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Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

FEB. 13, 1981

SENATE STATE AFFAIRS COMMITTEE REPORT

ON

CSSB 86 ENTITLED "AN ACT RELATING TO EXPENDITURE OF STATE MONEY FOR RELOCATION OF THE STATE CAPITAL, AND AMENDING THE LAW ADDED BY THE INITIATIVE POPULARLY KNOWN AS THE 'FRANK INITIATIVE'; AND PROVIDING FOR AN EFFECTIVE DATE."

BILL SUMMARY

The Committee Substitute for Senate Bill 86 would amend AS 44.06.196, popularly known as the "FRANK Initiative", in the following ways:

- 1) It specifies that the proposition that must be put before the voters prior to any expenditures for capital relocation would include all "bonded and appropriated" costs, rather than "bondable" costs;
- 2) The Legislature would determine the total cost to the state for the move; and
- 3) It removes the requirement that the new capital city be planned for a population of 30,000 people.

These amendments are necessary if the existing statutes for capital relocation are to be pursued.

BACKGROUND

In 1974 Alaskan voters approved an initiative to move the capital (AS 44.06.100 - 44.05.190). Two years later the same voters selected Willow as the new capital site. The New Capital Site Planning Commission was then established to plan the new city and to determine its cost (AS 44.06.200 - 44.06.260). By law, the new capital city had to be designed for a population of 30,000 people. Using some of the best talent in the country, the New Capital Site Planning Commission completed its work in time to put a bond proposition before the voters in 1978. The bond proposition amounted to more than \$900,000,000 and the proposition was defeated.

At this same election in 1978, Alaskans approved what is popularly known as the "FRANK Initiative". This law required that before any state monies could be expended on the capital move, voters would have to approve the bondable costs of capital relocation. "Bondable costs" has since been interpreted to cover not just actual but all potential costs to the state, so that making realistic cost estimates has become virtually impossible.

PURPOSE OF COMMITTEE SUBSTITUTE SB 86

The committee feels that there has been an effective standoff on the capital relocation since the 1978 bond proposition. In view of the fact that Alaskans have voted for relocation, the standoff must be resolved.

The first step in resolving this issue is revising the "FRANK Initiative" to provide the basis for a workable solution. The committee substitute allows for a reasonable size capital move proposition to go before the voters. This proposition would allow the voters to vote on all actual projected costs of relocation by amending the term "bondable" to include all bonded and appropriated costs of relocation. This substitute also gives the Legislature the authority to determine the size and cost of the move. The Capital Site Planning Commission is not a practical vehicle for deciding the size and cost of the move, in that it is no longer a functioning body.

CSSB 86 maintains 1992 as the time to which costs of relocation are to be calculated, as in the original "FRANK Initiative"; SB 86 would have used 1986 for this purpose. In view of previous delays and projected schedules of site development, it is not likely that the Willow capital site would be first occupied until 1985 at the earliest, more likely not until 1986. Using a date prior to 1992 for cost calculations could readily leave the impression that only initial 1986 relocation costs would be subjected to voter approval, with higher costs being sneaked in immediately thereafter. Since the intent is to achieve a minimum cost move -- and to also be completely honest with the public -- full costs of capital relocation will be best reflected by using the 1992 date.

The State Affairs Committee is currently working on preparing legislation for the proposition to go before the voters. One

member of the committee questioned whether the proposition should give the comparative costs between maintaining the capital in Juneau versus the cost of moving to Willow. The committee is also analyzing all the alternatives, so that the move can have a minimal impact on Juneau. The intention of the committee is that this "FRANK Initiative" amendment would assure that a basis will exist for further action on "move legislation" during this session of the Legislature.

SECTION ANALYSIS

Section 1 amends AS 44.06.196 entitled "Capital Relocation Expenditures".

Lines 17 and 18 are amended to allow voters to vote on all bonded and appropriated costs of capital relocation. The existing law states that the voters must approve a bond issue of all bondable costs of relocation.

Lines 19, 20, and 21 state that the Legislature will determine all bonded and appropriated costs. The existing law states that the Capital Relocation Commission would determine the bondable costs to be voted on at an election.

In lines 27, 28, and 29 the language "having facilities equal to those provided by the present capital city and those required by the 1974 capital move initiative" has been deleted. This deletion removes the requirement that the new capital city be planned for a population of 30,000 people.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 86

Title Act relating to expenditure of state money [for capital relocation]

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected _____

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
	0	0	0	0	0	0

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE January 29, 1981

PREPARED BY _____

AGENCY Revenue

PHONE 465-2300

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

MEMORANDUM

State of Alaska

TO: Hon. Jay S. Hammond
Governor

DATE: March 25, 1981

FILE NO: J-66-611-81 and
J-66-598-81

TELEPHONE NO: 465-3666

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Capital move legisla-
tion, HB 351 and CSSB
86 (Rules, revised)

By:

Rodger W. Pegues
Assistant Attorney General

This responds to your request for an analysis of HB 351 and the latest version of CSSB 86 (Rules). The analysis is in two parts: first, a brief comparison of each bill to your five requirements, and second, an expanded discussion of the defects or problems.

1. True costs:

HB 351 covers costs of public facilities and improvements through the year 1992. It includes relocation costs but not indemnification costs.

CSSB 86 (Rules) (new version) covers only the "net cost of relocation."

2. Method of Determining Costs:

HB 351 provides for a joint interim committee of the legislature to determine costs. No objective measure is prescribed for costs or inflation.

CSSB 86 (Rules) (new version) provides for the Capital City Development Corporation to estimate costs. No objective measure is prescribed for costs or inflation.

3. Ballot Question, Specific Costs, and

4. Ballot Question, Jobs to be Relocated:

HB 351 provides only for voting on costs and does not require any information on specifics of the move to be on the ballot.

CSSB 86 (Rules) (new version) provides for voting on "net cost" and for stating the number of "central state employees" to be relocated from Juneau and Anchorage. However, it will cover only the gover-

nor's office, the legislature, and offices of the heads of the principal departments.

5. Laying the Issue to Rest:

Neither bill provides a mechanism for laying the issue to rest.

It appears that the most substantive defects are the failures to provide mechanisms in the bill for using objective measures of costs and inflation, for stating the specifics on the move on the ballot (the Senate version is much better but still lacking on this point), and for laying the issue to rest.

As you will recall, the Capital Site Planning Commission had an objective measure to follow in making its construction costs estimates. No objective measure was prescribed for inflationary effects. The result was a substantially low estimate of inflation. Hence, there is a need for an objective measure of costs to be prescribed for construction, relocation, and inflation to be prescribed by law if your goal of placing the true costs before the voters is to be achieved. This means the actual costs of facilities to be financed by the public.

The House bill does not require that information of the total costs to achieve a specific result be on the ballot. The Senate bill does require "net costs" to achieve a specific result to be placed on the ballot, but that result -- providing facilities to relocate only the tip of the state government iceberg -- would only provide for the "token move" against which you warned in your State of the State message. Your goals here, therefore, will not be achieved by either bill.

Additionally, neither bill provides a mechanism for laying the issue to rest, that is, neither bill provides for the ballot question to present the alternative of laying the issue to rest as opposed to voting to spend the money to move the capital.

Finally, HB 351 introduces a new problem. The entity which determines the costs to be placed on the ballot is carrying out the law on the subject. HB 351 provides for a special interim committee of the legislature to make that determination. As a general rule, however, a legislative agency or committee can be empowered to carry out the law only insofar as it is incidental to, or in support of, the exercise of the power to make law. Buckley v. Valeo, 424 U.S. 1, 137-142

(1976). Here, the committee will be carrying out the law not in support of the law making function, e.g., to make an appropriation by law, but rather, to develop information for the executive to place on an election ballot. */ The legislature, however, cannot write a law and then appoint one of its committee's to carry it out.: State ex rel. Anderson v. State Office Bldg. Comm'n, 345 P.2d 674 (Kan. 1959); Book v. State Office Bldg. Comm'n, 149 N.E.2d 273 (Ind. 1958); Stockman v. Leddy, 129 Pac. 220 (Colo. 1912). We know of no exception for determining costs to be placed on a ballot. Under the constitution, ballot preparation is an executive function. Alaska Const., art. XI, §§ 2-6, art. XIII, § 1. As a general rule, the legislature can share an executive function only to the extent that it is expressly authorized to do so by the constitution. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

The legislature itself may adopt a law which prescribes the terms of the ballot proposition, but it cannot appoint a committee of its members to do so. If prescribing the terms of the ballot is a legislative function, it cannot be exercised by a legislative committee. If it is an executive function, it cannot be performed by the committee. See People v. Tremaine, 252 N.Y. 27, 168 N.E. 817 (1929). Accordingly, as now written, HB 351 appears to be unconstitutional.

RWP/pjg

*/ A committee could be appointed to develop the financial information for the legislature, and the legislature could then, by law, prescribe the figure to be placed on the ballot.

Capital Relocation Committee SB 86

610 Fireweed Lane
Anchorage, Alaska 99503
Phone C/O 272-8400 - 279-1929

To:

Sen Kerttula Rep Joe Hayes
Sen Fischer Rep Sam Cotton
Sen Bankworth
Sen Colletta
Sen Bradley
Sen Stimson

STURGULEWSKI
NOT KELLY
RODNEY

Gentlemen,

Please forgive this "form type" letter with which I am enclosing the portion of Governor Hammonds address on the State of the State message. This portion deals with the capital move question.

As you will note on page 25, any attempt to amend the FRANK initiative or the original 1974 initiative in order to vote on the question of whether the capital should be moved to Anchorage, Fairbanks, Willow, or not at all, will almost certainly will be threatened with a veto by Governor Hammond.

On page 20, (yellow emphasis); I believe that statewide this might be true....though perhaps not so in the Cook Inlet area. In the event that you can amend the FRANK initiative, it would be almost a certainty if this requires bonded costs; which could be determined by a commission or corporation. Their report to the legislature naturally would say it will require a total of "X" numbers of dollars for the move...then it would be up to the legislature to determine as to how many dollars might be in cash appropriation or in necessary general obligation bonds, ..(but not revenue bonds)...the general obligation bonds would naturally have to go on the ballot.

If this goes on the ballot...which apparently is a must with Governor Hammond; the ballot proposition also should state the total cost of the move, with estimated land sales deducted from this total cost, the necessary G.O. bond costs (not revenue however), and also a statement as to what the costs will be to leave it in Juneau, of course based on the same longevity of the investment in Willow. This can all be determined by the Commission or Corporation, once they are funded and thence report back to the Legislature in the 1982 session.

On page 21: All of this should be in the report to the Legislature
in the 1982 session.

Page 22: If necessary, all of this can be accomplished in the
1982 session, so that, if necessary it could be on the November
1982 ballot.

Namely to accomplish anything in this session, it would appear
that the firstly important item is the amendment of the "FRANK"
initiative, pretty much in line with Senate Bill 86 which is now
in the Senate State Affairs Committee.

Thank you sincerely for your attention.

Very truly yours,

Frank W. Harris
Frank W. Harris
Chairman

MUNICIPAL SCHOOL CONSTRUCTION OBLIGATIONS DETER MANY
AREAS FROM FORMING LOCAL GOVERNMENTS. REMOVAL OF THIS
PENALTY, ACCOMPANIED WITH PROSPECTS OF EXPANDED
MUNICIPAL ASSISTANCE, SHOULD PROVE ATTRACTIVE TO THOSE
WISHING TO ACQUIRE LOCAL SELF-DETERMINATION.

CAPITAL MOVE

ANOTHER CHALLENGE FOR THE 80'S IS RESOLUTION OF THE CAPITAL
MOVE NOW STALEMATED BY TWO CONFLICTING PUBLIC VOTES.
THOUGH 46,659 VOTED TO MOVE THE CAPITAL, 69,414 ASKED THAT
BEFORE THE MOVE COMMENCED THEY BE ALLOWED TO VOTE ON THE
BONDABLE COSTS, WHICH WERE THEN VOTED DOWN. TO RESOLVE
THIS STALEMATE REQUIRES THAT THOSE CONFLICTING VOTES
BE RECONCILED.

SOME ARGUE THAT NO LONGER DO MOST WANT TO MOVE THE CAPITAL
TO WILLOW SOUTH. THEY ATTRIBUTE THIS IN PART TO GROWING
AWARENESS OF PROSPECTIVE BUSINESS LOSSES INCURRED BY

ANCHORAGE, AS WELL AS JUNEAU, SHOULD THE CAPITAL MOVE.
THEY ASSERT THAT IF ONLY 1,500 OF THE MORE THAN 4,000
ANCHORAGE EMPLOYEES MOVE IT COULD MEAN A LOSS OF
40 MILLION SALARY DOLLARS; THE VACATING OF MORE THAN
1,000 HOMES; LOST SHARED REVENUES ATTENDING POPULATION
REDUCTION OF ABOUT 4,000 PEOPLE; PLUS LOSS OF MILLIONS
OF DOLLARS SPENT BY THOSE WHO NOW FLY INTO ANCHORAGE
RENTING CARS, HOTEL ROOMS AND BUYING MEALS WHILE ON
GOVERNMENT BUSINESS. OTHERS DISAGREE. THEY URGE
LEGISLATORS TO REPEAL THE FRANK INITIATIVE AND PROVIDE
DIRECT FUNDING FOR THE MOVE. I DON'T PRESUME TO KNOW
WHICH VIEW NOW PREVAILS. HOWEVER, INDISPUTABLY, VOTERS
CLEARLY STATED THEY WISHED TO VOTE ON THE BONDABLE COSTS
OF MOVING. I BELIEVE MOST ALASKANS STILL WISH TO VOTE
ON THE COST WHETHER FUNDED BY BONDS OR DIRECT APPROPRIATION.
SHOULD THAT WISH BE DENIED, THIS ISSUE WILL CONTINUE TO

FESTER. HEALING CAN START ONLY IF THE PEOPLE ARE ALLOWED TO VOTE ON THE TRUE COSTS OF A SPECIFIC, REALISTIC MOVE BASED ON FACTS, NOT PRESSURE GENERATED BY THOSE WHO WOULD STAND TO GAIN PERSONALLY BY EITHER THE MOVE OR THE STATUS QUO. THIS REQUIRES PROVIDING A COMMISSION WITH FUNDING AND A BROADENED MANDATE TO DETERMINE FACTS. AFTER DOING SO, THIS QUESTION SHOULD BE PLACED UPON THE BALLOT: "SHALL X DOLLARS BE SPENT TO ACCOMMODATE THESE SPECIFIC ELEMENTS OF STATE GOVERNMENT IN WILLOW SOUTH?" THEN LISTED SHOULD BE THE NUMBER AND/OR CLASS (CENTRAL VS. REGIONAL) OF EMPLOYEES TO BE MOVED FROM BOTH ANCHORAGE AND JUNEAU. ABSENT SPECIFICS AS TO THOSE STATE EMPLOYEES WHO WOULD BE RELOCATED, IT IS IMPOSSIBLE TO PLAN FOR THE FUTURE OF NOT ONLY WILLOW SOUTH BUT ALSO ANCHORAGE AND JUNEAU. FOR EXAMPLE, WE SHOULD CONSOLIDATE STATE FUNCTIONS IN ANCHORAGE, BUT WHY TRY IF THEY'RE TO MOVE TO WILLOW SOUTH?

ON THE OTHER HAND, IF WE'RE NOT GOING TO MOVE THEM OR THEIR
COUNTERPARTS FROM JUNEAU, VOTERS SHOULD BE AWARE. PAST
VOTES HAVE BEEN ON THE PRESUMPTION THAT A FULL-FLEDGED,
RATHER THAN TOKEN CAPITAL MOVE WAS TO OCCUR.

TO LAY THE ISSUE TO REST ONE WAY OR THE OTHER, THE BALLOT
SHOULD STIPULATE THAT IF MOST SUPPORT FUNDING SUCH A
SPECIFIC MOVE, WE MUST GET ON WITH IT. HOWEVER,
IF REJECTED, ALL PRIOR INITIATIVES WOULD BE REPEALED.

MEANWHILE, I MUST ASSUME FROM THEIR VOTE TO MOVE A
FUNCTIONAL CAPITAL TO WILLOW SOUTH THAT MOST ALASKANS
STILL WISH TO DO SO. HOWEVER, I'M EQUALLY COMPELLED
TO ASSUME BY THEIR LATER VOTE FOR THE FRANK INITIATIVE
AND AGAINST \$900 MILLION IN BONDABLE COSTS THAT THE
MAJORITY OF ALASKANS STILL WISH TO VOTE ON FUNDING. I'M
DETERMINED THEY BE SO PERMITTED. JUST AS SOME ARGUE THAT

BONDABLE COSTS TO ACCOMPLISH A CAPITAL MOVE AS OUTLINED
IN THE FRANK INITIATIVE WERE EXCESSIVE, EFFORTS TO
PROMOTE A NON-SPECIFIC, TOKEN CAPITAL MOVE WHICH IS LESS
THAN FUNCTIONAL IN HOPE THAT SUBSEQUENT PRESSURES WILL
PROMPT ADDITIONAL EXPANSION AND FUNDING NOT REQUIRING
APPROVAL BY THE PEOPLE, WILL BE VIEWED WITH A JAUNDICED
EYE.

THAT THIS ISSUE REMAINS UNRESOLVED IS NOT ONLY DIVISIVE
BUT IN SOME RESPECTS LUDICROUS. THE ONLY WAY IT CAN BE
RESOLVED TO THE SATISFACTION OF MOST IS BY A VOTE DESIGNED
TO UNDO THE CURRENT STALEMATE. YET PRO-MOVERS RESIST SUCH
ASSERTING: "WE VOTED TO MOVE IT, WHY VOTE AGAIN?" WHILE
ANTI-MOVERS SAY: "WE VOTED AGAINST THE COSTS, WHY VOTE
AGAIN?" BOTH SEEM FEARFUL THEY'LL LOSE NEXT TIME.
RATHER THAN ACKNOWLEDGE THOSE FEARS OR START AN INITIATIVE
DESIGNED TO RESOLVE THEM, MANY PREFER TO BLAME SOMEONE

ELSE: PERSONALLY, I GET A BIT TIRED OF THOSE COMPLAINING
BECAUSE I'LL NOT BREAK THE LAW AND MOVE THE CAPITAL.
TO THOSE WHO WONDER WHY I'VE NOT PITCHED MY TENT IN
WILLOW SOUTH, THERE'S ONE SIMPLE ANSWER. YOU MADE
THAT ILLEGAL WHEN YOU PASSED A LAW WHICH READS:
"STATE MONEY MAY BE EXPENDED TO RELOCATE PHYSICALLY
THE PRESENT FUNCTIONS OF STATE GOVERNMENT . . .
INCLUDING THE GOVERNOR . . . ONLY AFTER A MAJORITY OF
THOSE VOTING IN A STATEWIDE ELECTION HAVE APPROVED THE
BOND ISSUE. . ." BY ITS REJECTION, YOU DENIED ME THE
RIGHT TO PITCH THAT TENT. I'M SURE THAT IGNORANCE
OF THE LAW, RATHER THAN POLITICS OR STUPIDITY, PROMPTS
SOME TO KEEP DEMANDING THAT I BREAK IT.

THE PUBLIC, NOT THE LEGISLATURE, VOTED TO MOVE THE CAPITAL.
THE PUBLIC, NOT THE LEGISLATURE, VOTED AGAINST MOVING
IT UNTIL THEY HAD APPROVED THE BONDABLE COSTS. THEREFORE,

THE LEGISLATURE SHOULD NO MORE AMEND THE FRANK INITIATIVE

IN SUCH A WAY AS TO BY-PASS PUBLIC DESIRE TO VOTE ON MOVE

COSTS THAN THEY SHOULD AMEND THE MOVE INITIATIVE TO REQUIRE

THE CAPITAL TO MOVE, SAY, TO ANCHORAGE OR NOT AT ALL. ONCE

ISSUES HAVE BEEN ADDRESSED BY CONFLICTING PUBLIC

INITIATIVES, LEADERSHIP HAS BEEN TAKEN FROM ELECTED

OFFICIALS SAVE FOR THE OBLIGATION OF SHOWING THE PUBLIC

MEANS OF RESOLVING STALEMATES.



ALSO STALEMATED ARE PERMANENT FUND DIVIDENDS.

ALTHOUGH I BELIEVE THE U.S. SUPREME COURT WILL RULE

FAVORABLY, AS DID OUR STATE SUPREME COURT, MANY COUNTED ON

RECEIVING DIVIDENDS. THEREFORE, AS A STOPGAP TO HELP MEET

THIS EXPECTATION, I'M SUBMITTING LEGISLATION WHICH WOULD

GRANT EACH ALASKAN A SHARE OF THE PREMIUM PAID RECENTLY

FOR THEIR ROYALTY OIL.