

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

January 24, 2006

8:07 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Pete Kott

OTHER LEGISLATORS PRESENT

Representative John Coghill

COMMITTEE CALENDAR

OVERVIEW: LOCAL BOUNDARY COMMISSION

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DARROLL HARGRAVES, Chair
Local Boundary Commission
Wasilla, Alaska

POSITION STATEMENT: Provided an overview of the Local Boundary Commission.

DAN BOCKHORST, Local Boundary Commission
Division of Community Advocacy
Department of Commerce, Community, & Economic Development
Anchorage, Alaska

POSITION STATEMENT: Offered additional information regarding the department's interaction with the LBC, and answered questions.

ACTION NARRATIVE

CO-CHAIR BILL THOMAS called the House Community and Regional Affairs Standing Committee meeting to order at [8:07:17 AM](#). Representatives Thomas, Olson, Neuman, and Cissna were present at the call to order. Representatives Salmon and LeDoux arrived as the meeting was in progress. Also in attendance was Representative Coghill.

LOCAL BOUNDARY COMMISSION

[8:07:48 AM](#)

CO-CHAIR THOMAS announced that the only order of business would be the overview from the Local Boundary Commission (LBC).

[8:08:00 AM](#)

DARROLL HARGRAVES, Chair, Local Boundary Commission, recalled the LBC's report last year, which was the 50th anniversary of the constitutional convention. The intent of last year's report was to provide a resource for years to come. The 2006 LBC report has been provided to each member of this committee, and it addresses the following areas: an overview of the LBC; a summary of the LBC's activities last year as well as pending proposals; and a discussion of public policy issues of interest to the LBC. Mr. Hargraves reminded the committee that the Alaska State Constitution established the LBC in order to objectively deal with boundaries and organization proposals and to do so with a statewide perspective. Furthermore, the LBC is responsible for judging proposals in areas of incorporation, annexation, detachment, reclassification, dissolution, mergers, and consolidation of cities and boroughs. The LBC also is responsible for the study of local boundary issues/changes. He pointed out that the LBC consists of five members appointed by the governor for overlapping five-year terms. One member is appointed from each of Alaska's four judicial districts and the fifth member is appointed at-large and serves as the chair. He highlighted that commission members donate their time and receive no compensation for their service. He then mentioned that the Department of Commerce, Community, & Economic Development (DCCED) provides support to the LBC.

[8:13:51 AM](#)

MR. HARGRAVES moved on to Chapter 2 of the report, which outlines the activities of the LBC, including formal or

potential proposals. In the past year, there has been annexation by 10 city governments, among which was a formal proceeding that the LBC affirmed annexation of 4.5 square miles to the City of Homer. There were also the incorporation of four unincorporated communities, among which the LBC approved, with amendments, a proposal to incorporate a second class city to serve the community of Naukati. There was also the reclassification of four existing cities and annexation by three borough governments, although no formal petitions were considered and none are pending. The LBC also saw the consolidation of a borough and city government. He noted that there is a pending petition for the consolidation of the City of Ketchikan and the Ketchikan Gateway Borough. There was also the detachment of four boroughs. The LBC saw borough incorporation in 11 unorganized areas, which he surmised illustrates the considerable interest in incorporation. Currently, there is a pending petition for borough incorporation for the Deltana Borough.

[8:16:21 AM](#)

MR. HARGRAVES continued with Chapter 3, which summarizes the major policy issues and concerns of particular interest to the LBC, including the lack of adequate inducement for organization; the lack of standards providing for the establishment of unorganized boroughs; and funding for borough feasibility studies. Mr. Hargraves related the LBC's pleasure with the consideration of various legislative incentives for the formation of organized boroughs. However, the LBC, he opined, believes that further investigation is necessary to determine those incentives. Among the current possibilities are HB 217, which excludes the value of oil and gas not taxed by a municipality and the determination of the required local contribution to schools. The aforementioned, he highlighted, will be of vital concern for some of the future borough requests.

[8:17:59 AM](#)

REPRESENTATIVE NEUMAN inquired as to what the concern is related to HB 217. He further asked if the communities that are concerned are in relation to whether the gas line proposals are from Prudhoe Bay to Valdez or Prudhoe Bay through Canada.

MR. HARGRAVES replied yes, those communities with a portion of the pipeline running through it are concerned. He explained that if the high assessed evaluation was included in the

assessed valuation of the borough, the borough couldn't afford to organize. However, when that [high assessed valuation] is excluded from the determination in providing the local contribution to schools, the borough would find it feasible to organize. Therefore, the LBC supports HB 217, he related.

MR. HARGRAVES then turned the committee's attention to SB 112, which imposes a tax on certain individuals employed in the unorganized borough outside of home rule and first class cities. He related that the LBC supports SB 112. He recalled the positive testimony from those in unorganized areas, which he interpreted as meaning that people in these areas are receptive to some type of tax to participate in funding their schools. He acknowledged that there would still need to be certain protections for individuals at the poverty level or over the Social Security age. Still, [SB 112] would be a manner in which to provide local funding to the schools in the unorganized boroughs. He noted that the LBC is aware of the recent work done by the Alaska Advisory Commission on Local Governments and offered that the LBC will respond to any questions/concerns of it.

[8:21:35 AM](#)

MR. HARGRAVES concluded by highlighting that the LBC continues to support greater incentives for borough incorporation. Therefore, it urges the legislature to make funding available to explore borough incorporation. He acknowledged that there would have to be controls with the aforementioned.

[8:23:05 AM](#)

DAN BOCKHORST, Local Boundary Commission, Division of Community Advocacy, Department of Commerce, Community, & Economic Development (DCCED), in response to Representative Neuman, confirmed that SB 112 is the approximately \$470 annual head tax that applies only to individuals 21-65 years of age who reside or are employed in Rural Education Attendance Areas (REAAs) outside of home rule and first class cities and whose income doesn't fall below federal poverty guidelines. He noted that under SB 112, disabled veterans and individuals who are property taxpayers elsewhere would be exempt.

[8:24:05 AM](#)

REPRESENTATIVE NEUMAN recalled that last year this committee determined that two meetings should be held in areas to be

annexed. He opined that often after meetings for annexation, there is media coverage that alerts people to the annexation, and therefore a second meeting could allow those with information from the first meeting to participate. He asked if that approach was utilized.

MR. HARGRAVES indicated that he didn't recall that recommendation. He related that the public information hearings [for annexation] include public information hearings early in the process. In fact, staff often meet with various interest groups. After all the written testimony is in the record, the LBC meets [at the annexation site], after which the LBC makes a decision. He asked if Representative Neuman was suggesting that the LBC have a second hearing.

REPRESENTATIVE NEUMAN said that HB 133 was the legislation relating to this, which unanimously passed in the House. He recalled that HB 133 specified that when there is an annexation, there should be at least two meetings to discuss issues. He recalled that HB 133 also addressed the use of the aggregate vote requirement and proposed that [in order for annexation to proceed] both areas involved in an annexation should vote separately in the affirmative. The notion behind the aforementioned is that the most populous area in an annexation would, in an aggregate vote situation, determine the fate of the annexation.

MR. HARGRAVES said, "That is in regulation." He noted that the last revision of those regulations was in the early 1990s, and therefore it's probably time to have a major revision of those. In fact, the department has assigned staff to work with the LBC to develop a new set of regulations. The aforementioned input is helpful in the development of regulations.

[8:30:06 AM](#)

CO-CHAIR OLSON recalled the Homer annexation, which he characterized as a painful process for those in the community. He inquired as to the point at which the annexation is today. He also inquired as to what the LBC would do differently in a similar hostile annexation.

MR. HARGRAVES noted that there are still pending suits in that case, and therefore he said he couldn't discuss any specifics. He commented that sometimes the hearing process becomes a negotiation process. In fact, there were many positives that resulted from the hearing process with the Homer annexation.

Mr. Hargraves recalled that when the LBC went to Homer after the court decision, he was impressed with the positive testimony and the number of people who supported the [court's] position. However, he acknowledged that there were a couple of people outside of the incorporated area who were opposed to the [court's] position.

[8:32:23 AM](#)

CO-CHAIR OLSON recalled that the original annexation was for approximately 25 square miles, but it was finally approved for 4.5 square miles.

MR. HARGRAVES replied yes, adding that many times the hearing process itself is a type of arbitration.

[8:33:35 AM](#)

REPRESENTATIVE LEDOUX related her understanding that in some of the unorganized boroughs REAAs receive federal funding, and therefore she asked if such boroughs would lose the federal funds if they organized.

MR. HARGRAVES specified that the REAAs do receive part of their PL874 [federal funds]. Therefore, if the REAAs organized to become a borough school district, then more of the PL874 funds would go directly to the community thereby reducing the amount going to the state. In further response to Representative LeDoux, Mr. Hargraves said the net total amount of PL874 funding would remain the same. He explained that the PL874 funding is earned on the basis of the populous who live on or work on federal lands. He mentioned that there is a classification of nonrestricted deeds on which some people live for which the federal government will pay the taxes on those properties.

[8:36:10 AM](#)

CO-CHAIR THOMAS highlighted that the LBC's report specifies that the total taxable property value of the Yukon Flats REAA is \$340 million of which \$316 million is the Trans-Alaska Pipeline System (TAPS). If Yukon Flats formed a borough, would the state lose that \$316 million and if so, would it go to the borough instead, he asked.

MR. HARGRAVES answered that it could under current statute. However, the rest of the 20 mills would be collected by the state.

CO-CHAIR THOMAS recalled that recently local municipalities were provided the ability to discount the first \$50,000 of property value. He then inquired as to how that would work on TAPS. He surmised that the first discount would be on the \$50,000 property value of [the homes in the Yukon Flats area] and the pipeline would still be fully taxed at 20 mills.

MR. BOCKHORST replied yes, adding that this relates to HB 217. He specified that the only way a Yukon Flats Borough government could benefit from TAPS would be to levy a property tax. A report prepared by the University of Alaska graduate students specified that roughly 93 percent of the taxable value of property within the Yukon Flats region related to TAPS. He explained that HB 217 would remove the ability to levy the property tax, if the community agreed, but the required local contribution to schools would decrease because it wouldn't be included in the calculation.

CO-CHAIR THOMAS, noting the possible construction of a gas line [in the Yukon Flats area], pointed out that by encouraging Yukon Flats to become a borough, the state could lose \$500 million in revenue.

MR. HARGRAVES agreed.

MR. BOCKHORST clarified that the \$500 million isn't revenue but rather is a property tax base, and therefore 20 mills would be 2 percent of \$500 million.

[8:40:05 AM](#)

MR. HARGRAVES, in response to Co-Chair Olson, specified that there is no formal petition for the Fairbanks North Star Borough.

MR. BOCKHORST related that in early 2005 the Fairbanks North Star Borough expressed serious interest in exploring the merits and prospects of annexation. In fact, the Mayor of the Fairbanks North Star Borough indicated in published reports that he had reached a preliminary conclusion that annexation of territory north to the Yukon River and south to the Good Pasture River was economically viable. However, there has been no formal annexation proposal by the Fairbanks North Star Borough.

[8:41:07 AM](#)

REPRESENTATIVE NEUMAN recalled that last year the legislature passed legislation giving 250,000 acres to the university system with the intent that another 250,000 would be received from the [federal] government. Representative Neuman related that he viewed this as a way to help areas organize boroughs. He asked if Mr. Hargraves viewed it similarly.

MR. HARGRAVES agreed that the lands available in the areas being petitioned is a good inducement for incorporation. However, the inequity lays in the lack of lands or resource rich areas in one area versus another. Therefore, anything placing more lands available for selection would be an incentive, he opined.

REPRESENTATIVE NEUMAN related his belief that many of the lands that will be given to the state will have the potential for resource development opportunities. He expressed the hope that the lands could be utilized by communities in order to organize.

[8:44:00 AM](#)

CO-CHAIR THOMAS asked if the language for administrative boroughs has been reviewed [by the LBC], and also asked if it generally agrees with the intent.

MR. HARGRAVES specified that the LBC knows it exists and has read the early language. However, he said that he hasn't seen any subsequent revisions.

MR. BOCKHORST said that the provisions in the draft legislation that [DCCED] provide for a new grant program in the amount of \$15 million for areas with fewer than 15,000 acres of land that incorporate and a grant of \$12.5 million for areas with 15,000 acres or more of municipal land entitlement are large fiscal incentives promoting incorporation. However, some areas in the state view the loss of autonomy with regard to schools as a disincentive. The legislation for administrative boroughs doesn't impact the current structure of schools. Mr. Bockhorst acknowledged that there has also been concern with the prospect of property taxes under the formation of a borough. The administrative borough concept doesn't empower them to levy property taxes. Mr. Bockhorst highlighted that the LBC hasn't taken a position on the legislation, although it has had discussion on it.

[8:47:35 AM](#)

CO-CHAIR THOMAS highlighted that [under the administrative borough concept] the incentive is only available for four years. Therefore, the borough would have to form within four years to receive the incentive. He noted that some mayors in Southeast are excited, although there is also concern with regard to the lack of available premium land.

[8:48:39 AM](#)

REPRESENTATIVE NEUMAN recalled that the state owns the rights three-miles offshore, and asked if any of the income from the fisheries could be taxed.

MR. BOCKHORST reminded the committee that borough governments along the coast have similar jurisdictional boundaries. He noted that there are a number of municipal governments that do generate revenue from the commercial fishing industry in the area. In fact, the Aleutians East Borough, the Lake & Peninsula Borough, and the Bristol Bay Borough derive significant amounts of money from municipal borough government taxes on commercial fishing activities.

[8:50:10 AM](#)

REPRESENTATIVE SALMON inquired as to how the smaller satellite villages included in the formation of a borough can obtain fair representation.

MR. HARGRAVES confirmed that such difficulties exist all over the state and it probably prohibits organization in some instances. Mr. Hargraves said that he didn't believe the LBC could solve that problem, which isn't unique to Alaska. With regard to administrative boroughs, they will have to have a borough seat somewhere, which he indicated would be located [in the larger area of the incorporated area].

[8:52:31 AM](#)

REPRESENTATIVE SALMON turned attention to the Yukon Flats area, which is located on a federal refuge and thus there is little state land. If a borough was to form in that area, he questioned what land areas would be used.

MR. HARGRAVES opined that the aforementioned is in the purview of the legislature. "You know, \$15 million is a pretty good incentive; you could fix a few things with that," he remarked.

8:53:57 AM

CO-CHAIR THOMAS inquired as to information Mr. Hargraves could provide regarding potential litigation.

MR. HARGRAVES related that there has been a court decision with regard to Skagway, but the matter remains outstanding and can't be discussed in any depth. Homer, he noted, continues to have individuals who bring suit.

8:54:52 AM

CO-CHAIR OLSON recalled that a couple of years ago there was interest in forming a proposed Prince William Sound Borough. He asked if anything is happening with that.

MR. BOCKHORST informed the committee that at one point there was a resolution adopted by the Whittier City Council to consider a Prince William Sound Borough. However, shortly thereafter the citizens of Whittier, through a referendum, rescinded that resolution. The City of Cordova Council adopted a similar resolution, which led to DCCED preparing some petition materials. Mr. Bockhorst related that to his knowledge the aforementioned effort has ceased and materials were made available to those in the region in the event anyone wanted to pursue the matter. However, at this point no petition has been filed nor has there been an indication of such intention.

8:56:40 AM

REPRESENTATIVE NEUMAN highlighted that many communities are developing comprehensive zoning plans. He asked if a small area with such a plan was to be incorporated into a larger area, would that smaller area's plan hold any weight in the eyes of the LBC.

MR. BOCKHORST turned to the aggregate voter method, and said that it's one of the many opportunities for annexation. In terms of the impact of local views and published positions, the LBC has an extensive opportunity during its proceedings to gather public input and information. Therefore, views of citizens would be available to the LBC and considered. The LBC bases its decisions on published criteria, standards in the law that are examined and applied to every annexation or incorporation proceeding. To the extent a comprehensive zoning plan addresses those, those would be considered. For example, the City of Palmer is currently exploring the prospects of

annexation and may be doing so in terms of comprehensive plan efforts.

9:00:59 AM

REPRESENTATIVE NEUMAN surmised then that the local comprehensive zoning plans have no weight. In regard to the aggregate vote, Representative Neuman asked if anything besides the aggregate vote has ever been used.

MR. BOCKHORST, noting that he has been with the LBC for over 25 years, specified that annexations with any type of election are very rare. Typically, there is either a legislative review process or a process by which all adjoining property owners petition for annexation. Mr. Bockhorst said that although the option exists, there has never been an annexation with an aggregate vote. However, a petition for an annexation with an aggregate vote is pending.

MR. HARGRAVES interjected that one must consider that any strategic planning or other community efforts might be brought forth by DCCED's review. He related his assumption that interested parties would bring forth such information to the LBC's attention. Therefore, in that case such information would carry weight during the review.

9:03:54 AM

CO-CHAIR THOMAS pointed out that Article 10, Section 14, of the Alaska State Constitution specifies that an agency in the executive branch of government shall advise and assist local governments. However, when Naukati petitioned to incorporate as a second class city, the proposal for 44 square miles was reduced to 11 square miles. Co-Chair Thomas said the aforementioned seemed to almost eliminate the success of such a proposal, especially because [the 11 square miles] didn't include a lodge that could've provided revenue to the community. Therefore, he questioned how eliminating a revenue source from an area petitioning for incorporation could assist the area in its organization.

MR. HARGRAVES recalled that with the Naukati request there were strenuous objections from those located on the periphery of the area to be incorporated. By the time of the [LBC's] hearing, the reduced boundary was recommended by DCCED and everyone agreed. In fact, the attorney representing the area that was eliminated from the proposal didn't even speak as he was

convinced that those in the core area of Naukati had settled on the reduced boundary. Mr. Hargraves opined that the record indicated that the reduced boundary was what the people wanted.

CO-CHAIR THOMAS related his understanding that the large lodge owner faced a potential tax to the municipality in the amount of \$38,000 a year. Therefore, it would be good for the lodge owner to hire [an attorney to help take the locale of the lodge out of the proposed boundaries]. Still, that lodge owner will be coming to town and utilizing [its services], which is alarming in light of the fact that the original petition was rejected. In the meantime, the university swept up some of the land in the original proposal. Co-Chair Thomas indicated that he was sympathetic to Naukati. He then asked if it is typical for the LBC, when considering incorporation, to demand certain conditions, such as the implementation of a 3.5 percent sales tax, when the area is incorporated.

MR. HARGRAVES related his belief that the LBC has broad authority to require conditions to help achieve success.

CO-CHAIR THOMAS expressed concern with the ability of the LBC to reduce proposed boundaries. Therefore, he related that he is considering introducing legislation that would allow a community to opt-out of the administrative borough. Co-Chair Thomas opined that some of the LBC's decisions seem to be disincentives rather than incentives to form boroughs. He said that he hoped that areas will form within the model borough boundaries.

MR. HARGRAVES pointed out that with the Naukati proposal, the LBC didn't get to consider the [44 square mile] proposal because all of the parties had already agreed [on the smaller boundary]. He opined that had the original proposal been approved, it would've probably been challenged and went to a lawsuit because those outside of Naukati proper were too far from it to feel as if they gained anything by being included in the proposal for a second class city.

[9:12:17 AM](#)

CO-CHAIR THOMAS inquired as to the difference between the formation of a borough in Yakutat versus Skagway.

MR. BOCKHORST recalled that he made a hearty case for Yakutat receiving what it requested because it's unique in the development of boroughs. He said that he didn't view Yakutat as equivalent to other areas or as setting a precedent. He

mentioned the lack of connections culturally, geological, economically, and pointed out that it did meet all of the standards.

[9:16:13 AM](#)

REPRESENTATIVE NEUMAN recalled earlier testimony that perhaps some of the situations the LBC addresses may need an overhaul. To that end, he suggested that the LBC review HB 133.

[9:16:57 AM](#)

REPRESENTATIVE SALMON recalled that Yukon Flats and Nenana have expressed interest in organizing, and inquired as to where those two stand at this point.

MR. HARGRAVES answered that there have been inquiries and maybe even presentations, although the LBC has received no petitions.

[9:17:48 AM](#)

CO-CHAIR THOMAS announced that the administrative borough bill was introduced yesterday in the Senate and the House hasn't decided whether to introduce a companion bill.

[9:18:30 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:18 a.m.