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270

COMMITTEE REPORT  
SENATE

FURTHER:

4/3/85

Date April 16, 1985

Mr. President

The Committee on C&RA considered SB 270

relating to the durational residency requirement for a candidate for a home rule charter commission; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB270-C&RA
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

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[Signature]  
Chairman

[Signature]  
Chairman recommendation

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MEMBERS SIGNING  
DO PASS

Artis Stupalski

[Signature]

[Signature]

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MEMBERS HAVING  
OTHER RECOMMENDATIONS

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Edna D. Urie  
Chairman

Do Pass!  
Chairman recommendation

Original sponsor: Kerttula

IN THE SENATE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 270 (C&RA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the durational residency require-  
ment for a candidate for a home rule charter commis-  
sion; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 29.13.010(b) is amended to read:

(b) A charter is framed by a charter commission of seven members  
chosen by the municipal voters at a regular or special election. A  
candidate for the charter commission shall have been [BE] a [QUALI-  
FIED] voter of the municipality [AND A RESIDENT OF THE MUNICIPALITY]  
for at least one year [THREE YEARS] immediately preceding the charter  
commission election.

\* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
10.070(c).



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

Senate C&RA Meeting -- 16 April 1985

Committee will consider one new bill (SB 270) and one bill that was heard on March 21 (SB 204)

SB 270 - An Act relating to the durational residency requirement for a home rule charter commission (Kerttula)

Existing law requires that home rule charter commission candidates be voting residents of the Municipality the charter commission will serve for at least 3 years. SB 270 provides that candidates must have been voters of the affected city for at least one year; and of the borough where the city is located for at least three years.

Attached info on SB 270:

- 1) Sectional analysis
- 2) Legal Services opinion on constitutionality of residence requirements with the suggestion that residency requirements for home rule and unification charter commissions be made consistent (see final paragraph)
- 3) Position paper by Dept of C&RA -- Dept does not oppose the bill

SB 204 - An Act relating to contracts for architectural, engineering, and land surveying services (Sturgulewski & Rodey)

The committee considered this bill on March 21-- heard testimony but took no action.

A draft committee substitute has been drawn up...

The committee substitute deletes (d) under Section 1 (page 1, line 29) and replaces it with a new section. Major changes to the original bill are:

- 1) political subdivisions of the state are no longer under its provisions
- 2) price may be included by not more than 25% of the scoring formula for proposal evaluation for subject contract services when certain stated conditions exist

Attached info:

- 1) SB 204
- 2) draft CS for SB 204

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1985

SUBJECT: Residency requirement of candidate for a  
Home Rule Charter Commission  
(Senate Bill 270)

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

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

This is the sectional analysis that you requested of SB 270.

Section 1 Requires a candidate for the home rule charter commission of a city in a borough to have been a voter of the city for at least one year and a voter of the borough in which the city is located for at least three years. Existing law required that candidates be voters of the municipality the charter commission will serve for three years, regardless of the type of municipality involved.

Section 2 An immediate effective date is provided.

TBC:ojb  
J13/078

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1985

SUBJECT: Residency requirement for charter commission candidates (SB 270)

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

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

You have asked whether there is a constitutional problem with the residency requirement for charter commission candidates contained in SB 270. Under AS 29.13.010(b) the candidate for a charter commission that is to prepare a home rule charter for a first class municipality or second class borough must have been a resident of the municipality for three years. SB 270 does not increase the durational residency requirement, but allows a candidate who has resided in a city for only one year to serve on the city charter commission if the candidate has resided in the borough in which the city is located for the three year period. Oddly, under AS 29.68.300 only a one year residency requirement is imposed on a candidate for a charter commission that is to prepare a unification charter.

The Supreme Court of Alaska has upheld a durational residency requirement of one year for the offices of city mayor and member of the council in Castner v. City of Homer, 598 P.2d 953 (Alaska 1979). The court in that case acknowledged that certain municipalities have longer residency requirements for elected officials, but did not indicate whether a residency requirement longer than one year would be upheld if challenged. The court did note, "In general, the weight of authority is against longer durational residency requirements for local offices . . ." (Page 955). It appears to me that a one year durational residency requirement for a charter commission candidate would be upheld because that office, like the offices of

Senator Edna DeVries  
April 11, 1985  
Page 2

mayor and member of council, is an elected office. It also appears to me, in view of language quoted, to be questionable whether a three year residency requirement for any elected municipal office would be upheld if challenged.

It should be noted that no constitutional problem is created by SB 270, since the potential problem is contained in existing law. If the committee should wish to address this matter, I would recommend that the durational residency requirement for a candidate for a home rule charter commission be simply lowered to one year to match the requirement now imposed on a candidate for a unification charter commission. This would also, I believe, resolve the concerns of the sponsor of the bill.

TBC:ojb  
j13/083

# STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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JUNEAU, ALASKA 99811  
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- 949 E. 36TH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99508  
PHONE: (907) 563-1073

April 15, 1985

## POSITION PAPER

RE: Senate Bill 270

SPONSOR: Senator Kerttula

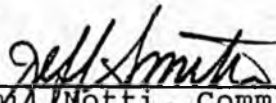
### Program Effects

The proposed amendment would create two classes of charter commissions in terms of candidate durational residency requirements. Candidates for the charter commission of a borough or city in the unorganized borough would continue to have an eligibility requirement of three years residency in the municipality. However, candidates for the charter commission of a city in an organized borough need only have been a resident of the city for one year in addition to having been a three year resident of the borough within which the city is located. The bill would have no effect on departmental programs.

### Comments

The department does not oppose this bill. The proposed amendment is designed to meet the situation of certain cities in an organized borough which have a mobile population or relatively recent influx of residents where a three year residency requirement may exclude a large proportion of the population from being candidates. The retention of the requirement of three year residence in the borough within which the city is located is apparently designed to insure some familiarity with issues of a local nature.

Although this three year residency requirement exists in current law, the trend of judicial decisions has been to strike down unreasonably lengthy durational residency requirements. The case in point, which this amendment is designed to address, displays the sort of problems such a residency requirement may cause.

  
Emilio Notti, Commissioner

Bannister  
4/10/85 ✓

Original sponsors: Sturgulewski and Rodey

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IN THE SENATE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 204 (C&RA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to contracts for architectural, engineering, and land surveying services; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 36.98 is amended by adding a new section to read:

Sec. 36.98.043. ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING CONTRACTS. (a) Notwithstanding the provisions of AS 36.98.010(3) and 36.98.040, a state agency shall negotiate a contract with the most qualified and suitable firm or person of demonstrated competence for architectural, engineering, or land surveying services. The state agency shall award a contract for those services at fair and reasonable compensation as determined by the state agency, after consideration of the estimated value of the services to be rendered, and the scope, complexity, and professional nature of the services.

(b) If negotiations with the most qualified and suitable firm or person under (a) of this section are not successful, the state agency shall negotiate a contract with other qualified persons or firms of demonstrated competence, in order of public ranking. The state agency may reject all or part of a proposal.

(c) This section does not apply to contracts awarded in a situation of public necessity if the person responsible for execution of the contract on behalf of the state agency certifies in writing that a situation of public necessity exists.

(d) Notwithstanding the other provisions of this section, a

1  
2 state agency may include price as a factor in the selection of archi-  
3 tectural, engineering, and land surveying services when all of the  
4 following conditions exist:

5 (1) the architectural, engineering, or land surveying  
6 services required by the contract are repetitive;

7 (2) the contract does not require design work;

8 (3) the state agency has thoroughly defined the scope of  
9 the project and the architectural, engineering, or land surveying  
10 services required by the contract.

11 (e) A state agency may not allocate more than 25 percent of the  
12 scoring formula for proposal evaluation to the consideration of price  
13 allowed under (d) of this section.

14 \* Sec. 2. This Act applies to requests for bids or proposals for archi-  
15 tectural, engineering, and land surveying services issued after the effec-  
16 tive date of this Act.

17 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).