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**To:** Senate Community and Regional Affairs  
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SB 63: "An Act relating to the Local Boundary Commission"

Senate Bill 63 amends the structure and composition of the Local Boundary Commission (LBC), including changes to the number of members, the distribution of appointments across districts, and the appointment process. While the intent of the bill may be to enhance the functionality and effectiveness of the LBC, there are several potential issues, including constitutional concerns, legal loopholes, and administrative challenges, especially for rural communities. Below is a detailed breakdown of these concerns:

1. Legal and Constitutional Issues

Potential Violation of Equal Representation:

The bill proposes that the commission consist of six members, with one representative from each of the four judicial districts, one from the unorganized borough, and one from the state at large. While the intention is to ensure regional representation, there is a risk that this setup could violate equal representation principles, especially regarding the representation of smaller, rural communities. These communities might not have equal access to political representation in the commission compared to more populous regions, which may lead to inequities in decision-making and resource distribution.

Proposed Solution:

To resolve this, the bill could implement additional measures for proportional representation, or ensure that more than one member is appointed from smaller, underrepresented areas, such as rural regions or indigenous communities. The current structure risks consolidating power within larger or more developed areas, which could diminish rural interests.

Concerns Over Appointment Authority:

Currently, the governor appoints all six members of the commission. While this is standard practice in many commissions, it raises concerns about the lack of checks and balances. Since the governor appoints members to all positions, the commission's decisions could be seen as being biased toward the governor's political interests, rather than representing diverse, independent viewpoints.

Proposed Solution:

A nomination process that includes recommendations from a range of stakeholders (such as local governments, community groups, and the legislature) would ensure a more broadly representative commission. This could prevent political bias from undermining the independence of the commission and ensure it reflects the diversity of Alaska's communities.

2. Overlapping Laws and Administrative Challenges

Overlap with Local Government Autonomy:

The Local Boundary Commission plays a critical role in advising on matters related to the boundaries and governance of boroughs and municipalities. While SB 63 does not fundamentally alter the powers of the commission, it does increase the number of appointments made by the governor, which could lead to tension between local governments and the commission if state-level control becomes too centralized. There is potential for increased state interference in local governance, especially if the appointees come from a narrow political or geographical spectrum.

#### Proposed Solution:

To avoid this conflict, the bill should emphasize that the commission's role is strictly advisory, with greater deference to the wishes of local governments in matters of boundary changes and borough creation. This would promote a healthier balance between state oversight and local autonomy. Additionally, the commission could develop more transparent criteria for making boundary recommendations that align with local needs, rather than state-centric political interests.

### 3. Impact on Rural and Remote Communities

#### Underrepresentation of Rural Communities:

The bill introduces a representative from the unorganized borough, but rural and remote communities may still be underrepresented, particularly in the commission's decision-making processes. The commission's composition may not reflect the unique needs and cultural considerations of Alaska's indigenous and remote communities. Decisions about local government boundaries, especially in rural areas, can deeply affect local development, resources, and governance.

#### Proposed Solution:

The bill should consider creating special provisions for indigenous and remote communities on the commission. These provisions could include seats specifically designated for representatives from tribal organizations or rural municipal governments. Consultation with these communities could be mandated as part of any decision-making process that impacts them. This would ensure that rural communities have an adequate voice in boundary decisions.

### 4. Administrative and Operational Concerns

#### Lack of Expertise in Rural Issues:

The proposed commission members are appointed from the judicial districts, the unorganized borough, and the state at large. While this ensures geographic representation, it may not ensure adequate expertise in the specific needs and complexities of rural development, tribal governance, and socioeconomic challenges faced by remote communities.

#### Proposed Solution:

The bill could require that commission members possess relevant expertise in rural and community development or that advisory boards or consultants with expertise in rural affairs be utilized to guide the commission's decisions. This would ensure that rural issues are better understood and addressed in the boundary decision-making process.

#### Potential Administrative Overload:

The increase in members from six to seven creates additional administrative challenges, particularly in terms of coordinating meetings, gathering feedback, and implementing decisions across a vast and

diverse state. The workload could increase significantly, leading to delays in boundary adjustments and slow implementation of local governance changes.

**Proposed Solution:**

The bill could introduce a revised operational structure that increases the commission's efficiency. This might include clearer timelines for decisions, additional staff or resources to handle the increased workload, and regional subcommittees to help with decision-making and feedback from local communities.

**5. Transition Period and Existing Terms**

The bill introduces a transition provision which establishes that members appointed before the bill's enactment will continue serving out their current terms, while future appointees will serve six-year terms. This is a reasonable solution, but it may lead to inconsistent representation during the transition period, where some members may serve longer terms than others.

**Proposed Solution:**

To avoid confusion or inequity during the transition, the bill could provide a clear mechanism for staggered terms that ensures each region is fairly represented. Additionally, a review of existing term limits should ensure they align with best practices for maintaining continuity and diversity on the commission.

**6. Reduction in Legislative and Judicial Branch Power**

SB 63 could inadvertently reduce the power of the legislative and judicial branches by centralizing authority in the Local Boundary Commission, particularly through the proposed changes to the appointment process. The bill shifts the appointment power to the executive branch, with the governor selecting members for the commission. This could undermine the separation of powers between the branches by diminishing the role of the legislature and judiciary in oversight and decision-making regarding local boundaries.

In addition, by assigning a single commission to make decisions about boundary adjustments, the bill could limit the checks and balances typically provided by the broader legislative process. While the commission's actions will still be subject to legislative oversight, the bill's structure could lead to decisions that are heavily influenced by the governor's office, potentially reducing legislative influence over these important decisions.

**Proposed Solution:**

To preserve the balance of power, it would be important to ensure that the legislature retains an active role in overseeing commission appointments and decisions. This could include the requirement for legislative approval of commission appointees or the establishment of a mechanism where the judiciary plays a role in reviewing boundary decisions that may involve constitutional issues or potential violations of equal representation.

**Preserve the Balance of Power**

Ensure that the legislative and judicial branches retain adequate oversight and authority in the boundary decision-making process by requiring legislative approval for commission appointees and establishing a role for the judiciary in reviewing boundary adjustments that may involve constitutional or legal issues.

This will help maintain the separation of powers and ensure checks and balances between the branches of government.

## 7. Conclusion

SB 63 proposes changes that could improve the structure of the Local Boundary Commission, but it overlooks several important issues, particularly in terms of rural representation, potential legal conflicts, and the complexities of rural governance. To ensure a fairer, more effective commission, I recommend:

- A. Expanding the representation of rural and indigenous communities.
- B. Creating a more transparent and inclusive nomination process.
- C. Providing adequate support for rural expertise and consultation.
- D. Establishing clearer operational guidelines to improve efficiency.
- E. Ensuring equal representation through proportional mechanisms.
- F. Ensuring to protect the balance of power where both the legislative and judicial branches retain adequate oversight and authority in the boundary decision-making to maintain the separation of powers and ensure checks and balances between the branches of government.

These adjustments would improve the bill's capacity to address Alaska's diverse and complex needs and ensure a more equitable distribution of power between urban and rural communities.

I once again advocate to the Alaska Legislature to use its power to review the actions of the Governor and Attorney General. Citizens can petition their local legislators to call for hearings or investigations into the governor's actions. However mine are willingly breaking the law and Constitution now on near daily basis. There is enough significant public concern already, that the legislature may exercise its power to investigate or even override certain decisions.

I would be willing to support this bill if the suggested amendments were made to its text and its intentions were clearly defined. Protecting the people and fair representation is often an important overlooked issue. However it must be conducted in the best way possible for all people, not just one branch or party's advantage. We must always consider what the fast approach future holds ahead.

Thank you for considering this testimony and possible solutions.

Susan Allmeroth  
Two Rivers  
Myself

Further guidance

Below I am attaching the rudimentary legal and constitutional challenges that SB 63 may face ahead.

SB 63 ("An Act relating to the Local Boundary Commission") could raise potential legal and constitutional law issues. Below are some of the key concerns regarding the bill:

### 1. Separation of Powers and Executive Overreach

**Governor's Influence on the Local Boundary Commission (LBC):** The bill gives the governor the power to appoint members to the Local Boundary Commission, but the proposed change in the bill could increase the governor's control over the commission. In particular, the shift in chairmanship from the "member appointed from the state at large" to the selection of the chair among members could dilute the commission's independence, raising concerns about executive overreach and interference in decisions that should be made independently.

**Constitutional Issue:** There may be concerns about whether the bill unduly centralizes power in the executive branch, which could violate the separation of powers principle in the Alaska Constitution (Article III), limiting the independence of commissions or boards.

### 2. Due Process and Potential Political Manipulation

**Increased Governor's Control:** Allowing the governor to appoint members from specific regions (e.g., judicial districts, unorganized borough) could create a situation where the governor has disproportionate influence over decision-making processes, which could lead to potential political manipulation.

**Legal Issue:** The change may open the door for the governor to dismiss or appoint individuals to the commission based on political considerations rather than merit, creating possible violations of due process (14th Amendment, U.S. Constitution). This could undermine the commission's ability to operate fairly and impartially.

### 3. Impact on Local Communities and Fair Representation

**Regional Representation Concerns:** The changes to how members are appointed to the commission could potentially lead to imbalanced representation for local communities, particularly rural or remote regions. This shift could undermine the principle of equal representation for all Alaskans, especially if it leads to more centralization of power in urban areas or regions closely aligned with the governor's interests.

**Legal Issue:** The Voting Rights Act and principles of equal protection could be violated if certain regions or communities feel excluded or misrepresented by the governor's influence over appointments. This could be challenged as a violation of equal protection under the law (14th Amendment, U.S. Constitution).

### 4. Potential Violation of Public Participation Rights

**Lack of Public Input in Appointments:** The proposed changes might not adequately consider the public's role in the appointment of commission members. The Local Boundary Commission has the responsibility to make decisions affecting local governance and land use, and if the public feels the commission is too heavily influenced by the governor, it could undermine confidence in the commission's legitimacy.

Legal Issue: This could raise concerns under Alaska’s public participation laws (Article VIII, Alaska Constitution), which guarantees citizens the right to participate in the governance process. There could be legal challenges if public involvement is seen as being insufficient.

## 5. Potential Conflict with the Alaska Constitution

Lack of Specific Guidelines for Removal: The bill does not provide clear guidelines or reasons for the removal of commission members. If the governor were to dismiss members arbitrarily or for political reasons, this could lead to constitutional challenges based on abuse of power or violation of the checks and balances system.

Legal Issue: The Alaska Constitution (Article III) mandates that executive power must not be used arbitrarily and must respect the framework of checks and balances. A failure to establish clear justifications for removals could lead to challenges based on abuse of power or due process violations.

## 6. Conflict with State and Local Governance Principles

Overriding Local Autonomy: The LBC’s decisions can affect local governance, especially in cases related to municipal boundaries and borough classifications. If the governor exerts too much influence over the commission, it may result in decisions that do not reflect local interests, which could be perceived as an infringement on local governance and self-determination.

Legal Issue: This could lead to challenges under the Home Rule provisions of the Alaska Constitution (Article X), which guarantees local governments certain powers of self-governance. Over-centralization of power in the executive could be challenged as a violation of local autonomy.

### Proposed Solutions and Remedies:

Clear Limits on Executive Influence: The bill could be amended to clarify that the governor’s appointments are subject to public oversight and legislative confirmation. This would ensure a more balanced power structure and prevent potential political manipulation.

Independent Oversight: To prevent overreach, the bill could include provisions for independent review of the commission’s actions by the legislature or a designated oversight body.

Explicit Grounds for Removal: The bill should define explicit and legal grounds for the removal of commission members to prevent arbitrary dismissals.

Ensure Public Participation: Ensure that public participation in the appointment process is maintained and that local voices are represented.

### Conclusion:

While SB 63 provides structural changes to the Local Boundary Commission, it raises significant legal and constitutional concerns, particularly around separation of powers, due process, and representation. These concerns could potentially undermine public confidence in the commission and result in legal challenges. Addressing these issues with clearer checks and balances and ensuring local participation would make the bill more constitutionally sound and acceptable to the public.