

HB

600

STATE  
of ALASKA

# MEMORANDUM

TO: [ The Honorable Mike Miller, Chairman  
House Local Government Committee  
Alaska State House of Representatives

DATE : February 19, 1972

FROM: <sup>MM</sup> Byron I. Mallott, Director  
Local Affairs Agency  
Office of the Governor

SUBJECT: HB-600- State Aid to Federal Law Cities

The following fiscal analysis of HB 600 is based on the premise that each IRA Council would be empowered to provide and would be providing the services listed, two years after each initially became eligible for grants in aid under AS 43.18.010.030. Therefore, this analysis should be considered an estimate of each active IRA Council's potential level of participation.

AKIACHAK - Population 312 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance.

\$8940

ATKA - Population 88 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance.

\$4760

KLUCKWAN - Population 102 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation.

\$2244

KWETHLUK - Population 408 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance, Health Facilities

\$12,910

KWIGILLINGOK - Population 148 - Police Protection, Fire Protection, Parks and Recreation

\$2960

KWINHAGAK - Population 340 - Police Protection, Fire Protection, Parks and Recreation

\$6800

METLAKATLA - Population 1050 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Transportation, Parks and Recreation, Road Maintenance, Health Facilities.

\$43,450

MINTO - Population 168 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Parks and Recreation, Road Maintenance.

\$4932

NIKOLSKI Population 57 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance

\$4140

NOATAK - Population 293 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance  
\$7360

PERRYVILLE - Population 94 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance  
\$3568

TANACROSS - Population 84 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance  
\$2748

TATITLEK - Population 111 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance  
\$2742

TETLIN - Population 114 - Police Protection, Fire Protection, Transportation, Parks and Recreation, Road Maintenance  
\$3750

TUNUNAK - Population 274 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance  
\$6478

TYONEK - Population 232 - Police Protection, Fire Protection, Water Pollution, Transportation, Parks and Recreation, Road Maintenance  
\$8514

UNALAKLEET - Population 434 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Parks and Recreation, Road Maintenance  
\$16,416

VENETIE - Population 112 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance  
\$3214

Total \$145,926

Representative Tillion has asked that we address ourselves to the question of the impact of Tyonek's eligibility on the Kenai Borough's entitlement.

The Kenai Borough is presently qualifying for funds on an area wide basis under the categories of Air Pollution Control and Land Use Planning. The application under Air Pollution Control is based on participation in the Tri-Borough Air Pollution Control Program; the Land Use Planning entitlement is based on the fact the Borough exercises mandatory area wide planning and zoning authority. Therefore, the qualification of Tyonek for funds under the Police and Fire Protection, Water Pollution Control, Parks and Recreation, Transportation and Road Maintenance categories would not effect the Kenai Borough's entitlement.

BIM/DA:da

STATE  
of ALASKA

# MEMORANDUM

OFFICE OF THE GOVERNOR

*F. J.*  
TO:  The Honorable John E. Havelock  
Attorney General  
Department of Law

DATE : February 28, 1972

FROM: *Byron I. Mallott*  
Byron I. Mallott  
Director  
Local Affairs Agency

SUBJECT: House Bill No. 600

On Monday, February 27, the House Local Government Committee reported out HB No. 600 with a "do pass" recommendation. This bill has now gone to the House Finance Committee.

During committee discussion on this bill, the agency presented testimony including the fiscal impact to the state should the legislation be enacted. The agency pointed out certain questions which should be evaluated prior to the bill's being reported out onto the House floor. These questions are stated as follows:

1. May federal Indian Reorganization Act (IRA) business corporations legally receive and expend state funds for "municipal" purposes within either organized cities or boroughs or unincorporated areas?

Discussion:

IRA corporations organized under the provisions of the Wheeler-Howard Act have as their primary purpose the transaction of business within predominantly Indian or Native communities. We are generally aware that the Wheeler-Howard Act also provides for the establishment of minimum local self-government for Indian communities through the adoption of a constitution and by-laws provided by the Secretary of the Interior. It becomes a question, therefore, whether or not a community which has adopted an IRA charter containing provisions for minimum local government can exercise such powers in the face of Sections 2 and 7 of Article X, the Alaska Constitution.

2. If IRA corporations are in fact "closed" to all but persons of Native origin, is the State Legislature in any way impeded from authorizing disbursement of state general fund monies through AS 43.18.010 to communities as defined in HB No. 600?

Discussion:

It would appear that allocation of state shared revenues to these corporations would carry with it the requirement that the funds so allocated be expended wholly for public purposes, i.e. municipal services, authorized by federal

IRA charters. That this necessarily follows is buttressed by AS 43.18.010 (f) which states, in part, that "funds received by a city, borough or service area under this section may be expended for any public purpose for which it has power to expend public funds..." (emphasis added).

3. Could an IRA corporation located within the boundaries of a municipality incorporated under state law be eligible for revenue sharing allocations?

Discussion:

It is conceivable that situations may exist where communities are incorporated both under the federal Wheeler-Howard Act and also under Titles 29 and 7 of the Alaska Statutes. While the intent of the proposed bill must be to make communities which have organized as IRA corporations but not as municipal corporations eligible for revenue sharing funds, it would seem that the bill, as written would not preclude funding of both an IRA corporation and a municipality within the same community.

The above are some of the questions which have immediately surfaced with respect to HB 600. The agency respectfully requests that your office provide this agency and the Legislature with an opinion discussing these questions as well as any other important implications generated by this bill of which we are not presently aware.

The attachments to this memorandum provide a picture of the fiscal aspects which would ensue if the legislation were to be enacted by the Legislature. I am available for discussion on this matter at your convenience.

BIM/SJS/pc

Attachments

cc: The Honorable Mike Miller, Chairman  
House Local Government Committee

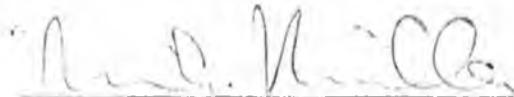
The Honorable Richard Whittaker  
House of Representatives

Local Government Committee Report

on

HOUSE BILL NO. 600

The House Local Government Committee, in recommending do pass on this bill, discussed at some length the effect of funding newly included municipalities in the shared revenue program. Our conclusion was this: The inclusion of certain new communities, as allowed by HB 600, is only fair where those communities are performing municipal services. The committee did not feel, however, that the appropriations under this bill should cut down on the dollars which will be appropriated to other municipalities. In other words, if the number of communities enjoying shared revenue is to be raised, then the total appropriation for shared revenue should be raised as well. The dollar amount in question is not excessively large and should be added so that every community receives its full entitlement under the shared revenue program.



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H. Miller, Chairman  
Local Government Committee

#146M - price tag for HB 600

February 18, 1972

Mr. Robert P. Isaac  
P. O. Box 223  
Douglas, Alaska 99824

Dear Bob:

Appreciate very much your letter of February 16 and your comments on HB 600. We will be meeting on this bill Monday morning and I will certainly see that your letter is read into the records. The very questions that you raised were discussed at a previous meeting of the committee.

Again, many thanks for writing. We appreciate receiving your opinion in this matter.

Sincerely,

Mike Miller, Chairman  
House Local Government Committee

P. O. Box 223  
Douglas, Alaska 99824

February 16, 1972

The Honorable Mike Miller, Chairman  
Local Government Committee  
State House of Representatives  
Juneau, Alaska 99801

Dear Mr. Miller:

A bill, HB 600, has been submitted which provides for treating villages organized under the Federal Indian Reorganization Act as state municipalities for the purpose of revenue sharing under AS 43.18.

As a citizen of this state and the Juneau City-Borough, I must voice my objections to this type of legislation.

The constitution places governmental authority in cities, boroughs and the state, and it would appear to me legislation of this nature is slowly eroding the Local Government Constitutional provisions by recognizing forms of government other than cities and boroughs organized under state law.

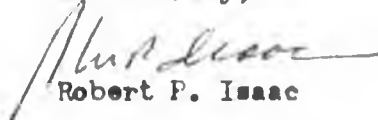
It seems to me that if a community wants the benefits of state shared revenues, it should at least be willing to assume the responsibilities of a fourth-class city.

A similar situation occurred at Metlakatla about two years ago. In that instance, the Metlakatla Council wanted the police power. Subsequently, the Federal Government, by a special act, authorized this power to be exercised. Metlakatla could have gained whatever municipal powers it desired through incorporation under state law.

It further seems to me that the Legislature should take a firm position on local government organization and limit the prerogatives of local government to those communities which elect to form governments authorized by the constitution.

In my opinion, everything possible should be done to encourage municipal incorporation under state law where local government is needed and not resort to passing along state benefits to quasi governments which are not recognized by the constitution.

Yours truly,



Robert P. Isaac

cc: Senator John Rader, Chmn.  
Senate Local Government Committee

Governor Wm. A. Egan

February 19, 1972

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BIM/DA:da

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# MEMORANDUM

TO:  Byron I. Mallott  
Director  
Local Affairs Agency

DATE : February 15, 1972

FROM: Don Argetsinger *DA*  
Local Government Specialist

SUBJECT: HB-600 Extension of AS 43.18 to  
IRA Villages

The following is a list of active IRA council's per the BIA Tribal Operations listing dated 1-29-70. This list excludes all active IRA councils in cities incorporated under AS Title 29.

<u>Village</u>	<u>Population- 1970 Census</u>
Akiachak	312
Atka	88
Klukwan	102
Kwethluk	408
Kwigillingok	148
Kwinhagak (Quinhagak)	340
Metlakatla	1050
Minto	168
Nikilski	57
Noatak	293
Perryville	94
Tanacross	84
Tatitlek	111
Tetlin	114
Tununak	274
Tyonek	232
Unalakleet	434
Ventie	112
Total 18 Villages	<u>4422</u>

Metlakatla is the only active IRA Council capable of immediately qualifying for funds for anything near a full range of services; therefore for the purposes of getting a general idea of the impact, assume that in FY 1973 all IRA's listed would qualify for Police Protection and Parks and Recreation, as follows:

$$4422 \times \$15 = \$66,330$$

Add Metlakatla with transportation, water pollution  
 $1050 \times \$7 = \$7,350$

Add Fire Protection in Tyonek, Kwethluk and Minto  
 $808 \times \$5 = \$4,040$

Add Water Pollution in Minto and Tyonek  
 $400 \times \$5 = \$2,000$

Total \$79,720

OR \$80,000

I have discussed the provisions of IRA charters with John Hope of BIA Tribal Operations and Al Widmark. My understanding is that the charters are quite broad and can or can not provide for the provision of municipal services. An examination of each individual charter would of course be required to determine this. The process of ammending a charter seems quite involved, ie petitioning the Sec of Interior who orders an election in the village etc. Since Statehood, the BIA has evidently discouraged the exercise of usual municipal powers under IRA charters, in favor of incorporation under AS Title 29.

The Impact on the FY 73 requested appropriation:

Assuming that \$7.085 M proves to be sufficient for FY 1972 - and further assuming the only other variables are those listed below, the IRA ammendment could produce an additional 1.12% proration or deficit

$$\frac{\$80,000}{\$7.1 \text{ M}} = 1.12\%$$

Increases in population and minor expansion of services- assuming the present provisions of AS 43.18 remain in-tact

$$\frac{\$100,000}{\$7.1 \text{ M}} = 1.40\%$$

SA #30 - GAAB for Parks and Recreation

$$\frac{\$167,200}{\$7.1 \text{ M}} = 2.35\%$$

Total deficit w/IRA	<u>4.87%</u>
Total deficit wo/IRA	3.65%

DA/da