

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 30, 2003

2:07 p.m.

MEMBERS PRESENT

Senator Thomas Wagoner, Chair
Senator Gary Stevens
Senator Georgianna Lincoln
Senator Kim Elton

MEMBERS ABSENT

Senator Robin Taylor, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 183

"An Act authorizing municipalities to provide for economic development and authorizing municipalities to expend revenue collected on an areawide or nonareawide basis to provide for economic development."

MOVED CS SB 183 (CRA) OUT OF COMMITTEE

PREVIOUS ACTION

No previous action to record.

WITNESS REGISTER

Brian Hove
Aide to Senator Ralph Seekins
Alaska State Capitol, Room 125
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SB 183

Mary Jackson
Chief of Staff to Senator Thomas Wagoner
Alaska State Capitol, Room 427
Juneau, AK 99801-1182
POSITION STATEMENT: Explained provisions of SB 183

David Leone
Fairbanks North Star Borough
P.O. Box 71267
Fairbanks, AK 99707

POSITION STATEMENT: Testified on SB 183

Jim Dodson
No address provided

POSITION STATEMENT: Testified on SB 183

Buz Otis
No address provided

POSITION STATEMENT: Testified on SB 183

Jim Drew
No address provided

POSITION STATEMENT: Testified on SB 183

Rick Solie
No address provided

POSITION STATEMENT: Testified on SB 183

Dan Bockhorst
Department of Community & Economic Development
550 West Seventh Avenue, Suite
Anchorage, Alaska 99501-3510
POSITION STATEMENT: Answered questions regarding SB 183

ACTION NARRATIVE

TAPE 03-12, SIDE A

CHAIR THOMAS WAGONER called the Senate Community and Regional Affairs Standing Committee meeting to order at 2:07 p.m. Present were Senators Gary Stevens, Georgianna Lincoln Kim Elton and Chair Thomas Wagoner.

The first order of business to come before the committee was SB 183.

#SB 183

SB 183-MUNICIPAL ECONOMIC DEVELOPMENT

BRIAN HOVE, aide to bill sponsor Senator Ralph Seekins, read the following into the record:

Current state law places a limitation on second-class boroughs with respect to expending funds designated for economic development purposes.

Presently, second-class boroughs may only use these funds on a non-areawide basis. This means that the Fairbanks North Star Borough can only deploy these funds on projects located outside the city limits of Fairbanks and North Pole.

It is desirable for the Borough to have the ability to utilize economic development funds on an areawide basis. In this way, worthy projects can be funded irrespective of their location - within, or without, municipal boundaries - so long as the project remains within the greater Borough boundary. Such projects will benefit the entire Borough community while physical location, whether within city boundaries or not, is considered immaterial to this greater good.

This legislation is proposed at the request of the Fairbanks North Star Borough as well as the Cities of Fairbanks and North Pole. In summary, it will facilitate the development of economically attractive projects throughout the entire Fairbanks North Star Borough without regard to internal municipal boundaries. Senate Bill 183's companion is HB 126.

SENATOR GARY STEVENS asked becoming a first-class borough would entail.

MR. HOVE replied it might require other changes that weren't palatable to people living in the Fairbanks area.

SENATOR GARY STEVENS remarked it would be interesting to know what the differences entail.

MR. HOVE advised Mr. Leone might be better equipped to answer the question.

SENATOR KIM ELTON said his thoughts ran along the same line as Senator Stevens'. He also noted that in the last several months the Local Boundary Commission (LBC) has addressed the organization of part of the Unorganized Borough and the Governor and some legislators have spoken about consolidation of school districts.

SB 183 is one approach to the Fairbanks goal and another is to consolidate government functions in the same way as is discussed in the Unorganized Borough or with school districts. The first approach is counter-intuitive to much of the information

presented by the LBC in their Unorganized Borough Report. He asked whether consolidation might not be a better goal so such issues don't have to be addressed one at a time.

MR. HOVE replied it is his understanding that various proposals have been put forth to consolidate but they were met with resistance. He continued, "In this particular instance, I don't think that they should be stopped or prevented from pursuing this worthy endeavor here simply because we don't want to go from second to first [class borough] or do some of those other things like you're suggesting."

SENATOR ELTON remarked this would be an accommodation for an urban community that wants to accomplish a bit more than they are able to under the current type of government, but at the same time the Administration and some legislators aren't willing to accede to the wishes of local communities like Petersburg and Wrangell or Skagway. Legislators are put in the awkward position of favoring one and not the other.

MR. HOVE stated he had his hands full understanding the issues in the Fairbanks area and isn't familiar with the examples cited and couldn't speak to the comparison.

MARY JACKSON, staff to Senator Wagoner and the committee, responded to Senator Elton's concern and explained the two dynamics are legally separate. She said, the Skagway issue and whether it does or does not become a borough is a function of the constitutionally established LBC and, "you really don't have anything you can do about them. You do have some things you can do about the authorities you give to first-class, second-class boroughs and cities." The sponsor is trying to put an economic program in place for the borough that encompasses the Fairbanks North Pole area.

She explained committee substitute \H Cook 4/29/03 addresses the unintended consequence of disrupting all second-class boroughs. The bill was intended to accommodate the Fairbanks North Star Borough and doesn't necessarily fit the needs or wishes of any other borough. All cities under a second-class borough currently are able to have economic development powers if they choose. However, if current language were adopted to give second-class boroughs economic development authority, then all the cities under the borough would have to abdicate that authority. Even though Fairbanks wants to do so, it was not the sponsor's intent that all cities under a second-class borough be required to do

so. The proposed CS is to accommodate the issue of Fairbanks by establishing a population threshold of 80,000.

SENATOR GARY STEVENS remarked this was an interesting point and the implications of such a change would need careful examination.

MS. JACKSON replied this was an unintended consequence and the concern is legitimate. A second-class borough has chosen to have fewer authorities. In this case, one of those boroughs wants more and this is a mechanism to provide for that. That is local authority and local autonomy and local power. Senator Wagoner believes this is reasonable and that is the reason for the CS. To have this automatically happen to all second-class boroughs isn't local autonomy.

SENATOR GARY STEVENS asked how complicated it would be for Fairbanks to become a first-class borough.

MS. JACKSON advised first-class borough powers are outlined in Section 29.35.200 and second-class borough powers are outlined in Section 29.35.210 copies of which were attached to the CS. To go from a second-class borough to a first-class borough requires a vote of the people to authorize adoption of the powers listed.

SENATOR GARY STEVENS asked if the voters could select the powers they wanted.

MS. JACKSON told him they could, but there were some required powers as outlined in Title 29 such as schools and elections. Home rule is the ultimate flexible municipal structure because it allows a choice of powers and provides the most options.

SENATOR ELTON said he was returning to the philosophical orientation that appears to be driving the discussion on consolidation of school districts or organizing a portion of the Unorganized Borough. Fairbanks wants the statutes amended to affect only second-class boroughs that have populations over 80,000. If the philosophy that consolidation is good and duplication of government services is bad and therefore fewer school districts are needed then SB 183 goes against that philosophy. This provides an accommodation that makes it easier to come to a decision not to consolidate.

MS. JACKSON replied this would help Fairbanks to go forward and assume another power even though they don't want to assume all the powers of a first-class borough. It is a consolidation

because the cities would have the powers consolidated in the boroughs. She described this as an aid in the evolutionary process toward a first class borough.

SENATOR ELTON said he'd be the first to argue there ought to be local options to accommodate government that is closest to the people. That principle would be applied in SB 183, but not in the requests regarding certain borough formation.

MS. JACKSON said she wouldn't disagree, but it goes back to legislative jurisdiction. The Homer annexation became contentious because of the limited authority the Legislature has in that regard.

SENATOR ELTON replied the Legislature is exercising its preference in SCR 12 by highlighting four areas of the state for borough formation.

MS. JACKSON noted those listening online didn't have a copy of the proposed CS and asked the Chair whether he would like her to speak to it.

CHAIR WAGONER asked for a motion to adopt the proposed CS for discussion purposes.

SENATOR ELTON made a motion to adopt CS Work Draft \H dated 4/29/03 for discussion. There being no objection, it was so ordered.

MS. JACKSON explained the CS accomplishes the following:

- Revises the title to reflect only certain second-class boroughs rather than all municipalities.
- Amends statutes regarding second-class boroughs AS 29.35.210(d) by specifying economic development authority for those with a population of more than 80,000.
- Deletes previous statute amendment that provided for economic development authority for all municipalities.
- Deletes previous repealer of AS 29.35.210(a)(8) that was specific to economic development. (This required second-class boroughs to provide the service only on a non-areawide basis.)

She also pointed out the list of cities within organized boroughs that may or may not be impacted.

SENATOR GARY STEVENS asked if Fairbanks and Anchorage were the only cities with populations greater than 80,000.

MS. JACKSON said that was correct.

SENATOR ELTON asked what the population is in the Mat-Su borough.

MS. JACKSON informed him the population is 65,241.

SENATOR ELTON noted this would apply to the Mat-Su borough if they continue to grow.

MS. JACKSON agreed.

She recapped saying the net result is that second-class boroughs with populations that exceed 80,000 may provide for economic development that benefits the borough on an areawide basis. Section 1 provides the authorization for the funds to be expended.

SENATOR GARY STEVENS asked what the current population is in Fairbanks.

MS. JACKSON replied the Fairbanks population is 84,791.

SENATOR ELTON asked how they handle economic development.

MS. JACKSON said every entity takes a slightly different approach. Kenai Peninsula has an economic development district (ARDOR) and the borough and all municipalities are members. The ARDOR acts as the overall economic development planner for the second-class Kenai Peninsula Borough. It is her understanding that, in Fairbanks, the ARDORs and municipalities agree this is a good way to do business.

SENATOR ELTON asked whether a municipality could change their mind without requesting an amendment to the statutes.

MS. JACKSON said she didn't think so.

SENATOR GEORGIANNA LINCOLN asked why Fairbanks wouldn't elect a home rule form of government to accomplish the same thing.

MS. JACKSON replied that might be a lengthy, arduous and possibly contentious undertaking. They would need to appoint a home rule charter group and spend up to 24 months formulating a

charter. Public hearings would subsequently be held and ultimately the charter would be voted upon.

SENATOR LINCOLN asked if that was an option.

MS. JACKSON said it was; they could opt for home rule or first-class borough, but they probably wouldn't be able to unify like Juneau or Anchorage.

SENATOR LINCOLN asked if economic development in Fairbanks had to be outside the municipality.

MS. JACKSON replied the borough is responsible for non-areawide authority so the borough can undertake economic development functions within the borough, but outside the two municipalities of North Pole and Fairbanks.

SENATOR LINCOLN then asked about areas such as Ester or Fox. She questioned how they would be protected or represented because they are part of the borough, but may not have a presence on the assembly.

MS. JACKSON was sure the borough was apportioned, but she didn't know whether they had designated seats.

SENATOR LINCOLN replied perhaps someone from Fairbanks could provide an answer.

SENATOR GARY STEVENS asked if the cities of Fairbanks and North Pole currently had economic development councils.

MS. JACKSON said Fairbanks people could answer then restated the intent of the CS, which was to assist the City of Fairbanks without impacting all second-class boroughs in Alaska.

SENATOR LINCOLN asked if the people that wrote to support the original bill also supported the CS.

MS. JACKSON replied that was why she was speaking at length to the CS so those listening online could understand what was intended and make that determination. As long as Fairbanks is able to do economic development it could be assumed they would be supportive.

SENATOR LINCOLN asked if the LIO sites had copies of the CS.

MS. JACKSON advised she doesn't release a CS until the committee has adopted it officially. That was done and the CS was distributed to the LIO sites.

CHAIR WAGONER called for public testimony.

DAVID LEONE, Special Assistant to the Fairbanks North Star Borough Mayor's office, thanked Ms. Jackson for fully explaining the CS. He advised economic development efforts run into difficulty because of the requirement to differentiate between areawide and non-areawide boundaries. They appreciate that the CS alleviates the unintended consequences of the original bill.

He added the intent is to maximize the economic development function within the borough. The cities of Fairbanks and North Pole and the North Star Borough work cooperatively but it's difficult to adhere to the letter of the law that non-areawide funds in economic expenditures are not crossing that boundary between city and borough.

SENATOR ELTON asked if the bed tax in the Fairbanks area was a city or a borough tax.

MR. LEONE replied the city accumulates the city bed tax and the borough handles the accumulation and collection of the non-areawide bed tax.

SENATOR ELTON asked if those revenues were co-mingled and used in a coordinated effort.

MR. LEONE said they aren't put together. For example, the borough helps fund the Fairbanks Economic Development Corporation or the Fairbanks Convention and Visitors Bureau and the city would likewise contribute. Again you come to the issue of ensuring that a dollar given by the borough doesn't cross the line between non-areawide and the City of Fairbanks and the City of North Pole. The funds are separate, but used in cooperation.

SENATOR ELTON remarked SB 183 would allow co-mingling of the funds if the city and borough so desired.

MR. LEONE replied it gives the borough the freedom to expend the non-areawide bed tax and non-areawide mil levy that is collected for economic development. It wouldn't impact the cities' ability to allocate their funds for economic development within the city limits.

SENATOR GARY STEVENS asked if the cities of Fairbanks and North Pole had taken action to support the CS.

MR. LEONE advised both cities passed resolutions in support of the original legislation. The borough doesn't see that this would impact the cities' ability to determine specific economic development opportunities within the city limits. It provides flexibility to maximize economic development effort within the borough in support of the North Star Borough and the City of Fairbanks and the City of North Pole.

SENATOR GARY STEVENS asked if this would in no way affect what the cities are currently doing in terms of economic development.

MR. LEONE replied it would affect them positively rather than negatively.

SENATOR LINCOLN asked if that would also be the case for small communities within the borough.

MR. LEONE said economic development in the borough currently helps small communities such as Ester and Fox because they have no powers to collect taxes.

SENATOR LINCOLN asked if that would diminish under SB 183.

MR. LEONE said current support for those outlying communities in the borough wouldn't change. They would continue to be supported by the borough economic development funds.

SENATOR LINCOLN asked if outlying communities would be impacted because those funds would be spread more thinly.

MR. LEONE replied those small communities would benefit to the same extent as Fairbanks and North Pole.

SENATOR ELTON asked if the new language on page 1, lines 11-14 was loose in terms of the kind of economic development benefits the city and borough would be authorized to pick.

MR. LEONE said that language gives the borough the ability to utilize non-areawide funds in an areawide fashion. He doesn't see it negatively impacting the city it simply augments areawide economic development activities within the borough.

SENATOR GARY STEVENS remarked he wasn't sure SB 183 would accomplish what the borough wants. He didn't interpret the

language on lines 11-14 of the CS as allowing the cities to continue.

MR. LEONE said he couldn't speak from a legal standpoint, but what they would like to expand non-areawide funds on an areawide basis in support of economic development. There is no intention to take away choices or opportunities the City of Fairbanks or the City of North Pole now have. It is to augment the entire effort in developing the economy.

MS. JACKSON commented that it's important to understand that both Fairbanks and North Pole are home rule municipalities and thus have charters. The CS provides for the North Star Borough and it may provide for economic development that benefits the borough on an areawide basis.

SENATOR GARY STEVENS used Kodiak as an example saying it's a home rule city with a police department in a second-class borough that doesn't have a police department. If the borough decided to go into police protection, they would establish a borough-wide police department and the city would no longer be able to have one.

In the instance of Fairbanks, he questioned whether the borough taking over economic development would preclude the cities from having an economic development department.

MS. JACKSON didn't believe they would be precluded because of the agreement forged between the borough and the two cities.

CHAIR WAGONER stated he wanted to protect his staff and although she is well versed on Title 29 and is giving her best opinion, she isn't an attorney.

SENATOR ELTON had the same type of questions as Senator Stevens. He questioned whether the cities could pick and choose economic development activities or would they have to make a determination that they are going to assume any economic development.

MS. JACKSON didn't know.

CHAIR WAGONER opined the cities would have the option because SB 183 doesn't take that option away from home rule cities.

SENATOR ELTON suggested it might be safer to add "some types" to describe economic development.

MS. JACKSON admitted he might be on the right track. She said this is an evolutionary process on the way to a first class borough and there's nothing wrong with that, as long as there are some parameters.

SIDE B

1:53 pm

SENATOR GARY STEVENS specified his concern was to protect the cities so he was interested in hearing from Fairbanks and North Pole to determine whether they are comfortable with the language in the CS.

MS. JACKSON pointed out Senator Stevens was the chair of the next committee of referral.

JIM DODSON, Chairman of the Fairbanks Economic Development Corporation, testified in support of the committee substitute. Economic development doesn't understand city or borough boundaries. The bill doesn't give the city any additional power nor does it take away any existing power. The corporation mission statement is to bring new jobs to Fairbanks and it doesn't address where those new jobs are or where they impact. The impact is positive to the entire community if they are able to accomplish the goal. The City of Fairbanks, the City of North Pole and the North Star Borough recognize that and have made this request.

SENATOR GARY STEVENS asked if this would affect what the cities or the university could do individually.

MR. DODSON replied this gives the borough no additional power other than the ability to spend economic development dollars in the entire area. It doesn't affect the dollars taken in by the city.

SENATOR GARY STEVENS asked if the borough assuming this power would, it in no way, infringe on the cities' right to have the same power within its boundaries.

MR. DODSON said it wouldn't.

BUZ OTIS was unable to deliver his testimony but it was faxed to Senator Wagoner's office.

JIM DREW from the Fairbanks Economic Development Corporation (FEDC) made the following points:

- There is need for economic development itself and it is enhanced by SB 183. FEDC is trying to bring in new business and new jobs to the community. An economy that expands products and services it sells to the world is the only known long-term forum of sustainable economic security. Alaska hasn't increased exports or replaced imports it's just increased consumption. No additional private sector generated wealth has been created.
- The CS provides opportunity to do more in terms of funding coordination to meet the objectives of economic development. It would give flexibility to more efficiently use available funds over an entire area.

RICK SOLIE from the Fairbanks North Star Borough Assembly supported CSSB 183 because it would allow the community to better focus on economic development activities in the borough and within the communities. Specifically, it takes the non-areawide power of economic development that is currently available and allows that power to become an areawide power. He agreed with Ms. Jackson that the cities would retain their economic development power were this to be adopted. Both the city and the borough agree they could continue their respective efforts.

The city has its own council and their own mil rate. They determine their expenditure on various items including economic development activities and tourism marketing. Similarly, the borough has its own assembly and its own millage rate. They have an areawide .5-mil tax and a non-areawide 13.6-mil tax. SB 183 would allow the 13.5-areawide mils to be used to fund all economic development activities.

SENATOR ELTON said he had two issues. First, could the borough assume some economic development projects or must they assume all under this legislation? Second, the legislation clearly gives boroughs the power if they so choose. This option comes from the word "may" on line 13 of the CS. However, it doesn't appear that cities have that option without asking for a change in the statutes.

MR. SOLIE replied there are no some-or-all economic development powers. As a second-class borough, they have economic development authority, but it is a non-areawide power. This isn't a new power; it's an extension of existing power.

SENATOR ELTON used tourism promotion as an example of economic development that is funded by bed taxes. If the city was reluctant to give up planning and zoning powers within the city limits, that may preclude economic development in terms of an industrial park within the city. He asked if the city would give up the ability to do that if the borough government was exercising its ability to provide for economic development or would they be giving up the opportunity to use borough dollars?

MR. SOLIE replied they aren't giving up the opportunity to use borough dollars. "There may be some legal co-mingling of funds, but our millage is separate from the city's millage. Whether they raise the mil and choose to prioritize more money to economic development is their prerogative and within the borough, it's the borough's prerogative."

In his mind there is no link, but there is a link with visitor marketing. Fairbanks Convention and Visitors Bureau (FCVB) receives monies from the borough, from the city, from members and other sources to market Fairbanks as a destination. Borough dollars aren't linked to city dollars in that regard either. They go to FCVB and they develop a program based on the level of funding they have. Planning and zoning are borough powers and SB 183 wouldn't change that.

DAN BOCKHORST from the Department of Community and Economic Development advised he was available to answer questions.

SENATOR GARY STEVENS asked if they were correct in assuming that the cities wouldn't lose economic development powers when the borough assumed those powers.

MR. BOCKHORST said it was an important question and he wasn't convinced that both would retain their powers. Generally, state law precludes the possibility of more than one local government providing a particular service to the same area. This is to prevent duplication of tax-levying jurisdictions.

He read AS 29.35.340 that speaks to the effect of acquiring an areawide power. If a borough assumes a power on an areawide basis, it succeeds the power of a city government with regard to that particular power.

SENATOR GARY STEVENS repeated it's important to hear from both the City of Fairbanks and the City of North Pole to make sure they understand that as well.

SENATOR ELTON agreed that is an important point to clarify, but SB 183 also appears to be at odds with the Local Boundary Commission (LBC) mission to encourage consolidation and efficient government.

MR. BOCKHORST advised he was not representing the LBC that day, but he did recall they approved the petition for consolidation of local government of the City of Fairbanks and the Fairbanks North Star Borough several years ago and it was not well received by the voters. There is a formal mechanism established in the law that allows city governments to transfer powers to borough government and this is consistent with the general constitutional requirement of not having more than one government providing services to the same area.

There was no further testimony.

CHAIR WAGONER announced he would like to move the bill from committee and get a legal opinion before the hearing in State Affairs.

SENATOR GARY STEVENS made a motion to move CSSB 183 (CRA) from committee with individual recommendations and zero fiscal note.

SENATOR ELTON objected for the purpose of stating he is uncomfortable voting when he doesn't have an answer to a very significant question. He then removed his objection.

CSSB 183 (CRA) moved from committee.

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CHAIR WAGONER adjourned the meeting at 3:20 pm.