

HB-101

CZV

06063 NL JUNEAU ALASKA 121/112 02-13 1100P PST
PMS ROBERT KINBY, DIRECTOR, DIVISION OF STATE PLANNING
AND REGIONAL AFFAIRS
1010 MADISON
RICHMOND VA 23219 "

DEAR MR KINBY, THE ALASKA LEGISLATURE IS CURRENTLY
STUDYING THE PROBLEM OF DIVISION OF ASSETS AND
LIABILITIES WHEN PART OF AN INCORPORATED MUNICIPAL
VOTES TO SEPARATE AND INCORPORATE ITSELF. THIS
IS UNPREDEDENTED IN ALASKAN HISTORY AND WE ARE
SEARCHING FOR SOME GUIDELINES FOR DECIDING WHICH
MUNICIPALITY RECEIVES WHICH ASSETS AND WHICH
LIABILITIES. ME GEORGE W. REINHART OF THE
INTERNATIONAL CITY MANAGEMENT ASSOCIATION REFERRED
US TO YOU AS A POSSIBLE SOURCE OF INFORMATION.
ARE THERE ANY ESTABLISHED GUIDELINES FOR ASSET AND
LIABILITY SEPARATION? ANY ASSISTANCE OR INFORMATION
THAT YOU COULD PROVIDE US WITH, WILL BE GREATLY
APPRECIATED. TIME IS OF THE ESSENCE SINCE WE ARE IN
THE MIDDLE OF A LEGISLATIVE SESSION. SINCERELY
SAM COTTEN, CHAIRMAN, COMMUNITY REGIONAL AFFAIRS
COMMITTEE, ALASKA HOUSE OF REPRESENTATIVES,
POUCH V, JUNEAU 99801

CONFIRMATION COPY

1975 FEB 14 AM 1 08

Night letter sent 2/5/75 to:

Ralph Tabar

National Association of Counties

1001 Connecticut Ave, N.W.

Washington, D.C. 20036

The Alaska legislature is presently studying the division of assets and liabilities when part of an organized political subdivision votes to separate and incorporate in its own right. This is unprecedented in Alaskan history, and, as far as we can determine, in United States history.

Assuming no theoretical studies have been done on the mechanics of such a division, you may be able to refer us to appropriate authorities in any jurisdiction that has undertaken a similar separation.

Any assistance or suggestions you can offer will be greatly appreciated. Time is of the essence, since we are in the middle of the legislative session.

Sincerely yours,

Sam Cotten

Chm, Committee on Community
& Regional Affairs

Alaska House of Representatives

Pouch V

Juneau, Ak 99801

This should arrive
this morning (2/6)
at 8 a.m.

Sam - what's your credit card #?

Robert Kinby, Director
Division of State Planning & Regional Affairs
1010 Madison Building
Richmond, Virginia 23219

Dear Mr. Kinby:

Mr. George W. Reinhart of the International City Management Association referred us to you as a possible source of information.

The Alaska legislature is currently ~~grappling with~~ ^{studying} the problem of division of assets and liabilities when part of an incorporated municipality votes to separate and incorporate itself. This is unprecedented in Alaskan history and we are searching for some guidelines for ~~the~~ ^{the} deciding which ~~entity~~ ^{municipality} receives which assets and which liabilities.

Mr. George W. Reinhart of the International City Management Association referred us to you as a possible source of information. ^{Are there} ~~Is there~~ ^{at} the Virginia annexation situation any established guidelines for asset and liability separation? ~~It would be greatly appreciated~~ ^{receiving a copy of them.}

Any assistance or information that you could provide us with, will be greatly appreciated. Time is of the essence, since we are in the middle of a legislative session.

Sincerely,

Sam Cotten, Chairman
Community & Regional Affairs Committee
Alaska House of Representatives, Pouch V
Juneau, Ak 99811

sent 2/13/75 11pm



February 11, 1975

Mr. Sam Cotten, Chairman
Committee on Community and Regional Affairs
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

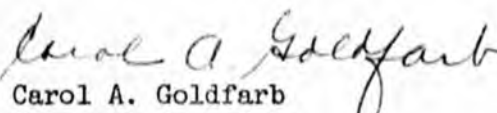
Dear Mr. Cotten:

In response to your request on information concerning the division of assets and liabilities when part of an organized political subdivision votes to separate and incorporate in its own right I am unable to offer you much assistance. NACo generally is involved in the opposite process: that of consolidations of governments.

I have investigated the possibility of gaining information from the Advisory Commission of Intergovernmental Relations (ACIR). Unfortunately, they have no information on this topic either. George Reinhart from the International City Managers Association (ICMA) is looking into your question and will be contacting you shortly. The only separation of political subdivisions which may be helpful to you are found in Virginia. The Commonwealth of Virginia Constitution permits cities to become independent of the county. Although I have no information on the process may I suggest you contact that state directly. Their state offices are located in Richmond, Virginia. Much to my regret I am unaware of the particular office in Virginia which handles your question.

The best of luck in your endeavor.

Sincerely yours,


Carol A. Goldfarb
Research Associate

CAG/mlld

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B-JUNEAU 99301

January 24, 1975

The Honorable Sam Cotten
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Cotten:

You have asked our perceptions with respect to interim financial assistance for the Chugiak-Eagle River Borough during the period of its transition.

The Chugiak-Eagle River Borough was incorporated under procedures set forth in Chapter 145, SLA 1974. In August, 1974, a majority of the voters approved separation of the area from the Greater Anchorage Area Borough and organization of a second-class borough. Subsequently, on December 3, 1974, residents elected a mayor, seven-member assembly, and five-member school board. Pursuant to AS 29.18.180, the Department has transmitted to the officers of the municipality an organizational grant of \$25,000. This is the limit of direct assistance to the municipality currently authorized by State law.

It is understood that the Alaska Supreme Court has taken under advisement arguments offered in behalf of certain residents of the municipality directly challenging the incorporation process. Plaintiffs-appellants allege that ch. 145, SLA 1974 is local and special legislation adopted in violation of a constitutional prohibition against such legislation where general law procedures have been established. Defense of the challenge has been undertaken, in part, by the municipality. A portion of the organizational grant has been used to retain services of counsel.

Department comments are confined to two general matters.

By section 9 (b) of Chapter 145

Upon incorporation of a borough . . . as provided in this Act, the local boundary commission, after due notice and hearings to parties concerned, shall prepare an order providing for an equitable allocation between the Greater Anchorage Area Borough and the municipality incorporated [i.e., the Chugiak-Eagle River Borough] of assets and liabilities, whether real or intangible, and including but not limited to bonded or other indebtedness, respecting the area incorporated as to a power or function succeeded to by a municipality . . .

To date, faced with the challenge to the Borough's incorporation, the Department has been reluctant to initiate, in behalf of the Commission, an extensive effort in satisfaction of this requirement. I tell you frankly that the research that would underlie an allocation is beyond the capacity of the Department; had we the resources, we would undoubtedly engage a consultant to complete the necessary work. Our approach would, most likely, embody retention of a consultant familiar with the internal accounting processes of the Greater Anchorage Area Borough and ask that, in satisfaction of the requirement imposed by the above-quoted language, he recommend alternative methodologies which would produce equitable allocations. The several recommended methodologies, with comments as to their appropriateness by officials of the affected municipalities, would be offered to the Commission. We would ask that the Commission select one, incorporating its features into an initial order directing officials of the respective municipalities to complete the allocation consistent with the guidelines described. The burden of action would fall on the municipalities but, when they could not agree, we would ask the Commission to retain jurisdiction and dispose of remaining elements. I am advised that the cost of entering into agreement with a third party to examine Greater Anchorage Area Borough records and suggest alternative methodologies, retaining the services of the consultants through the period of entry of final order by the Commission, should approximately amount to \$100,000. Additionally, to defray the costs of review of alternative methodologies by the municipalities, the Legislature may want to consider direct financial support.

One alternative to this relatively "limited" approach would be a full-fledged examination of Greater Anchorage Area Borough funds with detailed recommendations involving allocations from each. Third-party examination of these funds would involve considerably more effort by a contractor and, concomitantly, considerably more cost. Finally, should the Department and Commission operate without benefit of expert opinion, as laymen it is likely that any final order would invite judicial review.

Our second concern is for the new municipality itself. By section 9(c) of Chapter 145

. . . [A] power or function which is being exercised on the effective date of this Act by the Greater Anchorage Area Borough within an area incorporated under this Act and which is succeeded to by the borough . . . incorporated [i.e., the Chugiak-Eagle River Borough] shall continue to be exercised by the Greater Anchorage Area Borough until the [new borough] incorporated under this Act assumes the power or function which shall be not later than the close of the fiscal year of the Greater Anchorage Area Borough during which incorporation occurs [i.e., June 30, 1975]. However, in the case of incorporation of a borough under provisions of this Act, the Greater Anchorage Area Borough shall continue to assess and collect borough taxes levied within the municipality for the borough fiscal year in which incorporation occurs until the close of that year, and thereafter as necessary to enforce collection of the taxes, and shall also collect, or receive, other revenues pertaining to the area incorporated for that fiscal year; the taxes and other revenues collected or received shall be remitted as promptly as possible, consistent with this subsection, to the new municipality on a basis fairly reflecting the division of powers and functions during transition between the Greater Anchorage Area Borough and the municipality. The Local Boundary Commission shall by order determine the allocation of tax and other revenues under this section.

January 24, 1975

Thus, until the Local Boundary Commission renders a final order anent allocation of assets and liabilities, including current tax receipts and shared revenues, or until June 30, 1975--whichever is earlier--the Chugiak-Eagle River Borough may expect to receive no income.

Please note, however, that section 8 of the Act compels the new municipality to enter decisions with respect to exercise, in FY 76, of mandatory areawide powers and directs that decisions be made with respect to assumption or relinquishment of all other powers currently exercised by the Greater Anchorage Area Borough. The GAAB's responsibility in the area lapses on June 30, 1975. Section 9(c). Thus, within a very constricted time frame, officials of the Chugiak-Eagle River Borough must concern themselves with assumption of current optional powers, implementation of all functions assumed, and construction of a FY 76 budget. This is no small task for a community with but \$25,000 of cash assets to its credit. Additional interim financial assistance has been publicly discussed and I would respectfully suggest that officials of both affected municipalities may want to be heard on this subject. The Department is, of course, within the resources allocated to it, ready to assist officials of both municipalities in the problems of transition although, as you may know, direct support by the staff of the division specifically charged with responsibility for technical assistance is rendered more difficult because of the absence of staff available in an Anchorage-area office.

I would like to take this opportunity to advise you that this request has the full endorsement of the Local Boundary Commission.

I would welcome the opportunity to examine the matter in more detail with you. If the Department may be of further assistance, please contact me.

Sincerely,

Lee McAnerney
Lee McAnerney
Commissioner

By:

John B. Chenoweth
John B. Chenoweth
Director, Division of Local
Government Assistance

LMcA:JBC:rw

HB 01

2/3/75
Joint Senate/House

- Jack Chenoweth, Dept. CRA
- Dave Jensen, Dept. CRA
- Cheryl Probst, Anch. Times
- Richard Smith, Dept. of Admin
- Gary Peska, Legislative Audit
- Mary Van Nimwegen, Spectator
- Don Berry, Ak. Municipal League
- Lee Jordan, Mayor, Chugiak-Edge River Bo-
- Bill Overstreet, Assoc. Ak. School Bds.

Notified, Present Testified

Notified	Present	Testified
x	x	x
x	x	
	x	
x	x	
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	x	
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2/4/75
House

- Chenoweth
- Richard Smith
- Gary Peska

x	x	x
x	x	x
x	x	x