

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

May 7, 2005

9:01 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Co-Chair
Representative Bill Thomas, Co-Chair
Representative Mark Neuman
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

Representative Pete Kott
Representative Gabrielle LeDoux

COMMITTEE CALENDAR

SENATE BILL NO. 128 am

"An Act relating to consideration by the Local Boundary Commission of a requested borough incorporation."

- MOVED SB 128 am OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 128

SHORT TITLE: BOROUGH INCORP. IS NOT BOUNDARY CHANGE

SPONSOR(S): SENATOR(S) THERRIAULT

03/03/05	(S)	READ THE FIRST TIME - REFERRALS
03/03/05	(S)	CRA, JUD
03/21/05	(S)	CRA AT 1:30 PM BELTZ 211
03/21/05	(S)	Moved SB 128 Out of Committee
03/21/05	(S)	MINUTE(CRA)
03/22/05	(S)	CRA RPT 3DP 1NR
03/22/05	(S)	DP: STEVENS G, WAGONER, KOOKESH
03/22/05	(S)	NR: STEDMAN
04/06/05	(S)	JUD AT 8:30 AM BUTROVICH 205
04/06/05	(S)	Heard & Held
04/06/05	(S)	MINUTE(JUD)
04/07/05	(S)	JUD AT 8:30 AM BUTROVICH 205
04/07/05	(S)	Scheduled But Not Heard
04/08/05	(S)	JUD AT 8:00 AM CAPITOL 120
04/08/05	(S)	Scheduled But Not Heard

04/12/05 (S) JUD RPT 3DP 2NR
04/12/05 (S) DP: SEEKINS, THERRIAULT, HUGGINS
04/12/05 (S) NR: FRENCH, GUESS
04/12/05 (S) JUD AT 8:00 AM CAPITOL 120
04/12/05 (S) Moved SB 128 Out of Committee
04/12/05 (S) MINUTE(JUD)
05/05/05 (S) TRANSMITTED TO (H)
05/05/05 (S) VERSION: SB 128 AM
05/06/05 (H) READ THE FIRST TIME - REFERRALS
05/06/05 (H) CRA
05/07/05 (H) CRA AT 9:00 AM CAPITOL 124

WITNESS REGISTER

DAVE STANCLIFF, Staff
to Senator Gene Therriault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 128 on behalf of the sponsor,
Senator Therriault.

SALLY SADDLER, Legislative Liaison
Department of Commerce, Community, & Economic Development
Juneau, Alaska

POSITION STATEMENT: Stated the SB 128 am is acceptable to the
department.

ACTION NARRATIVE

CO-CHAIR KURT OLSON called the House Community and Regional
Affairs Standing Committee meeting to order at 9:12:30 AM.
Representatives Olson, Thomas, Neuman, and Cissna were present
at the call to order. Representative Salmon arrived as the
meeting was in progress.

The committee took an at-ease from 9:12 a.m. to 9:14 a.m.

SB 128-BOROUGH INCORP. IS NOT BOUNDARY CHANGE

9:14:06 AM

CO-CHAIR OLSON announced that the only order of business would
be SENATE BILL NO. 128 am, "An Act relating to consideration by
the Local Boundary Commission of a requested borough
incorporation."

[9:14:08 AM](#)

DAVE STANCLIFF, Staff to Senator Gene Therriault, Alaska State Legislature, explained that SB 128 am addresses whether or not a borough should be formed under Title 44. He turned attention to page 1, lines 12-13, which specifies that if the Local Boundary Commission (LBC) wants to use its constitutional prerogative to form a borough under Title 44, it may. However, the legislature will no longer mandate it.

[9:15:20 AM](#)

MR. STANCLIFF pointed out that if the constitution says the LBC has the ultimate discretion to consider whether or not it uses Title 44, then the question is whether the word "shall" really has any meaning. He related that Senator Therriault feels that with annexations and existing boundaries there may be reason for that language to remain. However, if, for the origin of an entirely new borough, the LBC decides to proceed under Title 44, then it shouldn't be under the cover of a legislative mandate but rather through the LBC's full discretion via the constitution.

[9:16:31 AM](#)

MR. STANCLIFF highlighted the legislation's intent language, which is intended to clarify that the legislature, through adoption of this provision, doesn't intend to enlarge or diminish the LBC's constitutional authority. However, the intent language does not specifically reference Title 44 action because the desire is for the intent language to be all-inclusive and include Title 29, which is the traditional manner in which boroughs are formed. Mr. Stancliff opined that this legislation places [statute] more in harmony with the constitution and states that should the LBC decide to proceed under Title 44, it should do so on its own.

[9:18:15 AM](#)

MR. STANCLIFF, in response to Representative Neuman, related that Title 44 is the legislative process, which seems to be a bit of a misnomer. He related that the City of Whittier's Council filed a request, under Title 44, that fell under the mandate of the existing language. Therefore, the LBC said that it had to consider the request to form a new borough around Whittier. The LBC accepted the request and directed the Division of Community Advocacy to draw up the boundary petition.

Unlike Title 29, which includes public hearings and a locally generated petition, Title 44 is a faster track because it goes around Title 29 and an agency of the executive [branch] creates the petition. Although there will be public comment periods, they are not at the same level as with the Title 29 process. As policymakers, the legislators have to determine whether it's comfortable with mandating that kind of process in the creation of a new borough.

[9:20:13 AM](#)

MR. STANCLIFF informed the committee that the courts have not ruled that a boundary change takes in incorporation or the genesis of a new boundary. Until there is a clear court definition as to whether the LBC simply has the power to change or create boundaries, the effect of Title 44 is in question. This is the first time in the state's history that the LBC has used Title 44 for creation of an entirely new boundary.

[9:21:00 AM](#)

REPRESENTATIVE NEUMAN related his understanding then that Title 29 allows for public input into the process that will be used, while Title 44 allows the LBC to form regulations without public input.

MR. STANCLIFF opined that the public is much more involved in the formation process of the borough under Title 29.

[9:22:16 AM](#)

SALLY SADDLER, Legislative Liaison, Department of Commerce, Community, & Economic Development (DCCED), stated the SB 128 am is acceptable to the department.

[9:22:45 AM](#)

CO-CHAIR OLSON, upon determining there was no one else who wished to testify, closed public testimony.

[9:22:55 AM](#)

CO-CHAIR THOMAS moved to report SB 128 am out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:23 a.m.