

HB-657

"An Act relating to the platting authority; and providing for an effective date."

COMMITTEE REPORT

1/27/76

HOUSE

Mr. Speaker:

Date 4-20-76

The Committee on COMMUNITY AND REGIONAL AFFAIRS has had HB 657

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT
CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____
COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	<u> </u>
<u>[Signature]</u>	<u>[Signature]</u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

Members NOT concurring in the Majority report:

<u>[Signature]</u>	recommends: <u>[Signature]</u>
<u> </u>	recommends: <u> </u>
<u>[Signature]</u>	recommends: <u>[Signature]</u>
<u>[Signature]</u>	recommends: <u> </u>

[Signature] Chairman

HOUSE COMMUNITY & REGIONAL AFFAIRS

April 9, 1976

The meeting was called to order at 9:05 am by Chairman Cotten for discussion of SB 551, SB 529, HB's 656 and 657. Present were:

Rep. Cotten	Rep. Ostrosky
Rep. Ose	Don Berry, Alaska Municipal League
Rep. Freeman	Palmer Mc Carter, C&RA
Rep. Kelley	Barbara Englert Thomas, Staff
Rep. Hackney	Vicci Hansen, Staff
Rep. Davis	

0009 Chairman Cotten explained SB 551. Since Anchorage unified it didn't automatically come under the Social Security Act and apparently it appears that unless municipal employees are covered under Title II of the Social Security Act, they don't qualify for state PERS so the procedure is for them to have a vote on an individual basis to find out if they want to.

0058 Don Berry pointed out that on February 17th the House passed HB 569, 35-0 and this bill is identical to SB 551.

0079 Rep Freeman asked to vote the bill out.

0110 Palmer McCarter gave a run-down on SB 529. Sections 1 and 2 were in the Governors bill and basically they consider that part to be part of a clean up of existing language. There would be the possibility under Section 1 where a borough could apply under the state for monies that the state says could be exempted to certain individuals without actually having given the exemption to the person. That part is a clean-up. Also, Section 2 they consider a clean-up.

0145 Cotten asked McCarter if the problem was that they had a \$10,000.00 exemption and so the state was paying the borough for revenue that they really hadn't lost.

McCarter said yes.

Cotten said that confused him.

McCarter explained this. There basically is really no objection to either Section 1 or 2. Those are amendments that were proposed by the state assessor. Section 3 additionally had some language in it that the state assessor felt should have been left in and McCarter suspects that the committee members do not have the original bill but he explained this part.

0368 McCarter discussed the bill with the committee and said that it would have helped to have Bob Dozier present.

0425 Rep. Ose stated that this exemption leaves it wide open for the food stampers and so forth and an honest farmer has a tough time. He stated examples of this in his area.

There was further discussion on the bill.

0540

Rep. Ose said that he would like to have some people come in and discuss the other end of this. Cotten said he have it Wednesday. *willis*

0544

Cotten then discussed HB 657, Planning, Platting and Zoning. Gene Hines testified on this. He said that there are some reservations about this bill. He listened to the people representing the Administration and he feels it has much more effect than what they testified to. This was first brought to their attention when they got a copy of unorganized borough zoning regulations put out by administration before the session started. He read portions of those regulations. The committee is to have copies of this letter and regulations. He felt that it should be stopped right now before a lot of money is spent if the committee doesn't approve of it.

Cotten said that it was a serious question.

He said that this should be resolved by the legislature and not by a single committee since it takes in quite a bit of scope. He will have a legal interpretation presented to the committee on this.

0857

Cotten asked the committee what they wanted to do with HB 656. He told the committee what the bill was briefly about.

There was discussion on the bill. He asked if someone would like to make a motion to pass the bill out.

0940

Ostrosky said that she moved to pass the bill out

The meeting was adjourned at 10:00 am.

Rep. Kelley was against the language. She felt that it gave you the feeling that you have to appropriate the money.

395

Palmer McCarter gave his opinions on the bill. Without the language the state is obligated to pay and the borough could proceed to file delinquencies and file liens against the property. With the added language there is the escape.

580

Rep. Rudd said that it could be done by regulation. She asked Roderick if there were regulations now covering it. Roderick stated that he did know that the law requires that every state agency file with the Division of Lands their ownership and that has not been done. Division of Lands does not know what each department owns so when a bill comes in he's sure it finds its way to the Division of Lands and then they have to go back to the agencies and find out if it is a valid bill.

There was no further discussion on the bill and it was decided to hear from Mr. Tubbs from Division of Lands or other witnesses. It was decided to set this bill aside and move on to HB 657.

635

HB 657 has to do with the manner of subdividing areas that are in unorganized boroughs and third class boroughs. The new language is third class boroughs and may be more than one eventually.

Kevin Waring from the Department of Natural Resources was asked to testify on this bill. He felt it was primarily a planning bill. He said that the bill is primarily aimed at a gap in state law right now that does give the Division of Lands authority for review of proposed subdivision plats in unorganized areas outside the municipalities and boroughs. Under present law all subdivision plats in cities and in boroughs are mandatorily reviewed by the city planning commission or the borough planning commission to make sure that they conform with good engineering and planning practices. That is not the case outside municipal jurisdictions.

The committee discussed this bill and it was decided to carry on with discussion of this bill at a later date since the committee ran out of time.

Meeting was adjourned at 10:05 am.

HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

April 1, 1976

The meeting was called to order by Vice-Chairman Kathryn Ostrosky for discussion of HB's 656/657. Present were:

Rep. Davis	Rep. Cotten (late)
Rep. Hackney	Palmer McCarter, C&RA
Rep. Kelley	Jack Roderick, Deputy Commissioner of C&RA
Rep. Rudd	Barbara Englert Thomas, Staff
Rep. Freeman	Vicci Hansen, Staff

0007 Rep. Ostrosky asked Mr. Roderick to testify on HB 656.

He explained that right now the law provides in 38.05.030 subsection (c) that when any department acquires any real property, it is supposed to notify the division of Lands. That is not being done so the division of Lands doesn't know the ownership by department of the state land. The municipalities bill the agency and the agency then gets the bill and has to decide if it is their land that is being billed and then check with the division of Lands. They then put it in their CIP budget and eventually it gets to the appropriation state. This bill is designed to simply send a copy of that municipal bill to the Department of Administration who would package it up and go then to the legislature and get an appropriation and then pay the municipalities at one time. In researching this he came to the conclusion that if the division of lands had all the records of the various agencies and the bills were sent to the division of Lands the same thing would be accomplished but in fact the simplest way is to have the municipalities send the bills to the Department of Administration and the Department of Administration would have the responsibility of checking with each of the agencies to see if in fact the assessment is proper and then go into the legislature for the appropriation.

131 Rep. Kelley asked how come this particular portion of it is being subject to the appropriation of the legislature hasn't been added into the budget before. She asked if this way they would come out with a supplemental each time or if it could be worked into the budget itself.

142 Roderick stated that that was the other alternative to try to predict what the bills are going to be each time from the municipalities but this approach is also a way.

There was committee discussion and questions on this bill.

Rep. Kelley said that she would like to ask someone in Finance to see if they see this as a problem.

245 Rep. Hackney said that he felt that this would become a part of the budget for Community & Regional Affairs the same as Revenue Sharing and he felt that it should be handled the same as Revenue Sharing where if the Department didn't have enough money to fund for the entire amount that was needed then they would pay it. This way every community would get a portion up to the amount the Department had.

Sam Coker -

Re: AG's opinion on state's authority to zone land in the
"unorganized borough"

Red Regues called about their opinion & he said
the Dept. of Law has always interpreted that the zoning
power was granted broadly. The original
bill ~~granted~~ authorized zoning of Federal lands
in the unorganized borough. The Judiciary
committee at the time changed the wording
of sec a of AS 38.05037 and there is
~~the power of the~~ now no reference
in that section to facilitating the sale of
Federal lands. It merely states that where a political
subdivision has zoning power the Div. of Land shall have it.

He reiterated the Administration's concern for
this bill is that proper platting will prevent
many legal problems from coming up in
the future. Now they ^{already} have limited platting
authority - they can ^{change or} vacate the plats - but
they ~~can't~~ don't yet have to let platting
authority

Legal this is okay! 25

HD HOUSE BILL NO. 792 was referred to the Rules Committee
792 for placement on the calendar.

HS The Commerce Committee has had HOUSE BILL NO. 826 (dis-
826 counts in retail sales) under consideration and a majority
of the members of the Committee reports it back with
individual recommendations. The report was signed by
Mr. Bradley, Chairman. Bradley and McKinnon recommend
do pass; Kelley, Freeman and Union recommend do not pass;
Fischer recommends "do not pass, it's ridiculous" and
Rudd has no recommendation.

HOUSE BILL NO. 826 was referred to the Rules Committee for
placement on the calendar.

INTRODUCTION, FIRST READING AND REFERENCE
OF HOUSE RESOLUTIONS

HCR HOUSE CONCURRENT RESOLUTION NO. 133 by the Rules Committee
133 by request of the Administrative Regulation Review Committee:

Annuling regulations of the Department of
Health and Social Services pertaining to
plumbing facilities for restaurants and
 taverns.

was introduced, read the first time and referred to the
(Health), Education and Social Services Committee.

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE BILLS

HB HOUSE BILL NO. 646 (selection of architects, engineers
646 and surveyors for state projects; effective date) was read
the second time with the State Affairs Committee report
(page 530 of the Journal), the Finance Committee report
(page 558 of the Journal) and the second Finance Committee
report (page 662 of the Journal).

Mr. Miller moved and asked unanimous consent that COMMITTEE
SUBSTITUTE FOR HOUSE BILL NO. 646 (Finance) (same title)
be adopted in lieu of HOUSE BILL NO. 646.

Mr. Speeking objected and withdrew his objection.

Mr. Gardiner objected and withdrew his objection.

CSIB There being no further objection, it was so ordered.

646
(Fin)

STATE OF ALASKA **SEND**^{copy}
Inter-Department Route Slip **To Senate**
committee -

TO:
MAIL STATION NUMBER 3100
DEPARTMENT Legislature
ATTENTION Same Section Rep

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:
Sen **STAR** you've looked at **YES**
Sen **no** you **want**
it **filed** in **HB 6577**
CS

FROM:
MAIL STATION NUMBER 0300
DEPARTMENT Law
BY Red Regan DATE 4/28/76

HB657

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

Pouch K
State Capitol Building
Juneau, Alaska 99811

April 28, 1976

The Honorable Sam R. Cotten
Representative
Alaska State Legislature
P. O. Box 296
Eagle River, Alaska 9^577

Re: Zoning authority in the
unorganized borough

Dear Chairman Cotten:

You have asked whether AS 38.05.037 authorizes the Alaska Division of Lands to zone all lands in the unorganized borough.

Subsection (a) of AS 38.05.037 provides:

In areas of the unorganized borough where there is no political subdivision of the state with a zoning power, the division of lands shall exercise the zoning power by adopting zoning regulations.

As originally introduced by request of the Governor, the legislation provided that:

The Division of Lands . . . shall exercise its zoning power . . . only at such times and in such areas as it is requested to do so by the Secretary of the Interior to facilitate sales of lands within the unorganized borough pursuant to Public Law 88-608, 78 Stat. 988. (emphasis added).

The legislature altered this limitation so that it applied solely to a limitation on zoning federal lands. AS 38.05.037(b). It then added an additional limitation:

Any zoning done by the division of lands under (b) of this section is final unless disapproved by concurrent resolution at the next regular session of the legislature. 1/

The result is that the Alaska Division of Lands is authorized to zone private lands in the unorganized borough generally. It may zone federal lands only by request of the Secretary of the Interior. The latter may be disapproved by concurrent resolution by the legislature.

There can be no question that both the Governor, who requested the legislation, and the legislature contemplated that the power would be exercised solely to facilitate the sale of federal lands, which -- under the applicable federal law -- could be accomplished only where zoning regulations had been adopted. See 43 U.S.C.A. §1421; 1966 H. Jour. 659. And see, the title of ch. 47, SLA 1966 (" . . . to facilitate federal land sales.") The power granted, however, was -- except as to federal lands -- general. Of course, under AS 44.62.320, the legislature retains the power to annul any regulation by a concurrent resolution. 2/

While the legislature could have limited its grant of authority, as indeed, the Governor's request did, its

1/ AS 38.05.037(c). The codification erroneously shows the source as §6, ch. 118, SLA 1972. The true source is §1, ch. 47, SLA 1966.

2/ Because of AS 44.62.320, the addition of subsection (c) to AS 38.05.037 was a redundancy.

The Honorable Sam R. Cotten
Representative

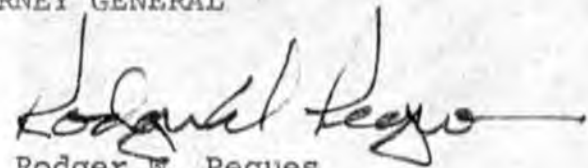
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decision to make a broader grant is understandable. It would serve little purpose to zone federal lands if no authority existed to zone adjacent private lands.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By:



Rodger W. Pegues
Assistant Attorney General

RWP:db