With no objection, the motion was approved unanimously.

4. APPROVAL OF BETHEL LIO/LEGISLATIVE OFFICE SPACE

Representative Phillips moved approval of the office space for the Bethel LIO/Legislative Office space proposal from Tunista Properties, Inc. In the amount of \$3,215.94 per month (\$1.82 per sq. ft. for 1,767 sq. ft) be approved. With no objection, the motion was approved unanimously.

5. NEW BUSINESS

Senator Pearce moved that the Legislative Council hire a law firm or firms to look at the proposed merger between British Petroleum and Arco-Amoco and identify legal issues that surround this merger. Project Directors will be Senator Halford, Senate Resources Chair and Representative Porter, Speaker of the House. They have the authority to solicit legal services and negotiate the contract subject to the approval of the Council Chair. The motion passed unanimously.

The meeting adjourned at 12:20 p.m.

Andree

From: Andree [mcleodak@alaska.net]
Sent: Friday, May 09, 2003 8:37 AM
To: Representative Berkowitz; Representative Coghill; Representative Kerttula; Representative Kott; Representative McGuire; Representative Morgan; Representative Rokeberg
Subject: NO to Calendar SB 89 on House Floor

Dear House Rules Committee Members.

I'm Andree McLeod. In August of 1988, after spending a couple of years observing the workings of the Anchorage assembly, I started to lobby the assembly for a lobbying ordinance because I saw how the lack of one resulted in a lack of accountability and efficiency in our municipal government. Fortunately, the Anchorage Lobbying Ordinance was put in place August of 2000.

I'm writing to request that you NOT calendar SB 89 for a vote.

This bill is a transparent attempt to free people up from campaign finance laws. We've matured too much as a state to allow legislatures to take us back to a time when government and the people who hang around government halls have a carte blanche to do as they will.

At a time in this country when there should be as much openness and dialogue as possible between the government and the people about what the government is doing, to propose a blatant circumvention of well written laws regarding the openness and candor of lobbyist-government activities is clearly a betrayal, not only of the people of Alaska but of the democratic process itself.

People are feeling disenfranchised enough already, this bill only disenfranchises the public more.

Is that what you want?

What are the ramifications of this bill? Money will be funneled into campaign coffers with no accountability of the people who have one pocket full of money and the other full of chits. Where is this bill taking us? It's taking to a place where the public trust is not ensured and far far away from the stated purpose of Alaska Statute 24.45.010, (The Regulation of Lobbying statute), that people have a right to know who gets paid to influence public policy. People's right to know will be thwarted.

How does this bill serve the public? It doesn't. It only serves you, the politicians and the people who have a vested interest to keep you in office.

You are too intelligent and too seasoned as public officials to NOT know what you are doing.

Do not calendar this bill out of committee and you affirm the words of the House Majority Leader when he stated that he "...will bring a respect for the system and the institution of our government, our rules and the people who put them together."

Do not calendar this bill and you join the governor in his attempt to bring accountability to government by maintaining an open and honest process for lobbying and its associated activities. (Government employees also need to know who the lobbyists are as well, in order to have a more efficient government.)

Do not calendar bill and you demonstrate that the public's interest is paramount to any special interest.

Do not calendar this bill, and you avoid giving the House Minority Leader another opportunity to make for darned good TV as he debates this bill on the House floor, and makes mincemeat out of anyone who would dare to support such an attack on the people's right to know what's going on in Juneau, by redefining the Lobbying Law and opening up your campaign coffers to lobbyists.

Respectfully submitted,
Andree McLeod

Alaska State Legislature

House of Representatives



State Capitol, Rm. 214
Juneau, Ak 99801-1182
(907) 465-3764

Official Business

COMMITTEE ON RULES
Representative Norman Rokeberg, Chairman

HCSCSSB 89 (RLS) – 23-LS0396\Q

This work draft INCLUDES the amendment suggested by APOC [contained at the back of the information from APOC].

Janet

Subject: Corrected SB 89 No to Calendar SB 89 on House Floor McLeod Letter

Date: Sat, 10 May 2003 11:54:37 -0800

From: "Andree" <mcleodak@alaska.net>

To: <dianna_pree@legis.state.ak.us>

Dear House Rules Committee Members,

I'm Andree McLeod. In August of 1998, after spending a couple of years observing the workings of the Anchorage assembly, I started to lobby the assembly for a lobbying ordinance because I saw how the lack of one resulted in a lack of accountability and efficiency in our municipal government. Fortunately, the Anchorage Lobbying Ordinance was put in place August of 2000.

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How does this bill serve the public? It doesn't. It only serves you, the politicians and the people who have a vested interest to keep you in office.

You are too intelligent and too seasoned as public officials to NOT know what you are doing.

Do not calendar this bill out of committee and you affirm the words of the House Majority Leader when he stated that he "...will bring a respect for the system and the institution of our government, our rules and the people who put them together."

Do not calendar this bill and you join the governor in his attempt to bring accountability to government by maintaining an open and honest process for lobbying and its associated activities. (Government employees also need to know who the lobbyists are as well, in order to have a more efficient government.)

Do not calendar this bill and you demonstrate that the public's interest is paramount to any special interest.

Do not calendar this bill, and you avoid giving the House Minority Leader another opportunity to make for darned good TV as he debates this bill on the House floor, and makes mincemeat out of anyone who would dare to support such an attack on the people's right to know what's going on in Juneau, by redefining the Lobbying Law and opening up your campaign coffers to lobbyists.

Respectfully submitted,
Andree McLeod

SB 89
Amendment by APOC
Page 2, Line 29
New Section 2

AS 24.45.171(1) is amended to read:

(1) "administrative action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by any state agency of any rule or [,] regulation, [ORDER, DECISION, DETERMINATION,] or any other quasi-legislative [OR QUASI-JUDICIAL] action or proceeding whether or not governed by AS 44.62 (Administrative Procedure Act); **"administrative**

action" does not include

(A) a proceeding or an action to determine the rights or duties of a person under existing statutes, regulations, or policies;

(B) the issuance, amendment, or revocation of a permit, license, or entitlement for use;

(C) the enforcement of compliance with existing law or the imposition of sanctions for a violation of existing law;

(D) procurement activity, including the purchase or sale of property, goods, or services by the agency or the award of a grant contract;

(E) the issuance of, or ensuring compliance with, a opinion; or
activity related to a collective bargaining agreement including
negotiating or enforcing the agreement;

Renumber remaining sections.

MEMORANDUM

State of Alaska
ALASKA PUBLIC OFFICES COMMISSION
DEPARTMENT OF ADMINISTRATION

TO: Representative Norm Rokeberg
Chairman, House Rules Committee

DATE: May 7, 2003

FROM: Brooke Miles
Executive Director

TEL. NO: 276-4176

SUBJECT: SB 89

On behalf of the Alaska Public Offices Commission, thank you for hearing SB 89. I have attached statistical information concerning the part-time employee lobbyists who are registered in the current year, and summary information disclosing the lobbying activities of the part-time employee lobbyists for calendar year 2002. This information may be useful to the Committee as it considers increasing the amount of time a person who is not employed specifically as a lobbyist may spend before being subject to the lobbying law.

As you review the statistical information, you will not find any "mom & pop" or other small businesses listed. Why? There are probably as many reasons as there are businesses that are not listed, but one reason is cost. Many small businesses in Alaska cannot afford either the time or money it takes to lobby. They have addressed this problem by forming associations; many of these associations have an executive director or other employee who registers to lobby on behalf of the association members. There are associations representing the medical community, marine pilots, fishermen, homebuilders, bankers, realtors, auto dealers, miners and accountants to name a few.

If SB 89 is enacted with an allowance of 40 hours in a 30-day period (160 hours total during the 120-day legislative session), it potentially exempts the 112 individuals who are currently registered as part-time employee lobbyists. Included among those who may be exempt are employees of oil companies, utility companies and labor unions, in addition to the associations discussed above. The Committee should also be aware that exempting these part-time employee lobbyists may result in a loss of up to \$12,000 in annual state revenues from lobbyist registration fees.

The Commission agrees that "four hours in a 30 day period" does not constitute a "substantial" amount of time for determining when a person who lobbies on behalf of her or his employer becomes subject to the law; the Commission supports increasing the hours to 16.

A significant amount of unfortunate misinformation seems to accompany this legislation.

The Committee should be aware that not everyone who lobbies is subject to the lobbying law, for example:

1. Volunteer lobbyists - those who do not receive a fee, salary, or reimbursement for expenses, but spend only their own money;
2. The sole proprietor of a business using money earned from that business;
3. A person who communicates with various state departments or agencies on permitting issues, licensing, procurement, and collective bargaining;
4. A person who participates in public proceedings before state agencies;
5. A person who monitors or tracks legislation whether for their employer, client or for personal reasons even if that person contacts legislative employees for routine information such as hearing schedules, copies of amendments, etc; and
6. Associations that engage in grassroots lobbying.

In addition, the Committee should know that the following activities, by themselves, would not subject a person to the lobbying law:

1. Accompanying the Governor on a trade mission;
2. Playing golf with a public official; and
3. Participating in a legislative "fly-in."

Commission regulations provide for a "representational lobbyist." This is an individual who is not compensated for her or his time, but whose expenses connected with lobbying activity are paid in whole or in part by the principal on whose behalf the individual is lobbying. Representational lobbyists are required to register, but are not required to pay the registration fee. They are not required to file lobbyist reports but the principals paying or reimbursing their expenses are required to file quarterly employer of lobbyist reports disclosing the expenses that were paid or reimbursed. Additionally, representational lobbyists are not subject to the fundraising restrictions under the lobbying law or the contribution restrictions under the campaign disclosure law.

Finally, SB 119 and HB 157, the omnibus APOC legislation, include some definition language codifying certain "administrative actions" currently exempt through Commission regulations. In the event that the lobbying sections of that legislation are deleted, we ask that the Committee consider adding that section to SB 89. A copy of that language is also attached.

Attachments

2003 Employee Lobbyists' Salary and Expenses

<i>Employer</i>	<i>Lobbyist</i>	<i>Subject</i>	<i>JanFee</i>	<i>JanExp</i>	<i>FebFee</i>	<i>FebExp</i>	<i>MarchFee</i>	<i>MarchExp</i>
AAA Mountain West	Levis	Travel/Insurance/Safe	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
AARP	Luby	Various	\$7,607.00	\$116.00	\$6,615.00	\$0.00	\$0.00	\$0.00
ACLU	Rudinger	Constitutional Issues	\$0.00	\$0.00	\$150.00	\$675.00	\$120.00	\$647.00
ACSA	Francis	Education / Public Sc	\$804.00	\$0.00	\$1,054.00	\$0.00	\$0.00	\$0.00
AGC of AK	Cattanach	Construction	\$0.00	\$0.00	\$792.00	\$1,137.00	\$0.00	\$0.00
Agrium, Inc.	Parker	Oil & Gas	\$3,173.00	\$1,450.00	\$3,808.00	\$2,568.00	\$3,808.00	\$3,567.00
AK Conservation Alliance	Davidson	Environmental Concer	\$0.00	\$0.00	\$244.00	\$0.00	\$286.00	\$0.00
AK Conservation Voters	Davidson	Environmental Concer	\$0.00	\$0.00	\$165.00	\$0.00	\$135.00	\$0.00
AK Forest Assoc	Woodbury	Timber	\$0.00	\$0.00	\$0.00	\$0.00	\$350.00	\$0.00
AK Forest Assoc	Graham	Timber	\$0.00	\$0.00	\$0.00	\$0.00	\$180.00	\$0.00
AK Miners Assoc	Borell	Mining	\$0.00	\$0.00	\$1,259.00	\$527.00	\$599.00	\$0.00
AK Municipal League	Mc Ilvain	Municipality	\$0.00	\$0.00	\$417.00	\$0.00	\$417.00	\$0.00
AK Municipal League	Gilbertson	Municipality	\$0.00	\$0.00	\$1,117.00	\$0.00	\$1,117.00	\$0.00
AK Oil & Gas Assoc	Crockett	Oil & Gas	\$455.00	\$393.00	\$299.00	\$57.00	\$341.00	\$959.00
AK Oil & Gas Assoc	Brady	Oil & Gas	\$65.00	\$8.00	\$392.00	\$66.00	\$131.00	\$0.00
AK Professional Hunters Assoc	Fithian	Hunting	\$0.00	\$0.00	\$320.00	\$381.00	\$0.00	\$0.00
AK Railroad Corp.	Lindskoog	Transportation	\$1,121.00	\$493.00	\$1,845.00	\$1,167.00	\$2,829.00	\$1,972.00
AK Railroad Corp.	Blasingame	Transportation	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
AK Railroad Corp.	Gamble	Transportation	\$0.00	\$0.00	\$706.00	\$770.00	\$0.00	\$0.00
AK Railroad Corp.	Silverstein	Transportation	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00