

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 27, 2007

8:02 a.m.

MEMBERS PRESENT

Representative Anna Fairclough, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
Representative Nancy Dahlstrom
Representative Mark Neuman
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

Representative Kurt Olson

COMMITTEE CALENDAR

PRESENTATION OF THE LOCAL BOUNDARY COMMISSION

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DARROLL HARGRAVES, Chair
Local Boundary Commission
Anchorage, Alaska

POSITION STATEMENT: Provided the Local Boundary Commission's report and a brief overview.

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

POSITION STATEMENT: During the Local Boundary Commission's presentation, answered questions.

ACTION NARRATIVE

CO-CHAIR GABRIELLE LEDOUX called the House Community and Regional Affairs Standing Committee meeting to order at [8:02:04 AM](#). Representatives LeDoux, Fairclough, Dahlstrom, and Neuman

were present at the call to order. Representatives Cissna and Salmon arrived as the meeting was in progress.

Presentation of the Local Boundary Commission

[8:02:27 AM](#)

CO-CHAIR LEDOUX announced that the only order of business would be the presentation from the Local Boundary Commission.

[8:02:54 AM](#)

DARROLL HARGRAVES, Chair, Local Boundary Commission (LBC), noted that the committee should have the Local Boundary Commission report, which has three chapters. The first chapter provides an overview of the LBC. The second chapter summarizes municipal boundary activities and pending proposals for 2006. The third chapter discusses public policy issues of interest to the LBC.

[8:04:46 AM](#)

MR. HARGRAVES explained that the first chapter relates that of the 120 state boards and commissions, the LBC is only one of two executive branch boards named in the Alaska State Constitution. The framers of the constitution provided for the LBC in order to ensure that municipal boundary issues would be dealt with objectively and from a statewide perspective. The framers recognized that city and borough governments, as political subdivisions of the state, were critical to the efficient and effective delivery of public services. The LBC's responsibilities include judging proposals for incorporation of cities and boroughs, annexation to and detachment from cities and boroughs, reclassification of cities, dissolution of cities and boroughs, and merger and consolidation of cities and boroughs. He highlighted that the LBC has other mandatory duties, which have resulted from actions by the legislature. These mandatory duties include an obligation to make studies of local government boundary problems and adopt regulations establishing standards and procedures for boundary actions. He related that the LBC consists of four members one from each of Alaska's judicial districts and the fifth member, the chair, is appointed at-large member. Mr. Hargraves then introduced the LBC members: Robert Hicks, Dr. Robert Harcharek, Dr. Anthony Nakazawa, and Georgianna Zimmerle. He further explained that members are appointed by the governor for five-year overlapping terms. Commission members offer their time as a public service and receive no compensation for it. These are volunteer

positions, he said. In response to Co-Chair LeDoux, Mr. Hargraves related that the commissioners receive a food allowance. Mr. Hargraves highlighted that the Department of Commerce, Community, & Economic Development (DCCED) provides the staff, Mr. Bockhorst, to the LBC.

8:09:03 AM

MR. HARGRAVES moved on to the second chapter of the report. The reported activities range from those involving formal petitions filed with the LBC to prospective proposals being contemplated at the local level. In 2006, the reported activities include review of city incorporations on six proposals. In fact, in one case the LBC acted on a formal petition to incorporate a second class city government in Naukati, a community of approximately 105 residents on Prince of Wales Island, in the unorganized borough. The LBC has also dealt with city annexations involving at least 10 city governments, one formal city annexation petition was pending before the LBC last year. He noted that many of these petitions are ultimately withdrawn by the petitioners. In 2006, the LBC considered city dissolutions, city reclassifications, and borough incorporations. During the past year, 16 areas of the state have had some level of activity. In fact, one borough annexation petition is currently pending before the LBC and six boroughs have expressed interest in consolidation. This past year the LBC went into a heavy schedule, with the support of DCCED, in order to update regulations that haven't been addressed in over a decade. In fact, after this week the LBC will, throughout the state, hold its second set of hearings on these regulations. He related that the intention is to complete [the revision of the regulations] by June 30, 2007.

8:13:00 AM

MR. HARGRAVES continued with the third chapter of the report, which he characterized as the most important section of the report as it relates what the LBC views as the most important policy issues. Of the five policy issues, he identified the following: increasing difficulties in rendering borough boundary decisions; a general lack of incentives for borough incorporation; and the absence of methods and standards for the establishment of unorganized boroughs.

8:14:20 AM

REPRESENTATIVE NEUMAN recalled the passage of House Bill 130, which allowed the university to choose 250,000 acres to be matched from the federal government. He related his view that the aforementioned is an opportunity to help communities, particularly in Southeast Alaska which is surrounded by federal lands. Therefore, he inquired as to whether the LBC has looked into this to identify any of these federal lands around Southeast Alaska in order to provide a land base to support boroughs, because some communities simply don't have the land base with the resource development opportunities required to support a borough government.

MR. HARGRAVES replied no, but said that the LBC is aware of it. He said that the LBC's activities have been limited to encouraging incentives. He agreed that land just isn't available as an incentive for incorporation, particularly in Southeast Alaska. Mr. Hargraves said, "Since lands aren't available, we're also aware that some legislators, from time-to-time, have proposed some pretty heavy payment -- actual dollars in place of the lands."

REPRESENTATIVE NEUMAN inquired as to the status of Representative Thomas's legislation to create boroughs that was introduced last year.

MR. HARGRAVES deferred to Mr. Bockhorst.

[8:17:44 AM](#)

DAN BOCKHORST, Local Boundary Commission, Division of Community Advocacy, Department of Commerce, Community, & Economic Development, recalled that Representative Thomas's legislation didn't pass the legislature. He further recalled that it didn't even pass from this committee. The legislation included the grant provision for newly formed borough governments with very little land. Under a municipal land entitlement program, these newly formed boroughs would, as an organizational incentive, receive \$15 million. If the area had a certain level of land, \$12 million would be provided. He recalled that there were other aspects of Representative Thomas's legislation that were of concern for some, such as the creation of a new type of borough government without education powers.

[8:19:38 AM](#)

CO-CHAIR LEDOUX inquired as to why an unorganized borough resident would want to form a borough and pay property taxes.

MR. HARGRAVES acknowledged that is how some view the situation rather than seeing the incentives. He indicated that there is a level of financial funding that would encourage the formation of boroughs. However, the state isn't likely to fund at that level, he opined. Therefore, the LBC can merely encourage incentives for those places where it's feasible to incorporate.

CO-CHAIR LEDOUX inquired as to how many boroughs have formed voluntarily.

MR. BOCKHORST specified that currently there are sixteen organized boroughs, eight of which formed voluntarily. In terms of numbers residents, he highlighted that 96 percent of residents who live in organized boroughs live in organized boroughs established by the 1963 Mandatory Borough Act. The aforementioned, he indicated, highlights that the problem of the lack of incentives has been in place for some time. The aforementioned Act resulted in the formation of eight boroughs, after which the policy returned to the prior practice of allowing boroughs to form voluntarily. As indicated by Mr. Hargraves, boroughs form when there is an attractive enough incentive to take on that local responsibility. In further response to Co-Chair LeDoux, Mr. Bockhorst related that the first borough to form [voluntarily] was the Bristol Bay Borough and it formed because it was able to tax the fishing and canning industry. The resources from those taxes were used to build and fund schools. The next borough that formed voluntarily was the Haines Borough, which formed due to heavy pressure from the state to address education matters. From that point on, boroughs organized in regions taking advantage of natural resources. Currently, the Deltana region has a pending petition to organize due to the presence of the Pogo Mine. Mr. Bockhorst noted that not every organized borough in Alaska levies property taxes. In fact, four of the five boroughs that recently formed don't levy property taxes.

CO-CHAIR LEDOUX surmised then that boroughs have formed voluntarily when there has been an opportunity to tax those who live outside of the borough.

MR. BOCKHORST noted his agreement.

[8:26:01 AM](#)

REPRESENTATIVE SALMON inquired as to the progress of the Delta incorporation petition.

MR. BOCKHORST related that on March 16th the LBC will hold a public hearing in Delta Junction to consider the petition to incorporate a Deltana Borough. The aforementioned would dissolve Delta Junction and establish a home rule borough government encompassing the existing Delta-Greely Regional Education Attendance Area. He expected that the LBC will have rendered a decision on that matter by the end of March.

[8:27:24 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to how much money is flowing into incorporated areas.

MR. HARGRAVES said he didn't know, but noted that the LBC does periodically review the areas of that state that are developing faster. He assured the committee that there are "hot spots" [areas] that do have a considerable amount of per capita income and wealth available, which is due to the development of natural resources in some areas. He added that land and legislative funds aren't the only incentives for borough formation, as evidenced by borough formation in areas where there are natural resources that the area seeks to protect or develop.

CO-CHAIR FAIRCLOUGH clarified that her question is in regard to the disincentive provided at the state level by providing funding without requirements to organize an area. Co-Chair Fairclough opined that although she didn't want to discontinue services to communities, continued funding from the state [with no requirements] won't cause people to take responsibility or control of their own area. Therefore, the legislature should either commit to funding unincorporated boroughs or determine how to change the program to encourage areas to take control.

[8:29:57 AM](#)

MR. HARGRAVES returned to his presentation with regard to other policy issues, including the absence of standards and methods for the establishment of unorganized boroughs; funding for borough feasibility studies; and compensation of LBC members. He pointed out that Article X, Section 3 of the Alaska State Constitution calls for all of Alaska to be divided into boroughs, whether organized or unorganized, and to be established per standards and methods specified in law. The constitution also calls for a minimum number of boroughs and that each borough embrace an area in population with common interest to the maximum degree possible. In 1963 only one

borough had formed, which lead to the aforementioned Mandatory Borough Act requiring eight regions of the state to form boroughs. The eight regions encompassed about 80 percent of Alaska's population, which has increased to about 84 percent. Six of the seven members of the House Community and Regional Affairs Standing Committee live in boroughs that were mandated by the Act. Mr. Hargraves then opined that there is a common misperception that unorganized areas can't afford to operate boroughs. Studies performed by the LBC, DCCED, and independent consultants indicate that the aforementioned perception is correct for a few areas, but not for every region of the state. Therefore, the LBC can't suggest merely incorporating every unorganized area. In response to these circumstances, the LBC endorses legislative action to reform the policy regarding borough incorporation, establish meaningful incentives for areas of the state to form organized boroughs, and establish standards and methods for the creation of multiple regional unorganized boroughs.

[8:34:06 AM](#)

MR. HARGRAVES then related the need to address funding for borough feasibility studies. Although the legislature provided some funding last year for borough studies in four regions, there is no source of funding for new borough studies at this time. Therefore, the LBC encourages the legislature to continue to fund studies for those areas interested in incorporation. Mr. Hargraves concluded with the LBC's compensation request, which he characterized as a token expression of appreciation. The growing number of proposals before the LBC has resulted in the unpaid commissioners of the LBC devoting increased amounts of time to carry the business of the LBC. For example, for one proceeding alone one member reported that he had devoted over 350 hours, which is the equivalent of almost 9 40-hour work weeks. Therefore, the commissioners believe that some measure of compensation should be offered to the commission, especially since the work of the LBC is an ongoing every day affair.

[8:37:04 AM](#)

CO-CHAIR FAIRCLOUGH asked if there is an average fee for a borough feasibility study.

MR. BOCKHORST answered that of the projects funded last year, it was on average \$75,000. Those were contracted out to multiple contractors. In 2006, the legislature appropriated money and the department contracted, through professional consultant

services. In further response to Co-Chair Fairclough, Mr. Bockhorst related that the LBC took a "hands-off" approach with regard to the contractors based on the possibility that the prospect could evolve. However, he offered to provide the names of all the contractors.

CO-CHAIR FAIRCLOUGH noted the lack of success [with regard to incorporation]. Therefore, she questioned whether the methodology or the selection process of the vendors should be reviewed.

MR. BOCKHORST opined that there's a valley between conducting a borough feasibility study and moving to the next stage of borough incorporation. In the past 30 years, borough feasibility studies have been performed for most of the unorganized areas. As mentioned by Mr. Hargraves, those studies have demonstrated that the regions do have the fiscal and administrative capacity to operate borough governments. Although the current policy/practice is that boroughs are formed through local initiative, it's possible that the LBC could bring proposals to the legislature. However, the LBC hasn't done so thus far. Therefore, the feasibility study isn't intended or guaranteed to initiate borough formation, rather it's a tool to determine the capacity, voting structure, services, and fiscal consequences of borough formation.

[8:41:11 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to the last time the scope of the project for the request for proposals (RFP) for the study was reviewed.

MR. BOCKHORST explained that the work done as a result of the 2006 appropriations was a fresh look at the scope of the project. Prior to that time, the more common approach was for the department or LBC to perform the study.

CO-CHAIR FAIRCLOUGH requested a copy of the RFP. She then turned to the request for compensation, as discussed on page 99 subsection (c). She inquired as to what the LBC believes other boards and commissions receive that it does not.

MR. HARGRAVES related that some members of boards and commissions are paid per meeting or a monthly stipend. He related his preference for the stipend concept.

CO-CHAIR FAIRCLOUGH pointed out that stipends are taxable while per diem isn't.

MR. HARGRAVES related his agreement.

[8:44:12 AM](#)

REPRESENTATIVE SALMON clarified that although he doesn't live in an organized area, he still pays taxes [for property that he owns in an organized area].

[8:45:22 AM](#)

REPRESENTATIVE CISSNA returned to the incentives and disincentives. She recalled the Alaska Municipal League's mention that many areas are struggling to pay the bills for having a government. She asked how many of the communities that have failed are located in unorganized boroughs.

MR. HARGRAVES recalled that a few years ago there were a large number of requests for dissolution, all of which were from unorganized areas. However, there hasn't been such proposals come before the LBC in recent years.

MR. BOCKHORST pointed out that formation of a regional government provides broader jurisdiction with regard to levying taxes, collecting revenues, taking on responsibilities, and achieving economies of scale that aren't always available at a community level. There are areas of the state, organized and unorganized, that have economic difficulties. However, some of the poorest communities in the state have education responsibilities as home rule and first class cities, which is important in regard to the foundation formula.

[8:49:23 AM](#)

REPRESENTATIVE CISSNA related that her review of health systems in the state have illustrated that telemedicine, technology, and local training have made a difference. Therefore, she asked if any thought has been given to offering training with regard to writing grants and organizing better.

MR. HARGRAVES pointed out that DCCED has divisions that work with local governments on such matters. Although the LBC could recommend encouraging such activities, the LBC wouldn't actually perform such activities.

[8:51:53 AM](#)

REPRESENTATIVE SALMON asked if the Pebble Mine is within borough boundaries

CO-CHAIR LEDOUX replied yes, adding that the Pebble Mine is located within the Lake & Peninsula Borough.

[8:52:22 AM](#)

CO-CHAIR FAIRCLOUGH acknowledged the hard work of the LBC. She questioned whether the committee would want to form a subcommittee, including rural Representatives, to review the LBC's recommendations and whether the committee should sponsor legislation based on any of those. She then related her own situation in which the community that she represents would probably support the Municipality of Anchorage not having taxing authority over it, but the community does enjoy services provided by that municipality.

[8:54:58 AM](#)

REPRESENTATIVE DAHLSTROM suggested that prior to any legislation lots of review of the LBC's recommendations is necessary. Representative Dahlstrom noted her support of a subcommittee or another committee with members from the Senate.

[8:56:01 AM](#)

REPRESENTATIVE SALMON opined that it's [necessary] to find a tax base to go along with the recommendation [to organize] because many of the unorganized areas don't receive government contracts and need something to sustain a government.

MR. HARGRAVES concluded by offering to the committee the LBC and DCCED staff as a resource.

[8:57:35 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:58 a.m.