

H B

198

COMMITTEE REPORT

HOUSE

3/8

JUDICIARY

(7)

FURTHER: FINANCE

2/15/85

Date: _____

Mr. Speaker:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 198

"An Act relating to municipal assistance for certain municipalities organized under federal law; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signatures]

[Handwritten signatures]

[Handwritten signature]

CHAIRMAN

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MEMBERS SIGNING
DO PASS

[Handwritten signatures]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

~~*[Handwritten signature]*~~

[Handwritten signature]

CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

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JUNEAU, ALASKA 99811
907.465.3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HC & RA 3-6-85 3pm

Metlakatla

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

+

CONSTITUTION AND BY-LAWS OF
THE METLAKATLA INDIAN COMMUNITY
ANNETTE ISLANDS RESERVE, ALASKA

+

APPROVED AUGUST 23, 1944



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1946

CONSTITUTION AND BY-LAWS OF THE METLAKATLA
INDIAN COMMUNITY, ANNETTE ISLANDS RESERVE,
ALASKA

PREAMBLE

Whereas, by the act of March 3, 1891, the Congress of the United States set apart the lands known as Annette Islands for the use and occupancy of the Metlakatla Indians and other natives of Alaska who might be permitted to join them; and

Whereas, the President of the United States on April 28, 1916, reserved the waters surrounding these islands to a distance of 3,000 feet from the shore line for the use and benefit of the Metlakatla Indians and such other Alaska natives as had joined or might join them; and

Whereas, the Metlakatla Indians have for many years enjoyed a large share of the responsibility for the administration of their affairs under the "Rules and Regulations for Annette Islands Reserve" approved by the Secretary of the Interior on January 28, 1915.

Now, therefore, we, the Metlakatla Indians of Annette Islands Reserve, desiring to take advantage of the benefits available to Indian communities under the acts of Congress of May 1, 1936, and June 18, 1934, and to enjoy greater freedom and opportunity in the handling of our affairs and in providing for the welfare of our people do ordain and establish this Constitution for the Metlakatla Indian Community of the Annette Islands Reserve.

ARTICLE I—JURISDICTION

The Metlakatla Indian Community shall for all purposes of this Constitution exercise jurisdiction over all the territory and waters described in the aforesaid Act of March 3, 1891, and the Presidential Proclamation of April 28, 1916, and such other lands and waters as may in the future be acquired by or reserved for the Community.

ARTICLE II—MEMBERSHIP

SECTION 1. The members of the Metlakatla Indian Community shall be all the adult persons whose names appear on a list of the members of the Annette Islands Reserve prepared by the Council of the reserve with the assistance of the local representative of the Office of Indian Affairs. The Community Council shall maintain a current list of all members of the Community.

SECTION 2. Before exercising the right to vote for members of the Council or otherwise to participate in the government of the Community, natives of Metlakatla now 21 years old or over, all minors coming of age, and all other natives of Alaska who may be admitted to membership in the Community by vote of the Council, as hereinafter provided, shall subscribe to the following declaration:

DECLARATION.

"We, the people of the Metlakatla Indian Community of the Annette Islands Reserve, Alaska, do severally subscribe to the following principles of good citizenship:

"1. To be faithful and loyal to the Government of the United States of America.

"2. To be loyal to the local government of our Community, to obey its ordinances and regulations, and to obey all applicable laws of the Territory of Alaska and of the United States.

"3. To cooperate earnestly in all endeavors for the education of our children, for the advancement of the Community, and for the suppression of all forms of vice."

SECTION 3. All minor children of present or former members of the Annette Islands Reserve or of the Community shall be considered members of the Community until they reach their majority, at which time, in order to continue their membership, they must sign the declaration as provided in paragraph 3. of section 4 of this Article.

SECTION 4. A native of Alaska of indigenous race, over 21 years of age, who has maintained residence within the Annette Islands Reserve for a period of not less than one year, hereafter desiring to become a member of the Community shall proceed as follows:

1. Make application in writing to the Council at Metlakatla, Alaska, for admission to membership in the Community.

2. If the Council approves the application, by a vote of three-fourths of its entire membership, the applicant shall come before a meeting of the Council upon proper notice of the time and place of such meeting.

3. In the presence of the mayor and Council, the declaration in section 2 of this Article shall be read to the applicant, and he or she shall sign a copy of the declaration before two witnesses.

4. After the declaration has been duly signed and witnessed the mayor shall declare the applicant a member of the Metlakatla Indian Community.

5. Minor children of persons so admitted shall be members of the Community, but upon attaining their majority they shall, in order to continue their membership, proceed as set forth in paragraph 3 above.

SECTION 5. The Council is authorized, by a vote of three-fourths of its entire membership, to elect as members of the Community, with full rights and privileges, such British Columbia Indians as may have joined the colony at Metlakatla since January 1, 1900, and maintained residence there for a period of not less than two years.

SECTION 6. Continuous absence from Annette Islands Reserve for two years or longer, unless the member so absent shall notify the Council in writing, within such two-year period, of his intention to return, shall constitute forfeiture of membership in the Community. Such person may be readmitted to membership in the Community, as provided in Section 4 of this Article.

ARTICLE III—LOCAL GOVERNMENT

SECTION 1. The local government of the Metlakatla Indian Community shall be vested in a Council consisting of 12 members, all of whom shall be members of the Community.

SECTION 2. The officials of the Metlakatla Indian Community shall be a mayor, a secretary, and a treasurer.

SECTION 3. The members of the Council and the officials of the Community shall be elected by ballot, printed or written, on the first Tuesday after the first Monday of November in each year, at which election all members of the Community above the age of 21, and not in arrears for nonpayment of taxes, fines, or fee for a permit to occupy a lot or tract of land, shall have the right to vote.

The members of the Council and the officials of the Annette Islands Reserve in office at the time when this Constitution is, with the approval of the Secretary of the Interior, ratified by the Metlakatla Indians shall continue in office with all the duties and powers of councilmen and officials, as set forth in this Constitution, until the expiration of their terms of office as provided in the "Rules and Regulations for Annette Islands Reserve."

At each election, each voter may be required to present his receipt for taxes, fines or fee for a permit to occupy a lot or tract of land, as evidence that he is entitled to vote.

Only members of the Community above the age of 21, not in arrears for nonpayment of taxes, fines, or fees, shall be eligible for election to any office or to membership in the Council.

It shall be the duty of the Secretary to prepare ballots showing the names of all candidates who have filed notice of their intention to run for office not earlier than September 1 nor later than the second Tuesday in September.

The secretary shall, within three days after each election, report the names of the members of the Council and the officials elected to the local representative of the Office of Indian Affairs at Metlakatla.

SECTION 4. The members of the Council and the officials elected shall enter upon their duties on the first Monday in January.

SECTION 5. The members of the Council shall hold office for two years: Provided, That six members of the Council shall continue to be elected each year as provided in the "Rules and Regulations for the Annette Islands Reserve."

The mayor, the secretary, and the treasurer shall hold office for two years or until their successors have duly qualified, beginning with the expiration of the terms of the present holders of these offices.

SECTION 6. At the first meeting of the Council in January the members shall elect from their own number one person to be chairman of the Council in the absence of the mayor. Such chairman shall assume all the duties of the mayor when the mayor is absent from the reserve. In signing official papers in the absence of the mayor the chairman shall use the title "Acting Mayor."

SECTION 7. The Council shall have regular monthly meetings except during any period of the year when it would prove a hardship on the members of the Council to leave their personal labors in order to attend such meetings. At such times, the Executive Committee, provided for by Article II, section 1, of the By-laws shall carry on the work of the Council and report its action at the first regular meeting of the Council thereafter.

SECTION 8. All regular meetings of the Council shall be open to the public, but no one not having a seat in the Council shall be permitted to discuss matters before the Council, except by permission or upon

the invitation of the Council. Seven members of the Council shall constitute a quorum.

ARTICLE IV—THE POWERS OF THE COUNCIL.

SECTION 1. The Council shall have power to pass such ordinances for the local government of the Community as shall not be in conflict with the laws of the United States, and, wherever there is no applicable clause of the Constitution nor an ordinance of the Metlakatla Indian Community the Council shall have authority to apply and enforce Federal law within the boundaries of the Annette Islands Reserve as the law of the Community, except in cases over which the District Court for Alaska may have exclusive jurisdiction.

A copy of each ordinance passed by the Council and certified by the signature of the mayor or of the acting mayor shall, within three days after its passage, be handed by the secretary to the local representative of the Office of Indian Affairs at Metlakatla.

SECTION 2. The Council shall have power to employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease or encumbrance of community lands, interests in lands, or other community assets without the consent of the Community; and to negotiate with the Federal and Territorial governments.

SECTION 3. The Council is authorized to levy an annual tax of three dollars (\$3), or of such a sum as it may deem necessary not exceeding three dollars (\$3) upon each able-bodied male member of the Community between the ages of 21 and 60, said tax to be collected by the secretary and expended for public purposes, as the Council shall direct. The Council may, by a two-thirds vote of its membership, remit the annual tax of any individual who because of continued sickness, poverty, or physical or mental disability is unable to pay said tax.

SECTION 4. The Council shall have authority to direct by its ordinance that every able-bodied male resident of the Community shall perform, without remuneration, in each calendar year not more than two days' labor of 8 hours each on the streets, roads, wharves, public buildings, or other public improvements within the Annette Islands Reserve undertaken by order of the Council.

The secretary shall keep a record of the labor thus performed, showing the dates, the number of hours, and the character of the service rendered by each person.

SECTION 5. The Council shall direct the secretary to draw warrants on the treasurer in payment of all valid claims against funds subject to its control. All such warrants shall be signed by the mayor or by the acting mayor.

SECTION 6. The Council may issue to members of the Community permits to occupy land within the reserve and it may cancel such permits as provided in Section 1, Article VI of this Constitution.

SECTION 7. At the first meeting of the Council in each year the Council shall elect an auditing committee of three members and a public health committee of three members. From time to time, as the Council may deem necessary, it may constitute other committees and define their duties. All committees elected under this Constitution shall serve without remuneration.

The secretary shall, within three days after their election report the names of persons elected to membership in committees to the local representative of the Office of Indian Affairs at Metlakatla.

SECTION 8. The Council shall have authority to employ such a number of competent persons as constables as it may deem necessary in order to enforce its ordinances, to define their duties and to fix their remuneration, if any. The constables shall be under the immediate control of the mayor or of the acting mayor, subject to the instructions of the Council.

SECTION 9. The Council may create such additional offices, not in conflict with this Constitution, as it may deem necessary for the effective administration of the local government, provide for the filling of such offices, define the duties of the same, and fix the amount of the remuneration, if any.

SECTION 10. The Council shall prescribe rules regarding the place and conditions of the annual election. Notices of said election shall be posted in three or more places in the reserve at least 10 days prior to such election.

SECTION 11. The Council may by the vote of three-fourths of its entire membership remove the mayor, secretary, treasurer or other official, but only after reasonable notice and upon sufficient evidence offered at an open meeting that he is unworthy to hold office; and the Council may by the same procedure and the vote of three-fourths of its entire membership, expel a member of the Council.

SECTION 12. When a vacancy occurs in the membership of the Council or in any office, the Council may, until the time of the next annual election, temporarily fill such vacancy by a two-thirds vote of its membership, and provide for the induction into office of the person so elected.

SECTION 13. The Council may provide for mass meetings of the members of the Community. Public questions may be discussed at these meetings and the secretary of the Council shall take note of any petition made on these occasions and preserve it among the official records of the Community.

ARTICLE V—JUDICIARY

SECTION 1. The Council shall at its first meeting of each year designate a magistrate for the Community.

SECTION 2. The magistrate shall have power to impose upon any violator of an ordinance passed by the Council, such a fine as may be deemed just not exceeding three hundred and sixty dollars (\$360) for each offense.

SECTION 3. In each case, before the magistrate makes his decision, the person accused of such violation shall be given opportunity to appear before the magistrate and make any statement that he or she may wish to make.

SECTION 4. The secretary shall, within three days after such a fine has been imposed by the magistrate, hand to the person upon whom the fine has been imposed written notification thereof, countersigned by the mayor or acting mayor, setting forth the amount of the fine and the reasons for which it has been imposed.

SECTION 5. Fines thus imposed shall be collected by the secretary and by him deposited with the treasurer, to be expended at the direction of the Council as other funds are expended.

SECTION 6. Whenever a fine which has been thus imposed remains unpaid for a period of four weeks from and including the day upon which notification thereof was received by the delinquent, the magistrate may, in lieu of the payment of the fine, require the delinquent to labor not more than ninety (90) days on the streets or other public works of the Reserve. The expenses in connection with such sentence shall be paid from funds under the control of the Council.

ARTICLE VI—OCCUPANCY OF LAND

SECTION 1. The Council, at any of its regular monthly meetings, shall be authorized to issue to any member of the Community unprovided with a parcel of land in the town of Metlakatla the following permit:

Permit No. -----

METLAKATLA, ALASKA

(Date) ----- 19-----

This certifies that ----- of Metlakatla is authorized to enter upon and occupy that tract or parcel of land in Metlakatla, on Annette Islands in the Territory of Alaska, more particularly described as follows, viz: Lot No. ----- of the town of Metlakatla, according to the adopted plat thereof, and measuring ----- feet by ----- feet.

This permit shall be the evidence thereof, except it be before by us canceled upon our register by a two-thirds vote of the membership of the Council for abandonment or for other reason deemed by the Council to be good and sufficient, or except it be before by us canceled upon the request of the person to whom it has been issued.

Done by our order, under our seal, the day and year first above written.

THE METLAKATLA INDIAN COMMUNITY

By -----
Mayor.

Secretary of the Council.

[SEAL]

SECTION 2. The Council is authorized to issue similar permits for the occupancy and use of such tracts of land, other than mineral land, on Annette Islands as are cultivable to any member of the Community who may be willing to clear and cultivate the same; not more than 10 acres of such land shall be assigned to any one person.

A description of each parcel of land thus assigned shall be made by the local representative of the Office of Indian Affairs, and the description of each tract of land assigned shall in each case be written out in full in the permit covering its assignment.

SECTION 3. A fee of five dollars (\$5) shall be paid by each member of the Community hereafter receiving a permit to occupy land, other than mineral, within the Reserve. Such fees shall be collected by the secretary and by him deposited with the treasurer, to be expended for public purposes, as the Council may direct.

SECTION 4. Every permit to occupy a lot within the town of Metlakatla or to occupy a tract of land within Annette Islands Reserve issued under this Constitution shall be made in triplicate. The original permit shall be held by the person to whom it has been issued; the duplicate copy shall be preserved by the secretary in the official records of the Community; the triplicate copy shall be furnished the local representative of the Office of Indian Affairs.

SECTION 5. All permits to occupy land within the Town of Metlakatla or any other tract of land within the Annette Islands Reserve in force at the date of the adoption of this Constitution and By-laws are recognized as being in full force and effect and as of equal validity with those issued hereafter under sections 1 and 2 of this Article. An official record of such permits shall be made and preserved by the secretary, and a list certified by the mayor, stating the names of the persons holding such permits, the dates of the permits, and the number of the lot in the Town of Metlakatla or the description of the tract covered by each permit, shall be furnished by the secretary to the local representative of the Office of Indian Affairs.

SECTION 6. Should any permit to occupy land within or without the Town of Metlakatla be canceled for abandonment, if the occupant leaves the property without making proper provision for its upkeep, or for any other reason, as provided in Section 1 of this Article, the person whose permit is canceled shall receive for improvements upon such assignment such compensation, payable from the funds under the control of the Council, as may be fixed by a two-thirds vote of the entire membership of the Council. Such improvements for which compensation has thus been made shall be the property of the Community. The Council shall have power by its permit to transfer to another person such assignment with the improvements thereon upon such terms as the Council may prescribe. A full and complete record of all such proceedings, certified by the mayor, shall in each and every case be furnished by the secretary of the Council to the local representative of the Office of Indian Affairs.

ARTICLE VII—SPECIAL PROVISIONS

SECTION 1. The local representative of the Office of Indian Affairs may be present at all council meetings, and when he is present he shall have all the privileges of a member of the Council, except that he shall have no vote.

SECTION 2. Members of the Community wishing to form companies or corporations in order to conduct commercial enterprises may do so in accordance with the ordinances and regulations of the Council.

SECTION 3. The mineral and other natural resources of the Annette Islands and the waters to the distance of 3,000 feet surrounding these islands shall be community assets. In developing such resources the Council may on behalf of the Community as a whole undertake appropriate industrial and commercial enterprises or authorize, under such regulations as it shall prescribe, the organization of associations composed of all or any number of the members of the Community. All profits resulting from the activities of such enterprises or associations shall be deposited in the treasury of the Community unless in the case of any association organized under this section its articles of associa-

tion shall provide otherwise. A full and complete description of all such activities shall be filed with the Secretary of the Interior.

SECTION 4. The Council shall have the right, subject to the approval of the Secretary of the Interior, to enter into leases for the development of the resources of the Reserve.

SECTION 5. Permits may be given by the Council to members of the Community to cut timber on the Annette Islands Reserve for lumber and piling on condition that they pay to the secretary of the Community \$1.00 per thousand board feet for all logs sold away from the Reserve, and 50¢ per thousand board feet for all logs to be used for lumber or piling on the Reserve, or such other amounts as may be determined by the Council.

SECTION 6. All funds paid to the secretary of the Community as fees on timber and other resources shall revert to the general fund of the Community for such uses as the Council may direct.

ARTICLE VIII—AMENDMENTS

This Constitution and the attached By-laws may be amended by a majority vote of the qualified voters of the Metlakatla Indian Community voting at an election called for the purpose by the Secretary of the Interior, provided at least 30 percent of the eligible voters vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a resolution adopted by a two-thirds vote of the Council or a petition signed by one-third of the eligible voters of the Community.

BY-LAWS OF THE METLAKATLA INDIAN COMMUNITY

ARTICLE I—THE DUTIES OF OFFICIALS

SECTION 1. The mayor shall be the executive head of the Community. He shall preside at the meetings of the Council, but he shall not vote except in case of a tie vote in that body, when he shall cast the deciding vote.

SECTION 2. The mayor shall call a special meeting of the Council whenever he deems such procedure necessary, or when he is requested, in writing, to call such meeting by five or more members of the Council. He shall notify each member of the Council, the secretary, the treasurer, and the local representative of the Office of Indian Affairs, either by special messenger, or through the United States mail, of the time and place of such meeting.

SECTION 3. The mayor shall sign all warrants drawn by order of the Council on the treasurer. He shall receive a salary of \$300 per year, or such other amount as may be fixed by the Council.

SECTION 4. The mayor shall be chairman of the Executive Committee, hereinafter provided for, and he shall call a meeting of this Committee at least once a month for the consideration of questions relative to the welfare of the Community.

SECTION 5. The mayor shall have immediate control of the constables.

SECTION 6. The mayor shall be custodian of all public buildings and property of the Community on Annette Islands Reserve.

SECTION 7. The secretary shall keep the minutes of all the proceedings of the Council; he shall attend to the official correspondence of the Council, and he shall be the custodian of all the official documents of the Community.

SECTION 8. The secretary shall collect, without commission, and receipt for all taxes, fines and fees levied by the Council, and shall deposit said payments with the treasurer taking proper receipt therefor.

SECTION 9. The secretary shall prepare for the signature of the mayor all warrants on the treasurer as ordered by the Council.

SECTION 10. The secretary shall keep a record of the births and deaths in the Community, and shall report these vital statistics every month to the local representative of the Office of Indian Affairs.

SECTION 11. The secretary shall be a member, ex officio, of the Executive Committee; he shall keep a record of its proceedings, and shall present all recommendations of this Committee to the Council when it convenes.

SECTION 12. The secretary shall post a copy of every ordinance passed by the Council before it becomes operative in at least three public places on the Reserve, and a fourth copy he shall, within three days after its passage, hand to the local representative of the Office of Indian Affairs.

SECTION 13. The secretary shall receive the salary of \$600 per annum, or such other amount as may be fixed by the Council.

SECTION 14. The secretary shall give a bond to the Council, for the faithful performance of all his official duties. This bond shall be subject to the approval of the Commissioner of Indian Affairs. The annual premium on the bond of the secretary shall be paid from funds under the control of the Council.

Until otherwise ordered by the Council, with the approval of the Commissioner of Indian Affairs, the amount of the bond of the secretary shall be fixed at \$5000.

SECTION 15. The treasurer shall receive from the secretary all moneys collected by him, rendering proper receipts therefor.

SECTION 16. The treasurer shall pay out money only upon warrants drawn upon him by the secretary and countersigned by the mayor, or by the acting mayor. All warrants paid shall be preserved in his official files.

SECTION 17. The treasurer shall keep in a book which shall at all times be open to the inspection of the mayor, the secretary, the auditing committee and authorized representatives of the Office of Indian Affairs, a correct account of all moneys received and paid out by him.

SECTION 18. The treasurer shall be, ex officio, a member of the Executive Committee.

SECTION 19. The treasurer shall make an annual report to the Council at the last meeting in October, giving a full account of all receipts and disbursements for the year.

SECTION 20. The treasurer shall receive for his services \$240 per year, or such other amount as may be fixed by the Council.

SECTION 21. The treasurer shall give bond to the Council, for the faithful disbursement of all moneys which may come into his hands by

virtue of his office and for the faithful performance of all his official duties. His bond shall be subject to approval by the Commissioner of Indian Affairs. The annual premium on the bond of the treasurer shall be paid from funds under the control of the Council.

Until otherwise ordered by the Council, with the approval of the Commissioner of Indian Affairs, the amount of the bond of the treasurer shall be fixed at \$5,000.

ARTICLE II—THE DUTIES OF COMMITTEES

SECTION 1. The Executive Committee shall be composed of the mayor, who shall be, *ex officio*, its chairman, the secretary, the treasurer, and the local representative of the Office of Indian Affairs. The Executive Committee shall meet at least once a month. Meetings, however, may be called at any time by the mayor or by the local representative of the Office of Indian Affairs.

SECTION 2. It shall be the duty of the Executive Committee to make recommendations to the Council regarding ways and means of bettering the conditions of the Community. The secretary shall keep a record of the proceedings of the Committee and shall report its recommendations to the Council.

SECTION 3. In the absence of a majority of the members of the Council from the Reserve, the Executive Committee shall carry on the work of the Council and shall report its actions in full to the Council at its next meeting; *Provided*, That the Executive Committee shall have no power to levy taxes or fines, or to repeal any ordinance passed by the Council.

SECTION 4. The Council may add to the duties of the Executive Committee from time to time.

SECTION 5. It shall be the duty of the auditing committee, elected as provided in Article IV, section 7, of the Constitution to audit all claims against funds controlled by the Council and to report upon the same to the Council at the next meeting of that body. This committee shall audit the accounts of the treasurer and make a report on the same to the Council at the last meeting in October of each year, and at such other times as the Council shall direct.

SECTION 6. It shall be the duty of the public health committee, elected as provided in Article IV, section 7, of the Constitution to assist the secretary in collecting and preserving the vital statistics, to cooperate with the local representative of the Office of Indian Affairs who is a Territorial Health Officer, in maintaining sanitary conditions throughout Annette Islands Reserve and enforcing quarantine regulations.

ARTICLE III—RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and By-laws shall be effective upon its ratification by a majority vote of those voting at an election called for the purpose by the Secretary of the Interior, provided at least 30 per cent of those entitled to vote shall vote in such election, such ratification to be formally certified by the present mayor and Council.

The persons entitled to vote are all the adult Metlakatla Indians of purpose by the Secretary of the Interior, provided at least 30 percent on a list of such Indians compiled by the Council with the assistance

of the local representative of the Office of Indian Affairs, under the Instructions of the Secretary of the Interior.

This Constitution and By-laws are herewith approved by the Assistant Secretary of the Interior and submitted for ratification by members of the Metlakatla Indian Community, Annette Islands Reserve, Territory of Alaska, in a popular referendum called and held under the Instructions of the Secretary of the Interior.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and By-laws will be inapplicable to the Metlakatla Indian Community, Annette Islands Reserve, Territory of Alaska, from and after the date of adoption of this Constitution.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

[SEAL]

OSCAR L. CHAPMAN

Assistant Secretary of the Interior

WASHINGTON, D. C., August 23, 1944.

CERTIFICATION

Pursuant to an order approved August 23, 1944, by the Assistant Secretary of the Interior, the attached Constitution and By-laws were submitted for ratification to the members of the Metlakatla Indian Community, Annette Islands Reserve, Territory of Alaska, and were on December 19, 1944, duly ratified by a vote of 105 for, and 17 against, in an election in which over 30% of those entitled to vote cast their ballots, in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat. 378) and the Act of May 1, 1936 (49 Stat. 1250).

Mrs. TED S. BRANDOR

Chairman, Election Board

Mrs. CORA LANG

Secretary, Election Board

WENDELL H. CORDLE

Government Representative

○

MEMORANDUM

State of Alaska

TO: Ernst W. Mueller, Commissioner
Department of Environmental
Conservation

DATE: July 28, 1982

FILE NO: 366-747-82

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Metlakatla Indian
Community grant
eligible under
AS 46.03.030

By: *ps Price*
Robert E. Price
Assistant Attorney General

AUG 02 1982

LEGAL COUNSEL

This is in response to your opinion request of June 7 in which you asked whether the Metlakatla Indian community is entitled to receive construction grant assistance under AS 46.03.030.

AS 46.03.030 provides for grants of state funds to a "municipality" for public water supply, sewerage and solid waste facilities.

AS 46.03.900(11) defines "municipality" as "an organized borough or an incorporated city outside an organized borough, and includes all classes of boroughs and cities whether home rule or otherwise."

The Metlakatla Indian Community is an entity organized under section 16 of the Indian Reorganization Act, 25 U.S.C. 476. It is not incorporated as a city or organized as a borough under the law of the State of Alaska.

The definition of municipality in AS 46.03.900(11) does not include the Metlakatla Indian Community. It is not an organized borough or an incorporated city within the meaning of the statute. The Alaska Constitution, Article X, deals with local government within the context of boroughs and cities which are incorporated under state law. The definition of municipality in AS 46.03.900(11) should be construed within the framework of Article X of the Alaska Constitution inasmuch as it employs the words "borough" and "city" which are set out in the constitution.

There is no equal protection problem raised by the statute caused by the exclusion of the Metlakatla Indian Community from benefits under the statute because the basis of the exclusion is governmental and not race. The Metlakatla Indian Community may become a city or borough under state law upon compliance with the applicable provisions of Title 29. The equal protection clause does not deny to States the power to treat dif-

Ernst W. Mueller, Commissioner
Dept. of Environmental Conservation
366-747-82

July 28, 1982
Page 2

ferent classes in different ways so long as the classification is "reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." Reed v Reed, 404 U.S. 71, 75-76, 30 L.Ed. 225, 229 (1971).

Further, this opinion does not mean that the legislature may not make grants to the Metlakatla Indian Community by designating that entity as eligible for a grant. See page 83 of 1982 SLA 101 for a grant to Metlakatla specifically within the group of municipalities. However, the statute must either include Metlakatla within a group, for example, as an unincorporated, or specifically describe the Metlakatla Indian Community as a grant recipient.

REP/jb

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 12, 1985

SUBJECT: Aid to Metlakatla
(House Bill 198 am)

TO: Senator Edna DeVries
Chair,
Community & Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

You have asked whether any constitutional problems would result from passage of HB 198 am. That bill includes the Metlakatla Indian Community in the municipal assistance program, a program of state aid now available only to municipalities organized under state law.

You have identified Article X, Sections 1 and 2 of the state constitution, which deal with the powers of local government, as the source of potential problems. While it is true that under state law local government powers are exercised only by cities and boroughs, the Metlakatla Indian Community is recognized under federal law as a tribe located on a federally established reserve with a local government organized under federal, not state, law. It is the only reserve in Alaska not revoked by the federal government under Section 19 of the Alaska Native Claims Settlement Act. Consequently, there exists a rational basis for the legislature to single out Metlakatla for treatment that differs from the treatment of other Native groups in the state. By doing so the legislature is not unconstitutionally vesting local government powers in an entity that is neither a city nor a borough, but, rather, recognizing the local government power granted to Metlakatla under federal law.

So long as state money received by Metlakatla is not used in a discriminatory fashion, no problem would be created under Article I, Section 3 of the state constitution. There might be a problem, however, if state money were used to build a

Senator Edna DeVries
April 12, 1985
Page 2

facility, like a swimming pool, and access to the pool were denied to residents on the basis of race. If the committee is concerned about this possibility, an additional requirement for receipt of state money could be inserted into the bill--that the money be used on a nondiscriminatory basis for the benefit of the general public.

It should be noted that Metlakatla does, in fact, receive state money under assistance programs available to unincorporated communities. Whether Metlakatla should continue to be treated, for these purposes, as an unincorporated community or included within a program designed for municipalities is a question of policy. In any case, the Attorney General has acknowledged the propriety of granting state money to Metlakatla under a statute that specifically identifies Metlakatla as a recipient. (Attorney General Opinion No. 366-747-82, July 28, 1982, copy attached.)

TBC:ojb
J13/090

Attachment



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 11, 1985

MEMORANDUM

TO: Representative Peter Goll
FROM: Jay Livey, Legislative Analyst *JL*
RE: Metlakatla Revenues
Research Request 85-070

You asked us to determine the types of federal revenues currently received by the community of Metlakatla, particularly those revenues that are unrestricted in use. Additionally, you asked us to compare Metlakatla's revenues with revenues received by other comparable communities in Alaska.

Metlakatla is an Indian Reserve, and therefore is incorporated as a Federal Law City rather than under the Alaska Statutes. However, because it has an incorporated government, the community is eligible for federal revenue sharing as are all incorporated communities in the state. According to Fred Williams, Revenue Sharing Officer within the United States Treasury Department, Metlakatla's revenue sharing allocation for FY 85 is \$31,000. Mr. Williams claims that this amount is similar to allocations received by other Alaska communities of comparable size. He does note, however, that the Metlakatla's revenue sharing allocation is determined solely on population while revenue sharing allocations to other communities consider local tax efforts as well as population.

Because Metlakatla is an Indian Reserve, the local government provides a variety of services through contracts with the Bureau of Indian Affairs and the Indian Health Service. According to Burley Wellington, Metlakatla's finance officer, the community receives about \$1 million in contracts from these two federal agencies to fund social services, the court system, public safety, health programs, community resource management and alcohol and drug programs. It should be remembered, however, that these funds, unlike revenue sharing funds, are restricted revenues and can only be used for services specified by contract.

We also contacted the Bureau of Indian Affairs to determine if Metlakatla's status as an Indian Reserve qualified them for any revenue

Representative Goll
January 11, 1985
Page 2

sharing or municipal grant program not available to other communities. According to Patricia Simmons of the Office of Indian Services, Bureau of Indian Affairs there are no special revenue sharing programs designed for Indian Reserves.

In addition to federal money, Metlakatla receives a \$25,000 grant from the State under AS 29.89.050 (State aid to unincorporated communities) as well as State aid to volunteer fire departments in the unorganized borough (AS 29.89.040). Mr. Wellington also reported that Metlakatla received State funding for day care services and a senior citizens program.

I hope this information is helpful. If you desire additional research, please do not hesitate to contact us.

JL

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 29, 1985

SUBJECT: Municipal assistance for certain
municipalities organized under federal law
(SCS HB 198(C&RA))

TO: Senator Edna DeVries, Chair
Community & Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

Here is the sectional analysis that you requested for the draft of SCS HB 198(C&RA).

Section 1 deletes references to city or borough and replaces them with references to municipality, which is defined in this bill for purposes of the municipal assistance program.

Section 2 provides that the base amount of assistance to a municipality organized under federal law is the amount received as a base amount by the city most closely approximating that municipality in population on June 30, 1977.

Section 3 deletes a reference to city and borough and replaces it with a reference to municipality, which is defined.

Section 4 adds subsection (e) setting out requirements that must be met before a municipality organized under federal law may receive aid. It must form a community development corporation with authority to determine how the money received from the state will be used. The charter must require that the governing board of the corporation be elected at an election open to all residents qualified to vote in state elections. The Department of Revenue may distribute money to the corporation after it has delivered a written waiver of sovereign immunity from legal action by the state to recover the money.

Senator Edna DeVries
April 29, 1985
page 2

Subsection (f) contains the definition of municipality, which includes a municipality organized under state law and a municipality organized under federal law as an Indian reserve that existed before enactment of a provision in the Alaska Native Claims Settlement Act and was continued in existence under that provision.

Section 5 makes the Act effective at the beginning of the next fiscal year.

TBC:ojb
J14/054

*file - ~~Revenue~~ Revenue
Sharing legislation*

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 18, 198

SUBJECT: Municipal Assistance and Revenue Sharing
(Work Order No. 14-0234)

TO: Representative Peter Goll

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have requested an explanation of the differences between revenue sharing and municipal assistance. Both terms refer to financial aid to municipalities, however each is a separate program.

Municipal assistance derives from AS 43.20.016, and is currently the sharing of corporate income tax revenue with municipalities. The legislature appropriates a sum to the fund each fiscal year, and the funds are distributed to municipalities under a statutory formula. Until last february, the money that went into the fund came from corporate income taxes under AS 43.20.011(e), and corporate oil and gas taxes under AS 43.21. The legislature in 1984 deleted AS 43.21 from the statute, and therefore all funds coming into the municipal assistance fund are obtained only from AS 43.20.011(e), a tax on corporate income. The program is administered by the Department of Revenue, Division of Administrative Services.

Revenue sharing refers to two chapters of title 29, specifically AS 29.88, and AS 29.89. The first statute is intended to equalize taxable revenues among the various municipalities by providing an equalization entitlement each fiscal year. The equalization entitlement is based on a formula that considers population, relative ability to generate revenue, and the local tax burden of the taxing municipality. The second statute, AS 29.89, is additional assistance for municipalities for roads (AS 29.89.020), health facilities (AS 29.89.030) and volunteer fire

Representative Peter Goll
December 18, 1984
Page 2

departments (AS 29.89.040). Additionally this chapter provides for State aid to native village governments under AS 29.89.050. These programs are administered by the Department of Community and Regional Affairs, Division of Municipal and Regional Assistance.

For FY85, the sum of \$81,306,800 was appropriated from the general fund to the Department of Revenue for the municipal assistance program, and the sum of \$60,350,000 was appropriated to the Department of Community and Regional Affairs for the revenue sharing program.

Also please find enclosed HB 590 that you requested.

Please contact me if I can be of further assistance.

MFF:ojb
J10/039

Enclosure



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

MEMORANDUM

DATE: MARCH 6, 1985

TO: MS. IRENE CASHEN
CHIEFCLERK
ALASKA HOUSE OF REPRESENTATIVES

FROM: REP. PETER GOLL *Peter Goll*
CHAIR
HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

SUBJECT: HOUSE BILL 198
LETTER OF INTENT
BY THE HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

LETTER OF INTENT
HOUSE BILL 198

It is the intent of the Legislature that an elected municipal assistance committee be established in Metlakatla to determine the distribution of municipal assistance funds. Elections for the purpose of selecting the members of the committee shall be open to all residents of Metlakatla registered to vote under AS 15.05.010.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 17, 1985

Honorable Edna DeVries
Community & Regional Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 198 am

Dear Senator DeVries:

You have requested the advice of this office on the constitutional aspects of HB 198 am, relating to municipal assistance for municipalities on federal Indian reserves. These are important questions which deserve close attention. The following is our summary analysis.

Article X, Section 2 of the Alaska Constitution states, "all local government powers shall be vested in boroughs and cities." HB 198 am changes the term "municipality" in AS 43.20.016 to refer to a city, borough, unified municipality, or "municipality organized under federal law as an Indian reserve..." (Only Metlakatla, on the Annette Island Reserve, qualifies in the last category.) Is the expansion of the definition in HB 198 am a violation of Article X, Section 2? We believe not. First, we note that HB 198 am does not confer local government powers on a federal Indian reserve; it is merely intended to share state resources equitably with existing local governments. There is no legal doubt that a federally recognized council on a federal Indian reserve is a valid governmental entity. Metlakatla has long been recognized by both the federal and state governments as a local government, albeit a local government in a class by itself due to its status as Alaska's only Indian reservation. Federal law preempts state law, so Article X, Section 2 cannot prevent Metlakatla from enjoying the status of a local government granted to the community by the federal government. Since a federally-created local government is valid under law and is functionally equivalent to state-created cities and boroughs, we believe it is within the prerogative of the legislature to expand the definition of "municipality" in AS 43.20.016(f) to include federally-created reservation governments.

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

Hon. Edna DeVries, Chair
Community & Regional Affairs Committee
Re: HB 198 am

April 17, 1985
Page 2

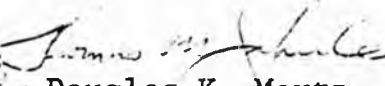
You also raised the question of whether Article I, Section 3 of the Alaska Constitution affects the validity of this bill. That section prohibits the denial of civil or political rights on the basis of race, color, creed, sex, or national origin. Metlakatla is an Indian reservation, meaning that its council is elected by its native residents only and the community may limit the benefits and prerogatives available to non-natives. In other circumstances this would cause great concern, since there is considerable doubt whether state funds can ever be allocated solely for the benefit of one racial or political group. However, it appears to us that Section 4 of HB 198 am avoids this problem by requiring that municipal assistance be spent only as directed by a committee elected by all residents registered to vote in state elections. In addition, it is implicit in any grant of state funds that the funds may be used only for a public purpose, i.e., may not be devoted to the benefit of one racially - or politically - defined segment of the population. That section provides a mechanism for recovering funds if the community does not follow this and other requirements of state law.

In short, the only new beneficiary under the expanded municipal assistance program in HB 198 am, Metlakatla, is a valid local government; and the bill would insure that the funds are not spent in a way which could violate the constitutional guarantees of civil and political rights.

Please let us know if you have further questions.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
for Douglas K. Mertz
Assistant Attorney General

DKM:zn

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

April 29, 1985

The Honorable Edna Armstrong-DeVries
Chairman, Senate Community and
Regional Affairs Committee
Pouch V
Juneau, AK 99811

Dear Senator Armstrong-DeVries:

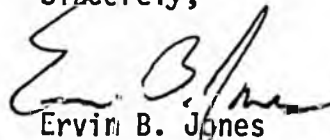
In response to your inquiry concerning the impact of HB198 on Metlakatla, a base amount of \$20,064 would be determined pursuant to AS 43.20.016(b). The calculation of Metlakatla's portion of the excess is based on two assumptions:

1. The appropriation level for FY 86 is the same as FY 85;
2. The population count and distribution as certified by the Department of Community & Regional Affairs is unchanged.

On that basis, the per capita amount is \$134.08. With a certified population of 1056, Metlakatla's allocation of the excess would be \$141,588. This would bring the total Municipal Assistance share to \$161,652.

If you have further questions, please contact me at 465-2313.

Sincerely,


Ervin B. Jones
Director

85-94

Alaska State Legislature

Senate

Committee on Community and Regional Affairs



Official Business

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

April 29, 1985

Tuesday, April 30 Committee Meeting

HB 198 am -- An Act relating to municipal assistance for certain municipalities organized under federal law, efd

This bill generally changes the designation "city" and "borough" to "municipality" as that term relates to State assistance to local government; and provides for municipal assistance to Metlakatla.

Information on the bill which is attached:

- 1) Sectional analysis
- 2) Summary of present funding available to Metlakatla from the State
- 3) Summary of present funding available to Metlakatla from the Federal government
- 4) Memo from Dept of Revenue outlining municipal assistance funding that Metlakatla would be eligible for under this bill
- 5) Memo from Dept of Law on Constitutional ramifications of this bill
- 6) Memo from LAA Legal Services on Constitutional ramifications of this bill
- 7) Memo from Dept of Law stating that the provisions of this bill apply to Metlakatla only
- 8) Position paper from Dept of C&RA in support of the bill
- 9) Memo and summary statement in support of HB 198 from the Mayor of the Metlakatla Indian Community
- 10) A copy of the Constitution and By-Laws of the Metlakatla Indian Community

Departments of C&RA and Revenue submitted zero fiscal notes on the bill.

Representative Goll will present to the Committee for consideration a committee substitute. The proposed committee substitute makes changes to Section 4 of HB 198 am.

C&RA states that Metlakatla has a population count of 1,439 for purposes of receiving volunteer fire department funds. Day Care, Head Start, Child Care, and Child Care Food funds provided to Metlakatla for FY'84 total \$75,874.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

April 25, 1985

BILL SHEFFIELD, GOVERNOR

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

The Honorable Edna DeVries, Chair
Committee on Community & Regional Affairs
Alaska State Senate
Pouch V
Juneau AK 99811

Dear Senator DeVries:

The Department of Community and Regional Affairs has administered grants totaling \$722,000 appropriated under AS 37.05.317 by the Alaska Legislature to the community of Metlakatla during the past five years. In response to your April 15 request, the following list summarizes State grant monies provided through our Department:

- \$162,000 for sewer and water facilities and site preparation (SLA 83, CH 106 Sec. 216, Pg. 41, Ln 7, amended by SLA 84, CH 171, Sec. 130, Pg 22, Ln 7); this legislative grant is now closed.
- \$500,000 for a cargo dock (SLA 83, CH 107, Sec. 34, Pg 121, Ln 26); this legislative grant remains open.
- \$60,000 for electric utilities (SLA 84, CH 171, Sec. 131, Pg 22, Ln 11).

All of the above grants are administered by the Department's Municipal and Regional Assistance Division.

Funds distributed by the Department to Metlakatla community entities since 1980 under authority other than AS 37.05.317 include the following:

Within the Division of Community Development:

- A \$100,000 legislative grant (SLA 84, CH 24, Sec. 4, Pg 68, Ln 22) for dam repair (this grant remains open); and
- A closed CETA contract with the Metlakatla Indian Association to administer a Summer Youth Employment Program.

Senator Edna DeVries
April 25, 1985
Page 2

Within the Housing Assistance Division:

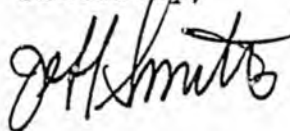
- A closed \$442,560 supplemental housing grant to the Metlakatla Housing Authority for water, sewer, and roads for a HUD housing project; and
- An open \$1,383,000 senior citizen housing grant for 25 units of elderly housing.

Within the Municipal and Regional Assistance Division:

- A closed FY 81 Rural Development Assistance (RDA) grant of \$40,000 for a senior citizen center;
- An open FY 82 Unincorporated Community Aid grant of \$1,187,073 earmarked for miscellaneous projects, such as a youth center complex, power and light equipment, and the maintenance and operation of various municipal buildings; and
- An open FY 83 RDA grant of \$100,000 for senior citizen center expansion.

If you require more detailed information concerning any of the above grants, please contact MaryAnn VandeCastle at 465-4709.

Sincerely,



Jeff Smith
Acting Commissioner

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

March 6, 1985

BILL SHEFFIELD, GOVERNOR

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

POSITION PAPER

RE: House Bill 198

SPONSOR: Representative Goll


Program Effects of Bill

This Act would extend payment of municipal assistance under AS 43.20.016 to certain municipalities organized under federal law as Indian reservations.

Comments

Municipal assistance is currently paid only to local governments organized under state law, i.e., cities and boroughs. This Act would extend payments to certain federal entities in the state. The definition proposed would include only Metlakatla (Annette Island Reserve).

Metlakatla functions very much like other municipalities recognized under State law by providing vital local services to its residents. As a functioning local government, the Department recognizes the validity of this bill which is designed to extend Municipal Assistance to Metlakatla to help offset the cost of these municipal services. The municipal assistance program is administered by the Department of Revenue. The only additional burden on this department, under existing law, is the minimal one of certification of population of Metlakatla pursuant to AS 43.20.016 (c).


Emil Nizti, Commissioner

COUNCIL ANNETTE ISLANDS RESERVE

HARRIS L. ATKINSON, MAYOR
ROSEBELLE G. NELSON, SECRETARY
BURLINGTON W. WHEELINGTON, TREASURER

ESTABLISHED 1887

METLAKATLA INDIAN COMMUNITY
P.O. BOX 8
METLAKATLA, ALASKA 99926



February 27, 1985

Representative Peter Goll
Alaska State Legislature
Pouch V (MS-3100)
Juneau, Alaska 99811

Re: House Bill 198

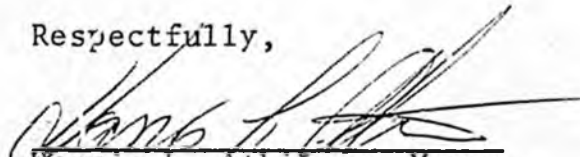
Dear Representative Goll,

The Metlakatla Indian Community Council and the Mayors office appreciate your assistance in pursuing benefits under the Municipal Assistance Fund, AS 43.20.016.

I have enclosed a summary statement in support of HB 198 as requested by Mr. Berry of your staff. Sol Atkinson of my staff will be in Juneau on Tuesday, March 5, 1985 to discuss the bill with you and will be ready to testify on Wednesday March 6, 1985 before the C&RA Committee.

Thank you again for your assistance with the Metlakatla Indian Community's needs.

Respectfully,


Harris L. Atkinson, Mayor
Metlakatla Indian Community

SUMMARY STATEMENT
IN SUPPORT
OF HOUSE BILL 198

Existing Alaska state law makes substantial sums of state money available to local governments on an ongoing basis under several legislative programs, including the Municipal Assistance Fund, under 43.20.016.

At the present time, the Metlakatla Indian Community does not qualify to participate in this program because it is not a "municipality" as defined in this state statute. Although the Metlakatla Indian Community provides the same kinds of governmental services as other local governments in Alaska, it is organized under federal, rather than state law, and is therefore not a qualifying "subdivision" of the state. Although Metlakatla has received funds from the State of Alaska, these have been either through project-specific legislation or as an "unincorporated community." The money made available under the unincorporated communities programs, however, are substantially less than those made available to organized local governments, and certain programs like Municipal Assistance have not been extended to unincorporated communities at all.

The purpose of House Bill 198 is to extend the benefits of the state municipal assistance program to the Metlakatla Indian Community. Although Metlakatla is organized under federal law, it performs governmental functions that are

closely analogous to those performed by state municipalities, and the state citizens residing there should receive the same indirect benefits.

The Metlakatla Indian Community is a federally recognized community located on the Annette Islands Reserve, which is the only federal Indian reserve now existing in Alaska. Section 19(a) of the Alaska Native Claims Settlement Act abolished all Indian reserves in Alaska with the express exception of Metlakatla. Metlakatla's government is organized under the Indian Reorganization Act of 1934, 25 U.S.C. 476, which authorized Indian tribes to establish written constitutions to formally organize their governments. The Metlakatla Indian Community performs substantial local government functions for the Reserve. The Community provides police and fire protection, water, sewer, electrical services and garbage collection. Metlakatla's twelve man governing council passes civil and criminal ordinances governing the conduct of persons in the Reserve, has established a judicial program, and conducts various social programs for the benefit of the residents of the Annette Islands Reserve. Under federal law, the Metlakatla Indian Community is authorized to levy taxes for the support of the Community's government. In short, the Metlakatla Indian Community performs governmental functions closely resembling the functions of Alaska municipalities, the principal difference being that Metlakatla's authority arises pursuant to federal rather than state law.

The cost of providing these services to more than 1300 residents of the Annette Islands Reserve is very substantial. In fiscal 1984, for example, Metlakatla's budget was approximately \$1.8 million. In the past, substantial portions of this budget have been provided through grants and loans from the United States government. Under the Reagan administration, however, the cutbacks in the various federal programs extended to Indian tribes have been extraordinarily substantial, averaging 45% nation-wide. Metlakatla, like other Indian communities throughout the United States, has been substantially affected.

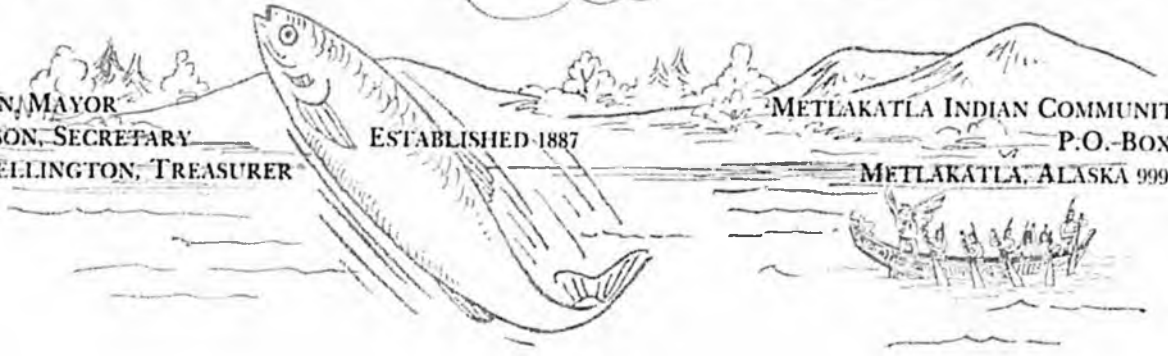
As a result of these cutbacks, and because of the general slowdown in the community's economy due to the downturn in the salmon market and because of the depressed timber industry, the Metlakatla Indian Community has substantial need for state municipal assistance. House Bill 198 would correct a serious inequity in state law by extending to the citizens residing on the Annette Islands Reserve, the same indirect benefits of state municipal assistance now enjoyed by other Alaska state citizens located in similar communities throughout the state. The Metlakatla Indian Community therefore respectfully requests the enactment of House Bill 198.

COUNCIL ANNETTE ISLANDS RESERVE

HARRIS L. ATKINSON, MAYOR
ROSEBELLE G. NELSON, SECRETARY
BURLINGTON W. WELLINGTON, TREASURER

ESTABLISHED 1887

METLAKATLA INDIAN COMMUNITY
P.O.-BOX 8
METLAKATLA, ALASKA 99926



April 18, 1985

Representative, Peter Goll
Alaska State Legislature
Pouch V (Ms 3100)
Juneau, Alaska 99811

Dear Mr. Goll:

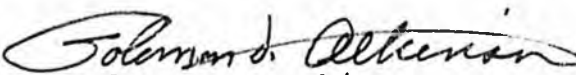
Please find enclosed our Proposed Amendment to HB 198, and our position paper as I explained to Mr. Bob Berry of your staff this morning.

I have the Mayor's approval to proceed with this amendment to the bill and with the position paper. I have not relayed this information to our Lobbyist Wally Kubley, so I would appreciate it if you would provide him with a copy.

Mr. Berry informed me that the bill would probably not be heard by the Senate C & RA Committee until the week of April 29th. If this is the case, then we should approach the Senate Finance Committee Chairman to waive the bill on through without a hearing. With no fiscal note attached I believe we should try this approach.

Thank you for your continued assistance,

Respectfully,


Solomon D. Atkinson

STATEMENT ON BEHALF OF THE
METLAKATLA INDIAN COMMUNITY
ON HOUSE BILL 198

The Metlakatla Indian Community is an Indian tribal government organized under section 16 of the Federal Indian Reorganization Act, 25 U.S.C. §476 (1983). As such, it is the local government of the Annette Islands Indian Reservation established by Act of Congress for the Metlakatla Indians in 1891. See 25 U.S.C. §495 (1983). The Community's government is carried on under a Constitution and Bylaws approved by the Secretary of the Interior as provided by federal law.

When the Alaska Native Claims Settlement Act was passed, the Metlakatla Indians chose to forego financial benefits under that Act rather than permit any change in the status of the Reservation or the governmental authority of the Community. We are not now prepared to give up our right to reservation self-government in exchange for financial benefits under the State revenue sharing program.

However, we believe that the objective of House Bill 198 is sound. Residents of the Annette Islands Reservation are citizens of the United States and citizens of the State of Alaska. As such we are entitled under the Federal Constitution to equal treatment with other citizens of the State in the expenditure of State municipal assistance funds. See Acosta v. San Diego County, 272 P.2d 92 (1954); Arizona v. Hobby, 221 F.2d 498 (D.C. Cir. 1954). We believe that this goal can be achieved in a manner fair to all in the State without jeopardizing our right to self-government if certain revisions are made in the bill.

We request that the present language of the bill be modified to ensure that it does not lead to duplicating or conflicting governmental authority on the Reservation, undermine the federally protected rights of self-government of the Metlakatla Indians, or open the Community to litigation which goes beyond the limited purpose of enforcing the terms and conditions of State grants.

As passed by the House the bill would require that a municipal assistance committee elected by all Reservation residents (Indian and non-Indian) shall determine how the State grant funds would be spent. Funds would be disbursed by the State to a corporation chartered to the Metlakatla Indian Community under section 17 of the Federal Indian Reorganization Act (not to the tribal government organized under section 16 of the Act) and the corporation would deliver a written waiver of immunity from legal action by the State to recover grants funds.

We believe that the legitimate purposes sought by these provisions can be achieved without the interference with the governmental authority of our Council which these provisions involve. We particularly object to the use of the "section 17 corporation." While a corporate charter was issued to the Community in 1944, that corporate form has not been utilized for any purpose for many years. It was in any event designed to carry on commercial activities, not to exercise

governmental authority. Since the Solicitor of the Department of the Interior ruled in 1958 that section 17 corporations are separate entities from section 16 governments and no property has been transferred from the government to the corporation, it is without assets and is not engaged in any activities. Use of municipal assistance funds for governmental purposes would in any event violate its charter since its corporate purpose is "to do various kinds of business."

We propose instead that the Community Council charter a tribal community development corporation for the purpose of receiving and disbursing the State grant funds. The charter of such a tribal corporation would include a waiver of any immunity it might otherwise possess in any suit by the State to recover all or a portion of the money distributed under the bill. The power of Indian tribes to charter such corporations and to provide that they are subject to suit is well established. See

Namekagon Dev. Co. v. Bois Forte Res. Housing Authority, 517

F.2d 508 (8th Cir. 1975). The Community has itself exercised this authority in chartering the Metlakatla Housing Authority which has provided a federally financed low-income housing authority on the Reservation for twenty years.

The charter would provide for the election of a governing board by all Reservation residents and authorize that board to approve and disburse all municipal assistance expenditures. We propose, however, that expenditures also be in accordance with the budget approved by the Council.

With these changes we could support the bill and request its enactment. We have attached our revision to this statement. We emphasize that we fully agree that residents of the Reservation are now being unjustifiably deprived of State municipal assistance funds which are available to all other communities in Alaska. By adopting the revisions we propose,

the Legislature would correct this inequity without any infringement of the authority of our tribal government or violation federal law. We feel that recognition of our tribal government in this way would be a creative step toward the effective coordination of State and tribal programs in Alaska.

PROPOSED AMENDMENT TO HOUSE BILL 198

Strike new subsection (e) under Section 4 and
substitute the following:

(e) In this section "municipality" means a city,
borough, or unified municipality organized under the laws of the
state, or a municipality organized under federal law as an
Indian reserve that existed before enactment of 43 U.S.C.
§1618(a) and is continued in existence under that subsection.
To qualify to receive money under this section, a municipality
organized under federal law as an Indian reserve that existed
before the enactment of 43 U.S.C. §1618(a) and has continued in
existence under that section ^(10320C) shall charter a tribal community
development corporation with authority to receive, to budget
(subject to approval by the governing body of the municipality)
and expend money received under this section and shall expressly

waive, as to such corporation, any sovereign immunity it might otherwise enjoy from legal action by the state to recover all or a portion of the money distributed under this Section, and the state shall distribute such moneys only to such corporation.

Such charter shall require that the governing board of the corporation shall be elected at an election open to all residents of the municipality that are registered and qualified to vote in state elections, and shall require that no disbursements may be made by the corporation unless approved both by its governing board and the governing body of the municipality.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 11, 1985

MEMORANDUM

TO: Representative Peter Goll

FROM: Jay Livey, Legislative Analyst *JL*

RE: Metlakatla Revenues
Research Request 85-070

You asked us to determine the types of federal revenues currently received by the community of Metlakatla, particularly those revenues that are unrestricted in use. Additionally, you asked us to compare Metlakatla's revenues with revenues received by other comparable communities in Alaska.

Metlakatla is an Indian Reserve, and therefore is incorporated as a Federal Law City rather than under the Alaska Statutes. However, because it has an incorporated government, the community is eligible for federal revenue sharing as are all incorporated communities in the state. According to Fred Williams, Revenue Sharing Officer within the United States Treasury Department, Metlakatla's revenue sharing allocation for FY 85 is \$31,000. Mr. Williams claims that this amount is similar to allocations received by other Alaska communities of comparable size. He does note, however, that the Metlakatla's revenue sharing allocation is determined solely on population while revenue sharing allocations to other communities consider local tax efforts as well as population.

Because Metlakatla is an Indian Reserve, the local government provides a variety of services through contracts with the Bureau of Indian Affairs and the Indian Health Service. According to Burley Wellington, Metlakatla's finance officer, the community receives about \$1 million in contracts from these two federal agencies to fund social services, the court system, public safety, health programs, community resource management and alcohol and drug programs. It should be remembered, however, that these funds, unlike revenue sharing funds, are restricted revenues and can only be used for services specified by contract.

We also contacted the Bureau of Indian Affairs to determine if Metlakatla's status as an Indian Reserve qualified them for any revenue

Representative Goll
January 11, 1985
Page 2

sharing or municipal grant program not available to other communities. According to Patricia Simmons of the Office of Indian Services, Bureau of Indian Affairs there are no special revenue sharing programs designed for Indian Reserves.

In addition to federal money, Metlakatla receives a \$25,000 grant from the State under AS 29.89.050 (State aid to unincorporated communities) as well as State aid to volunteer fire departments in the unorganized borough (AS 29.89.040). Mr. Wellington also reported that Metlakatla received State funding for day care services and a senior citizens program.

I hope this information is helpful. If you desire additional research, please do not hesitate to contact us.

JL

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

February 27, 1985

POSITION PAPER

RE: House Bill 198

SPONSOR: Representative Goll

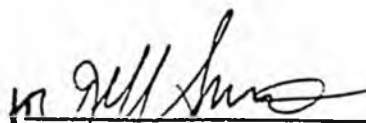
Program Effects of Bill

This Act would extend payment of municipal assistance under AS 43.20.016 to certain municipalities organized under federal law as Indian reservations.

Comments

Municipal assistance is currently paid only to local governments organized under state law, i.e., cities and boroughs. This Act would extend payments to certain federal entities in the state. The definition proposed would include only Metlakatla (Annette Island Reserve).

To the extent that Metlakatla is recognized as a municipality which provides services to local residents of the state, the extension of such assistance is justified. The municipal assistance program is administered by the Department of Revenue. The only additional burden on this department, under existing law, is the minimal one of certification of population of Metlakatla pursuant to AS 43.20.016 (c).



Emil Notti, Commissioner

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 19, 1985

The Honorable Peter Goll
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Re: Municipal Assistance -- HB 198

Dear Representative Goll:

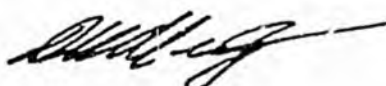
At your request we have reviewed HB 198, which amends the provisions of AS 43.20.016 concerning state aid to municipalities. Specifically, you ask whether the proposed revisions would have the effect of extending revenue sharing to the community of Metlakatla, but would not expand the program to other communities.

The clear answer is yes. The bill would add the term "municipality" to eligible local governments. Section 4 defines "municipality" to include municipalities "organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. § 1618(a) and is continued in existence under that subsection." The only community which meets that definition is Metlakatla, of the Annette Island Reserve. 43 U.S.C. § 1618(a) revoked the reserve status of all reserves in Alaska except Annette Island. Thus, only Metlakatla would be affected.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Douglas K. Mertz
Assistant Attorney General

DKM:dln

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 198
 Title: "An act relating to municipal assistance for certain municipalities..."
 Sponsor: Representative Goll
 Requestor: House C&RA
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: Community Development
 BRU, Program or Subprogram(s) Affected: BRU: Local Government Assistance
 Component: Grants Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-		

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

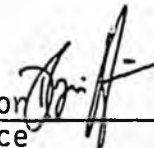
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-		

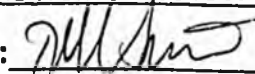
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Under HB 198, this Department would be required to annually certify the population of an additional community. This would not require any additional funding.

Prepared By: Doug Griffin, Deputy Director  Phone: 465-4750
 Division: Municipal and Regional Assistance Date: 2/27/85

Approved by Commissioner:  Date: 2/27/85
 Agency: Community and Regional Assistance

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: HB 198
 Title: An act relating to municipal assistance
 Sponsor: Goll
 Requestor: House C&RA
 Date of Request: 2/16/85

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: General Government
 BRU, Program of Subprogram(s) Affected: Shared Taxes - Municipal Assistance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	0	-	-	-	-
200 TRAVEL	-	0	-	-	-	-
300 CONTRACTUAL	-	0	-	-	-	-
400 SUPPLIES	-	0	-	-	-	-
500 EQUIPMENT	-	0	-	-	-	-
600 LANDS & STRUCTURES	-	0	-	-	-	-
700 GRANTS, CLAIMS	-	0	-	-	-	-
800 MISCELLANEOUS	-	0	-	-	-	-
TOTAL OPERATING	-	0	-	-	-	-
CAPITAL	-	0	-	-	-	-
REVENUE	-	0	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	0	-	-	-	-
FEDERAL FUNDS	-	0	-	-	-	-
OTHER	-	0	-	-	-	-
TOTAL	-	0	-	-	-	-

POSITIONS:

FULL-TIME	-	0	-	-	-	-
PART-TIME	-	0	-	-	-	-
TEMPORARY	-	0	-	-	-	-

ANALYSIS: Attach a separate page if necessary.

There is no fiscal impact on the administration of the municipal assistance program. The addition of new communities, however, dilutes the sharing of municipal assistance, reducing the share for each of the other communities.

Prepared By: Ervin B. Jones, Director
 Division: Administrative Services

Phone: 465-2313
 Date: _____

Approved by Commissioner: Henry P. Stuckale
 Agency: Revenue

Date: 3/2/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note HB 198
Attachment

There is no fiscal impact on the state as the proposed bill does not change the statutory provision allowing the legislature to appropriate 30 percent or more of the oil and gas corporate income tax to the municipal assistance fund.

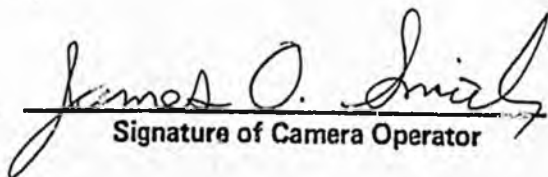
The addition of new communities under the proposed bill would dilute the sharing of municipal assistance, reducing the share for each of the other communities.

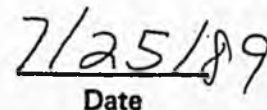


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Signature of Camera Operator


Date