

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

May 1, 2006

1:33 p.m.

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Gary Stevens, Vice Chair
Senator Thomas Wagoner
Senator Johnny Ellis
Senator Albert Kookesh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 278(RLS)

"An Act relating to prepayments of accrued actuarial liabilities of government retirement systems; relating to the Alaska Municipal Bond Bank Authority; permitting the Alaska Municipal Bond Bank Authority or a subsidiary of the authority to assist state and municipal governmental employers by issuing bonds, notes, commercial paper, or other obligations to enable the governmental employers to prepay all or a portion of the governmental employers' shares of the unfunded accrued actuarial liabilities of retirement systems; authorizing a governmental employer to issue obligations to prepay all or a portion of the governmental employer's shares of the unfunded accrued actuarial liabilities of retirement systems and to enter into a lease or other contractual agreement with a trustee or the Alaska Municipal Bond Bank Authority or a subsidiary of the authority in connection with the issuance of obligations for that purpose, and relating to those obligations; and providing for an effective date."

MOVED CSHB 278(RLS) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 378(RES)

"An Act providing for selection of a member of the Haines Borough Assembly to serve as an ex officio member of the Alaska Chilkat Bald Eagle Preserve Advisory Council and removing the mayor of the City of Haines as an ex officio member of the council."

MOVED CSHB 378(RES) OUT OF COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 133(JUD) am
"An Act relating to incorporation of boroughs, to annexation by
local action, and to regulations of the Local Boundary
Commission to provide standards and procedures for municipal
incorporation, reclassification, dissolution, and certain
municipal boundary changes; and providing for an effective
date."

MOVED CSSSHB 133(JUD) am OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 278

SHORT TITLE: RETIREMENT SYSTEM LIABILITY/BONDS

SPONSOR(s): REPRESENTATIVE(s) HAWKER

04/19/05	(H)	READ THE FIRST TIME - REFERRALS
04/19/05	(H)	STA, FIN
01/12/06	(H)	STA AT 8:00 AM CAPITOL 106
01/12/06	(H)	Heard & Held
01/12/06	(H)	MINUTE(STA)
01/17/06	(H)	STA AT 8:00 AM CAPITOL 106
01/17/06	(H)	Heard & Held
01/17/06	(H)	MINUTE(STA)
01/19/06	(H)	STA AT 8:00 AM CAPITOL 106
01/19/06	(H)	Heard & Held
01/19/06	(H)	MINUTE(STA)
01/24/06	(H)	STA AT 8:00 AM CAPITOL 106
01/24/06	(H)	Heard & Held
01/24/06	(H)	MINUTE(STA)
01/26/06	(H)	STA AT 8:00 AM CAPITOL 106
01/26/06	(H)	Moved Out of Committee
01/26/06	(H)	MINUTE(STA)
01/27/06	(H)	STA RPT 2DP 5NR
01/27/06	(H)	DP: GARDNER, GRUENBERG;
01/27/06	(H)	NR: LYNN, ELKINS, RAMRAS, GATTO, SEATON
03/08/06	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
03/08/06	(H)	Heard & Held
03/08/06	(H)	MINUTE(FIN)
03/24/06	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
03/24/06	(H)	Moved CSHB 278(FIN) Out of Committee
03/24/06	(H)	MINUTE(FIN)
03/27/06	(H)	FIN RPT CS(FIN) NT 4DP 3NR
03/27/06	(H)	DP: HAWKER, WEYHRAUCH, FOSTER, MEYER;
03/27/06	(H)	NR: KELLY, KERTTULA, STOLTZE

04/13/06 (H) RLS AT 1:30 PM CAPITOL 106
 04/13/06 (H) -- Meeting Canceled --
 04/20/06 (H) RLS AT 9:00 AM CAPITOL 17
 04/20/06 (H) Moved CSHB 278(RLS) Out of Committee
 04/20/06 (H) MINUTE(RLS)
 04/21/06 (H) RLS RPT CS(RLS) NT 2DP 4NR
 04/21/06 (H) DP: MCGUIRE, ROKEBERG;
 04/21/06 (H) NR: GUTTENBERG, COGHILL, HARRIS,
 BERKOWITZ
 04/21/06 (H) TRANSMITTED TO (S)
 04/21/06 (H) VERSION: CSHB 278(RLS)
 04/22/06 (S) READ THE FIRST TIME - REFERRALS
 04/22/06 (S) CRA, FIN
 04/28/06 (S) CRA AT 1:30 PM BELTZ 211
 04/28/06 (S) Heard & Held
 04/28/06 (S) MINUTE(CRA)

BILL: HB 378

SHORT TITLE: CHILKAT BALD EAGLE PRESERVE ADV COUNCIL
 SPONSOR(S): REPRESENTATIVE(S) THOMAS

01/18/06 (H) READ THE FIRST TIME - REFERRALS
 01/18/06 (H) CRA, RES
 02/09/06 (H) CRA AT 8:00 AM CAPITOL 124
 02/09/06 (H) Moved CSHB 378(CRA) Out of Committee
 02/09/06 (H) MINUTE(CRA)
 02/10/06 (H) CRA RPT CS(CRA) NT 2DP 4NR 1AM
 02/10/06 (H) DP: NEUMAN, THOMAS;
 02/10/06 (H) NR: CISSNA, KOTT, SALMON, OLSON;
 02/10/06 (H) AM: LEDOUX
 04/19/06 (H) RES AT 1:00 PM CAPITOL 124
 04/19/06 (H) Moved CSHB 378(RES) Out of Committee
 04/19/06 (H) MINUTE(RES)
 04/20/06 (H) RES RPT CS(RES) NT 7DP
 04/20/06 (H) DP: KAPSNER, GATTO, OLSON, ELKINS,
 CRAWFORD, RAMRAS, SAMUELS
 04/24/06 (H) TRANSMITTED TO (S)
 04/24/06 (H) VERSION: CSHB 378(RES)
 04/25/06 (S) READ THE FIRST TIME - REFERRALS
 04/25/06 (S) CRA, RES
 05/01/06 (S) CRA AT 1:30 PM BELTZ 211

BILL: HB 133

SHORT TITLE: MUNICIPAL BOUNDARY CHANGES/ COMMISSION
 SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/09/05 (H) READ THE FIRST TIME - REFERRALS

02/09/05 (H) CRA, STA
 02/16/05 (H) SPONSOR SUBSTITUTE INTRODUCED
 02/16/05 (H) READ THE FIRST TIME - REFERRALS
 02/16/05 (H) CRA, STA
 02/24/05 (H) CRA AT 8:00 AM CAPITOL 124
 02/24/05 (H) Heard & Held
 02/24/05 (H) MINUTE(CRA)
 03/03/05 (H) CRA AT 8:00 AM CAPITOL 124
 03/03/05 (H) Moved CSSSHB 133(CRA) Out of Committee
 03/03/05 (H) MINUTE(CRA)
 03/04/05 (H) CRA RPT CS(CRA) 5DP 2NR
 03/04/05 (H) DP: SALMON, NEUMAN, KOTT, THOMAS,
 OLSON;
 03/04/05 (H) NR: LEDOUX, CISSNA
 04/02/05 (H) STA AT 10:00 AM CAPITOL 106
 04/02/05 (H) Moved CSSSHB 133(STA) Out of Committee
 04/02/05 (H) MINUTE(STA)
 04/04/05 (H) STA RPT CS(STA) NT 3DP 2NR
 04/04/05 (H) DP: LYNN, ELKINS, SEATON;
 04/04/05 (H) NR: GARDNER, GRUENBERG
 04/04/05 (H) JUD REFERRAL ADDED AFTER STA
 04/13/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/13/05 (H) <Bill Hearing Postponed to 4/18>
 04/18/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/18/05 (H) Moved CSSSHB 133(JUD) Out of Committee
 04/18/05 (H) MINUTE(JUD)
 04/19/05 (H) JUD RPT CS(JUD) NT 2DP 3NR
 04/19/05 (H) DP: COGHILL, MCGUIRE;
 04/19/05 (H) NR: GRUENBERG, DAHLSTROM, GARA
 04/25/05 (H) TRANSMITTED TO (S)
 04/25/05 (H) VERSION: CSSSHB 133(JUD) AM
 04/26/05 (S) READ THE FIRST TIME - REFERRALS
 04/26/05 (S) CRA, STA
 05/02/05 (S) CRA AT 1:30 PM BELTZ 211
 05/02/05 (S) Heard & Held
 05/02/05 (S) MINUTE(CRA)
 05/06/05 (S) CRA AT 1:30 PM BELTZ 211
 05/06/05 (S) Heard & Held
 05/06/05 (S) MINUTE(CRA)
 05/01/06 (S) CRA AT 1:30 PM BELTZ 211

WITNESS REGISTER

Representative Bill Thomas
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 278,

Jerry Lewanski, Director
Division of Parks and Outdoor Recreation
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724
POSITION STATEMENT: Supported HB 278

Representative John Coghill
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 133

DARROLL HARGRAVES, Chair,
Local Boundary Commission (LBC)
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800
POSITION STATEMENT: Expressed concern related to HB 133

Dan Bockhorst, Staff
Division of Community Advocacy
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800
POSITION STATEMENT: Commented on HB 133

Doris Kabanna
Homer, AK
POSITION STATEMENT: Supported HB 133

Mark Hickey. Lobbyist
Lake and Peninsula Borough
P.O. Box 495
King Salmon, AK 99613
POSITION STATEMENT: Supported HB 133

ACTION NARRATIVE

CHAIR BERT STEDMAN called the Senate Community and Regional Affairs Standing Committee meeting to order at [1:33:34 PM](#). Present were Senators Gary Stevens, Thomas Wagoner, Johnny Ellis and Chair Bert Stedman.

CSHB 278(RLS)-RETIREMENT SYSTEM LIABILITY/BONDS

CHAIR BERT STEDMAN announced HB 278 to be the first order of business. He advised that the committee heard public testimony during the previous hearing and he was ready for a motion.

[1:34:16 PM](#)

SENATOR GARY STEVENS motioned to report CSHB 278(RLS) and attached fiscal note(s) from committee with individual recommendations. There being no objection, it was so ordered.

CSHB 378(RES)-CHILKAT BALD EAGLE PRESERVE ADV COUNCIL

CHAIR BERT STEDMAN announced HB 378 to be up for consideration.

[1:35:29 PM](#)

REPRESENTATIVE BILL THOMAS, Sponsor of HB 278, explained that in 1982 when the Bald Eagle Preserve was created a 12-seat advisory council was established. One of the seats was designated to the mayor of the City of Haines. Since that time the City of Haines and the Borough of Haines have consolidated and there is no longer a city mayor, thus the seat is vacant. HB 378 would designate that position to a member of the Haines Borough Assembly who is selected by the assembly. A stipulation is that selection preference is given to a member who does not have an existing interest in the Bald Eagle Preserve.

[1:36:26 PM](#) Senator Ellis arrived.

CHAIR BERT STEDMAN asked if the community of Haines supports the bill.

REPRESENTATIVE THOMAS replied yes; there is wide support.

SENATOR GARY STEVENS questioned whether it is satisfactory that the position would be ex officio.

REPRESENTATIVE THOMAS replied it's been that way.

JERRY LEWANSKI, Director of the Division of Parks and Outdoor Recreation Department of Natural Resources, stated support for the HB 378 and referred to it as a housekeeping measure to make the council whole.

SENATOR GARY STEVENS motioned to report CSHB 378(RES) and attached fiscal note(s) from committee with individual recommendations. There being no objection, it was so ordered.

CSSSHB 133(JUD)am-MUNICIPAL BOUNDARY CHANGES/ COMMISSION

[1:39:36 PM](#)

CHAIR BERT STEDMAN announced HB 133 to be up for consideration.

REPRESENTATIVE JOHN COGHILL, Sponsor, introduced HB 133 with the statement that the Local Boundary Commission (LBC) has a constitutional and statutory charge to organize areas and change boundaries in Alaska. He opined that government from the bottom up is best whenever possible and language supporting that notion is established in the Alaska State Constitution. To that end, HB 133 starts with getting people involved in local governance.

Section 1 establishes that the LBC must provide public notice for each proposed amendment and or condition and an opportunity for public comment before it can amend a petition or impose a condition on an incorporation. In Alaska there's a disconnect stemming from the forced boroughization of some areas and the idea of expanding boundaries without public comment.

Section 2 adds a new section requiring that the LBC hold two public hearings in the area that is proposed for incorporation. He noted that the new fiscal note reflects those costs.

Section 3 addresses the fairness issue and acknowledges that some areas don't want to be annexed. The LBC regulatory scheme says that an area may be annexed with an aggregate vote and the aggregate vote says that a large area can always overtake a smaller area by aggregating the vote. It's only fair, he said, that the people in the annexed area have a chance to vote. For that reason Section 3(c)(1) establishes that "a proposed annexation must be approved by a majority of the votes on the question cast by voters residing in the annexing municipality." Representative Coghill reiterated that government on the local level should start at the local level and work up.

To ensure that statutes keep the process fair in a public policy arena Section 4 establishes that the LBC regulations providing standards and procedures are subject to Title 29. Certainly, the LBC has a constitutional responsibility, but the Legislature does too and it ought to be exercised here.

The new fiscal note indicates that public comment will take more money, but they should already be providing that and if that's not the case, then that demonstrates the need for this

legislation. He noted the fiscal note did contain a typo because travel and contractual services wouldn't run \$11 million. A more likely figure would be \$11,000.

[1:45:37 PM](#)

CHAIR STEDMAN stated that public comment at the local level ought to be encouraged. HB 378 would ensure that and force the LBC to visit remote communities and hold public hearings.

REPRESENTATIVE COGHILL agreed with the interpretation and added that the Model Borough Act doesn't allow for much comment and that has been cause for complaint.

SENATOR GARY STEVENS asked the sponsor to comment on the constitutional goal to organize the state and whether this would "throw sand in the wheels" of that effort.

REPRESENTATIVE COGHILL said quite the contrary; HB 133 places responsibility with local residents, which is where it belongs. Most of the boundary changes to date have resulted in court battles and HB 133 seeks to address that tension by asserting legislative authority. Section 2 of the bill cites Article 10, Section 12 of the Alaska Constitution that says the Legislature has the right by law to assert the local governance issue in concert with the LBC. That section changes the public hearing requirement from one to two and that's a big change.

REPRESENTATIVE COGHILL responded to a question from Senator Gary Stevens he said that after an extensive reading of the minutes from the Constitutional Convention, he believes he's well within the bounds of the constitutional intent on this issue.

DARROLL HARGRAVES, Chair, Local Boundary Commission (LBC) mentioned the written statement he sent to the committee earlier in the day and related that the LBC had objected to an earlier version of HB 133. Although considerable improvements have been made, the LBC continues to have concern. First, he said, the bill may not do what the sponsor and supporters purport. Furthermore it might not be in the best interest of the State.

Referencing Section 3 relating to the aggregate vote issue, he observed that most annexations are initially objectionable to those who are being annexed. That doesn't mean that the annexing borough or municipality is wrong. It may be totally appropriate to do the annexation, "yet a vote in the aggregate would never allow that to happen," he said. However, once an annexation has

occurred, it becomes clear that it was the appropriate action to take.

MR. HARGRAVES described a recent annexation that had been very controversial, but with the passage of time it became apparent that the decision to annex was correct. "People in the annexed area got on the council, people in the annexed area began to see the benefits of being annexed in the city proper." He acknowledged that in that particular instance a couple of people have continued to fight the annexation, but it stands on the record that by and large the annexed area welcomes what has transpired.

Viewed from the State perspective you've got to keep in mind that you'll never get a majority vote from the population that is being annexed even though it could be the best situation. It might even be a required situation because adjacent areas oftentimes draw upon the services of the larger organized borough or city. "Just be sure that the aggregate vote is really what we think is going to be the best thing for everyone when it happens," he said.

MR. HARGRAVES said his final point relates to cost for the additional hearings and that \$10,000 or \$11,000 sounds about right.

[1:56:56 PM](#)

SENATOR GARY STEVENS cited current law that says that an annexation or detachment must be approved by a majority vote of the voters residing in the area proposed for annexation or detachment and that the vote takes place in that area. He asked Mr. Hargraves about his interpretation of aggregate vote as it relates to the proposed change.

MR. HARGRAVES replied his interpretation of the change is that it would require a majority vote in the area to be annexed.

SENATOR GARY STEVENS disagreed with the interpretation. Under current law, the area to be annexed must have a majority vote and HB 133 says the annexing area must also have a majority vote. He asked what's wrong with that and he'd like examples of why a larger area would vote against annexing an outside area.

MR. HARGRAVES related his understanding:

The intent is to try and get it set up so that the area being annexed would have to vote - and they would

have to do it - but a larger municipality would have to vote also to do it. It would take both votes to make it happen. As it stands right now, of course, annexation can take place by a vote of the aggregate. The two together would prevail.

REPRESENTATIVE COGHILL said you certainly would want the people in an annexing municipality to have a majority vote because that municipality would be taking on the responsibility, but you also want the people in the area to be annexed to have a vote.

MR. HARGRAVES interjected to question whether the sponsor's intent is that the area being annexed would need to vote in the affirmative for the annexation to go through.

REPRESENTATIVE COGHILL continued with his explanation. Statutory language says the area that is proposed for annexation must vote in the affirmative before the annexation can go forward. HB 133 adds the requirement that the proposed annexation must be approved by a majority of votes cast by the voters residing in the annexing municipality. Representative Coghill said he decided on this course of action because he disagrees completely with the aggregate vote issue, but you do want both responsible parties to agree on the issue. That would require a public dialog and campaign asking whether or not it's in the best interest of the local area. Rather than having the LBC make the determination, HB 133 leaves it up to the people. Using the aggregate vote, as set forth in regulation doesn't get you there fairly, he said.

SENATOR ALBERT KOOKESH observed that if this were adopted there would be a two-step process. First it would take a majority vote of the voters residing in the annexing municipality and then it would take a majority vote of the voters residing in the area to be annexed. If the first vote were to fail then nothing would happen, but if the first vote were to pass then the area to be annexed would vote. If this language were to be adopted then there would be two ways to stop an annexation.

REPRESENTATIVE COGHILL agreed.

[2:02:06 PM](#)

DAN BOCKHORST, Staff to the LBC from the Department of Commerce, Community, & Economic Development, verified that the fiscal note should reflect \$11,000 in estimated fiscal impact rather than \$11 million. He further clarified that under the existing laws

governing the LBC process, there are three venues for public input. Once a petition is filed with the LBC, extensive public notice is given and individuals have a minimum of seven weeks to submit supporting or opposing comments. Staff to the LBC conducts an investigation and prepares a report on the proposal including findings and recommendations. That report is published and public comment is solicited. Individuals are given four weeks to submit written comments regarding the findings, conclusions and recommendations that the staff made on the proposal. Third there is the public hearing conducted by the LBC. That public hearing is required to be held in or near the area that is proposed for annexation. He asserted that during the course of that public hearing there is ample time for comment.

HB 133 would further expand the already ample opportunity that is available for public comment. In the event that the LBC decides to make amendments or add conditions, then further hearings would be required. If the commission decides to present a legislative review borough incorporation then multiple hearings would be required.

He agreed with the point about protecting and assuring the interests of the local voters within the municipal government. But in that vein there is no provision for similar treatment for detachments. As currently worded HB 133 would require voters in the existing municipality to agree to an annexation, but if an area in that same municipality were proposed to be detached then the voters in the area to be detached would have a vote, but voters in the existing municipality would not be accorded the same treatment.

Article 10, Section 12 provides that annexation decisions made under the legislative review process provide no opportunity for voter participation. He suggested that as more hurdles are placed relating to boundary changes and involving voter participation, more proposals will be shifted into the legislative review arena where there is no voter participation.

SENATOR WAGONER stated support for Representative Coghill's efforts and observed that this is a good fix.

REPRESENTATIVE COGHILL informed members that when the LBC was established in the constitution, the Legislature was only given the ability to reject a proposal so it is important that the public process is conducted at the local level.

[2:08:58 PM](#)

DORIS KABANNA, Homer, reported that working with the LBC on the annexation in her area was unsatisfactory and she continues to be unsatisfied. She said she would like a fix so that a vote of the people would not be ignored.

[2:13:15 PM](#)

MARK HICKEY, Lake and Peninsula Borough, spoke in strong support of HB 133 and noted that Section 3 is of particular interest because of the two-step process. In a local action annexation or detachment there would be an affirmative vote from the area being annexed and an affirmative vote from the annexing municipality.

He related that the Lake and Peninsula Borough is living proof of the need for this new provision and explained that an unorganized area to the west that is large enough to form as a separate borough has, on at least two occasions, submitted proposals to annex into the Lake and Peninsula Borough. Describing this consolidating action as a hostile takeover, he noted that Lake and Peninsula residents would have no vote. He noted that more often than not it's a municipality that petitions to annex, but that isn't the case in the instance of the Lake and Peninsula Borough and the adjacent unorganized area that includes Dillingham and the Nushagak River drainage. It's not our idea, he said, and we don't support it.

[2:16:10 PM](#)

MR. HICKEY responded to a question from Senator Stevens and clarified that under Section 3(c)(1) a local action annexation must be approved by a majority of votes cast by voters residing in the annexing municipality. Therefore a majority of the existing municipality - the Lake and Pen - would have to approve. Section 3(c)(2) is existing law and it says that the annexation would also have to be approved by majority vote cast by voters residing in the area to be annexed.

What happens now, he said, is that Lake and Peninsula has no vote under local action. In the case of Dillingham and Lake and Peninsula, the only people that would have to approve would be the people to the west that aren't in the borough. The Dillingham area has a population of about 2,500 compared to the Lake and Peninsula Borough population of about 1,700 so an aggregate vote wouldn't help either because Lake and Pen is

outnumbered. To me, he said, it's almost a loophole to be able to use the annexation provision to do what amounts to a consolidation or hostile takeover. He reiterated that HB 133 says that Lake and Peninsula Borough voters would also have to approve.

[2:18:51 PM](#)

SENATOR GARY STEVENS motioned to report CSSSHB 133(JUD) am and attached and corrected fiscal notes from committee with individual recommendations. There being no objection, it was so ordered.

There being no further business to come before the committee, Chair Stedman adjourned the meeting at [2:20:56 PM](#).