

HOUSE BILL NO. 247

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES COGHILL, Thomas

Introduced: 5/1/07

Referred: Community and Regional Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act reconstituting the Local Boundary Commission as an independent state agency**
2 **within the Department of Commerce, Community, and Economic Development, and**
3 **transferring to the commission the duties relating to completing borough feasibility**
4 **studies; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 39.25.110 is amended to read:

7 **Sec. 39.25.110. Exempt service.** Unless otherwise provided by law, the
8 following positions in the state service constitute the exempt service and are exempt
9 from the provisions of this chapter and the rules adopted under it:

10 (1) persons elected to public office by popular vote or appointed to fill
11 vacancies in elected offices;

12 (2) justices, judges, magistrates, and employees of the judicial branch
13 including employees of the judicial council;

14 (3) employees of the state legislature and its agencies;

- 1 (4) the head of each principal department in the executive branch;
- 2 (5) officers and employees of the University of Alaska;
- 3 (6) certificated teachers and noncertificated employees employed by a
- 4 regional educational attendance area established and organized under AS 14.08.031 -
- 5 14.08.041 to teach in, administer, or operate schools under the control of a regional
- 6 educational attendance area school board;
- 7 (7) certificated teachers employed by the Department of Education and
- 8 Early Development as correspondence teachers, teachers in skill centers operated by
- 9 the Department of Education and Early Development or by the Department of Labor
- 10 and Workforce Development, or in Mt. Edgecumbe School;
- 11 (8) patients and inmates employed in state institutions;
- 12 (9) persons employed in a professional capacity to make a temporary
- 13 or special inquiry, study or examination as authorized by the governor;
- 14 (10) members of boards, commissions, or authorities;
- 15 (11) the officers and employees of the following boards, commissions,
- 16 and authorities:
- 17 (A) [REPEALED
- 18 (B)] Alaska Permanent Fund Corporation;
- 19 **(B)** [(C)] Alaska Industrial Development and Export Authority;
- 20 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;
- 21 **(D)** [(E)] Alaska Commission on Postsecondary Education;
- 22 **(E)** [(F)] Alaska Aerospace Development Corporation;
- 23 **(F)** [(G)] Alaska Natural Gas Development Authority;
- 24 **(G) Local Boundary Commission;**
- 25 (12) the executive secretary and legal counsel of the Alaska Municipal
- 26 Bond Bank Authority;
- 27 (13) the state medical examiner, deputy medical examiner, and
- 28 assistant medical examiners appointed under AS 12.65.015 and pharmacists and
- 29 physicians licensed to practice in this state and employed by the Department of Health
- 30 and Social Services or by the Department of Corrections;
- 31 (14) petroleum engineers and petroleum geologists employed in a

1 professional capacity by the Department of Natural Resources and by the Oil and Gas
 2 Conservation Commission, except for those employed in the division of geological
 3 and geophysical surveys in the Department of Natural Resources;

4 (15) [REPEALED

5 (16)] persons employed by the division of marine transportation as
 6 masters and members of the crews of vessels who operate the state ferry system and
 7 who are covered by a collective bargaining agreement provided in AS 23.40.040;

8 (16) [(17)] officers and employees of the state who reside in foreign
 9 countries;

10 (17) [(18)] employees of the Alaska Seafood Marketing Institute;

11 (18) [(19)] emergency fire-fighting personnel employed by the
 12 Department of Natural Resources for a fire emergency or for fire prevention and
 13 related activities conducted under AS 41.15.030;

14 (19) [(20)] employees of the Office of the Governor and the office of
 15 the lieutenant governor, including the staff of the governor's mansion;

16 (20) [(21) REPEALED

17 (22)] youth employed by the Department of Natural Resources under
 18 the Youth Employment and Student Intern programs;

19 (21) [(23) REPEALED

20 (24)] students employed by the state institutions in which the students
 21 are enrolled;

22 (22) [(25) REPEALED

23 (26)] investment officers in the Department of Revenue;

24 (23) [(27) REPEALED

25 (28)] persons engaged in employment or pre-employment training
 26 programs operated by the Department of Military and Veterans' Affairs;

27 (24) [(29) REPEALED

28 (30)] a person employed as an actuary or assistant actuary by the
 29 division of insurance in the Department of Commerce, Community, and Economic
 30 Development;

31 (25) [(31) REPEALED

1 (32)] a participant in the Alaska temporary assistance program under
 2 AS 47.27 who holds a temporary position with the state in order to obtain job training
 3 or experience;

4 (26) [(33)] a person employed as a convener under AS 44.62.730 or as
 5 a facilitator under AS 44.62.760 related to a negotiated regulation making process
 6 under AS 44.62.710 - 44.62.800;

7 (27) [(34)] the chief executive officer and employees of the Alaska
 8 Mental Health Trust Authority employed under AS 47.30.026(b);

9 (28) [(35)] the assistant adjutant general for space and missile defense
 10 appointed under AS 26.05.185;

11 (29) [(36)] the victims' advocate established under AS 24.65.010 and
 12 the advocate's staff;

13 (30) [(37)] employees of the Alaska mental health trust land unit
 14 established under AS 44.37.050;

15 (31) [(38)] the executive director and staff of the Council on Domestic
 16 Violence and Sexual Assault established under AS 18.66.010;

17 (32) [(39)] the executive director and employees of the Knik Arm
 18 Bridge and Toll Authority under AS 19.75.051 and 19.75.061;

19 (33) [(40)] the chair of the Workers' Compensation Appeals
 20 Commission (AS 23.30.007).

21 * **Sec. 2.** AS 44.33.810 is amended to read:

22 **Sec. 44.33.810. Local Boundary Commission.** There is in the Department of
 23 Commerce, Community, and Economic Development, as an independent agency of
 24 the state, a Local Boundary Commission. The Local Boundary Commission consists
 25 of five members appointed by the governor for overlapping five-year terms. One
 26 member shall be appointed from each of the four judicial districts described in
 27 AS 22.10.010 and one member shall be appointed from the state at large. The member
 28 appointed from the state at large is the chair of the commission.

29 * **Sec. 3.** AS 44.33.812 is amended to read:

30 **Sec. 44.33.812. Powers and duties.** (a) The Local Boundary Commission
 31 shall

1 (1) make studies of local government boundary problems;
 2 (2) adopt, **amend, and repeal** regulations **necessary to carry out its**
 3 **statutory functions, including** providing standards and procedures for municipal
 4 incorporation, annexation, detachment, merger, consolidation, reclassification, and
 5 dissolution; the regulations providing standards and procedures are subject to
 6 AS 29.04 - AS 29.10;

7 (3) consider a local government boundary change requested of it by the
 8 legislature, the commissioner of commerce, community, and economic development,
 9 or a political subdivision of the state; "boundary change" may not be construed to
 10 include a borough incorporation; and

11 (4) develop standards and procedures for the extension of services and
 12 ordinances of incorporated cities into contiguous areas for limited purposes upon
 13 majority approval of the voters of the contiguous area to be annexed and prepare
 14 transition schedules and prorated tax mill levies as well as standards for participation
 15 by voters of these contiguous areas in the affairs of the incorporated cities furnishing
 16 services.

17 (b) The **commission** [LOCAL BOUNDARY COMMISSION] may

18 (1) conduct meetings and hearings to consider local government
 19 boundary changes and other matters related to local government boundary changes,
 20 including extensions of services by incorporated cities into contiguous areas and
 21 matters related to extension of services; and

22 (2) present to the legislature during the first 10 days of a regular
 23 session proposed local government boundary changes, including gradual extension of
 24 services of incorporated cities into contiguous areas upon a majority approval of the
 25 voters of the contiguous area to be annexed and transition schedules providing for total
 26 assimilation of the contiguous area and its full participation in the affairs of the
 27 incorporated city within a period not to exceed five years.

28 * **Sec. 4.** AS 44.33.812 is amended by adding new subsections to read:

29 (c) The commission shall establish a principal office and may establish branch
 30 offices necessary to discharge its business efficiently.

31 (d) The commission may employ persons as staff it considers advisable,

1 including an executive director, and may employ professional advisors, technical
 2 experts, agents, and other employees it considers advisable. The executive director and
 3 employees of the corporation serve at the pleasure of the commission, and receive
 4 compensation fixed by the commission. The executive officer appoints persons to the
 5 staff positions authorized by the commission, and staff compensation is fixed by the
 6 commission.

7 * **Sec. 5.** AS 44.33.814 is amended to read:

8 **Sec. 44.33.814. Meetings and hearings.** The chair of the commission [OR
 9 THE COMMISSIONER OF COMMERCE, COMMUNITY, AND ECONOMIC
 10 DEVELOPMENT WITH THE CONSENT OF THE CHAIR] may call a meeting or
 11 hearing of the commission [LOCAL BOUNDARY COMMISSION]. All meetings
 12 and hearings shall be public.

13 * **Sec. 6.** AS 44.33.816 is amended to read:

14 **Sec. 44.33.816. Minutes and records.** The commission [LOCAL
 15 BOUNDARY COMMISSION] shall keep minutes of all meetings and hearings. If the
 16 proceedings are transcribed, minutes shall be made from the transcription. The
 17 minutes are a public record. All votes taken by the commission shall be entered in the
 18 minutes.

19 * **Sec. 7.** AS 44.33.818 is amended to read:

20 **Sec. 44.33.818. Notice of public hearings.** Public notice of a hearing of the
 21 commission [LOCAL BOUNDARY COMMISSION] shall be given in the area in
 22 which the hearing is to be held at least 15 days before the date of the hearing. The
 23 notice of the hearing must include the time, date, place, and subject of the hearing. The
 24 commission [COMMISSIONER OF COMMERCE, COMMUNITY, AND
 25 ECONOMIC DEVELOPMENT] shall give notice of the hearing at least three times in
 26 the press, through other news media, or by posting in a public place, whichever is
 27 most feasible.

28 * **Sec. 8.** AS 44.33.822 is amended to read:

29 **Sec. 44.33.822. Boundary change.** A majority of the membership of the
 30 commission [LOCAL BOUNDARY COMMISSION] must vote in favor of a
 31 proposed boundary change before it may be presented to the legislature.

1 * **Sec. 9.** AS 44.33.824 is amended to read:

2 **Sec. 44.33.824. Expenses.** Members of the commission [LOCAL
3 BOUNDARY COMMISSION] receive no pay but are entitled to the travel expenses
4 and per diem authorized for members of boards and commissions under AS 39.20.180.

5 * **Sec. 10.** AS 44.33.840 is amended to read:

6 **Sec. 44.33.840. Borough feasibility studies.** The commission
7 [COMMISSIONER] may contract for studies of the feasibility of establishing
8 boroughs in the unorganized borough. A study may be conducted under this section
9 only if

10 (1) appropriations are available for that purpose; and

11 (2) the study is requested by a person residing in the area to be studied
12 or by a city located in the area to be studied.

13 * **Sec. 11.** AS 44.33.842 is amended to read:

14 **Sec. 44.33.842. Requests for studies.** A request for a study of the feasibility of
15 establishing a borough in the unorganized borough shall be submitted to the
16 commission [COMMISSIONER] in writing and must include

17 (1) a description of the boundaries of the area of the proposed study;

18 and

19 (2) an indication of local interest in the proposed study consisting of
20 either

21 (A) a petition requesting the study containing the signatures
22 and addresses of five percent of the voters residing in the area of the proposed
23 study based on the number of voters who voted in the area in the last statewide
24 election; or

25 (B) resolutions requesting the study adopted by the governing
26 bodies of at least five percent of the cities within the area of the proposed
27 study.

28 * **Sec. 12.** AS 44.33.844 is amended to read:

29 **Sec. 44.33.844. Boundaries.** The boundaries of an area studied shall conform
30 to the boundaries indicated in the request for the study under AS 44.33.842 unless the
31 commission [COMMISSIONER], after a public hearing held in the area of the

1 proposed study, determines that the boundaries should be altered. In determining the
2 boundaries of an area to be studied, the commission [COMMISSIONER] shall
3 consider

4 (1) the standards applicable to the incorporation of boroughs under
5 AS 29.05.031;

6 (2) boundaries of regional corporations established under 43 U.S.C.
7 1606;

8 (3) census divisions of the state used for the 1980 census;

9 (4) boundaries of the regional educational attendance areas established
10 under AS 14.08.031; and

11 (5) boundaries of coastal resource service areas organized under
12 AS 46.40.110 - 46.40.210.

13 * **Sec. 13.** AS 44.33.846(a) is amended to read:

14 (a) The commission [COMMISSIONER] shall contract for a study of the
15 feasibility of establishing a borough in the unorganized borough by following the
16 procedures under AS 36.30 (State Procurement Code). The commission
17 [COMMISSIONER] shall include terms in the contract that provide for

18 (1) public participation in the preparation of the study;

19 (2) completion of the study not later than June 30 of the third year after
20 the year the contract is executed.

21 * **Sec. 14.** AS 44.33.849 is repealed and reenacted to read:

22 **Sec. 44.33.849. Definition.** In AS 44.33.810 - 44.33.849, "commission" means
23 the Local Boundary Commission.

24 * **Sec. 15.** AS 44.33.020(a)(4) is repealed.

25 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **TRANSITION.** (a) Litigation, hearings, investigations, and other proceedings pending
28 with the Local Boundary Commission continue in effect and may be continued and completed
29 notwithstanding a transfer, amendment, or repeal provided for in this Act.

30 (b) Certificates, orders, and regulations issued or adopted under a law amended by
31 this Act remain in effect for the term issued or until revoked, vacated, or otherwise modified.

1 (c) Contracts, rights, liabilities, and obligations created by or under a law amended or
2 repealed by this Act, and effective on the date of this Act, remain in effect notwithstanding
3 this Act's taking effect. This subsection does not apply to employment contract rights,
4 liabilities, and obligations for an employee of the Department of Commerce, Community, and
5 Economic Development, including an employee of the division of community advocacy, who
6 provides staffing for the commission under AS 44.33.020(a)(4).

7 (d) Records, equipment, appropriations, and other property of the Local Boundary
8 Commission whose functions are transferred under this Act shall be transferred to implement
9 the provisions of this Act.

10 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 COMMISSIONERS. Commissioners holding seats on the Local Boundary
13 Commission on the day before the effective date of this Act shall continue to be
14 commissioners in the reorganized Local Boundary Commission under sec. 2 of this Act to the
15 same extent that they would have remained commissioners if the commission had not been
16 reorganized.

17 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 EMPLOYEES. Employees of the Department of Commerce, Community, and
20 Economic Development who, on the day before the effective date of this Act, provide services
21 to the Local Boundary Commission under former AS 44.33.020(a)(4), repealed by sec. 15 of
22 this Act, do not become employees of the reorganized Local Boundary Commission as a
23 result of the reorganization of the commission as an independent state agency under sec. 2 of
24 this Act.

25 * **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).