
H B

2 2 6

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: *HB 226*
Sponsor: *Cotten*
Date referred to committee: *4/18/85*
Synopsis completed:
Fiscal note:
Further referrals: *none*

CONTACTS:

Steve Holey, DOE 2800

✓ Gayle Pearce 6-3090

Don McKinnon

Bob Greene

✓ Sen Eliason (Rocky)

*1:30
testify
1st*

*✓ Rep Cotten, ~~3799~~ - 3799
Sharman*

*0 fiscal note
give main option
wanting to elect by
section
this options - RMA's have
seems fair.*

**COMMITTEE REPORT
SENATE**

FURTHER:

4/11/85

Date 4-25-85

Mr. President

The Committee on HESS considered CSHB 226 (HESS)
relating to school boards.

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 CSHB 226 (HESS)
- new title
- same title and recommends Do Pass
- 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

[Signature]
[Signature]
[Signature]

[Signature]
Chairman

[Signature]
Chairman recommendation

HB 226 (COTTEN) SCHOOL BOARDS

Eliason
SECTIONS 1 AND 2 (SAME AS ELIASON'S SB 242, WHICH WAS HEARD BY COMMITTEE A COUPLE WEEKS AGO) ALLOW VARIANCE IN THE NUMBER OF SCHOOL BOARD MEMBERS PER REAA SECTION IF THERE HAVE BEEN SUBSTANTIAL FLUCTUATIONS IN POPULATION.

H.E.S.S. CS WOULD ALLEVIATE STURGULEWSKI'S CONCERN BY ALLOWING FOR VARIANCE IN THE NUMBER OF MEMBERS THAT MAY BE ELECTED FROM A SINGLE COMMUNITY WITHIN A SECTION (CURRENTLY LIMITED TO 2 MEMBERS) IF THE POPULATION DISTRIBUTION REQUIRES IT. (PAGE 2, LINE 7)

SECTIONS 3 AND 4 WOULD ALLOW INCREASES IN THE NUMBER OF CITY AND BOROUGH SCHOOL BOARD MEMBERS (FROM THE PRESENT 7 UP TO 11), AND ALLOW MEMBERS TO BE ELECTED BY DISTRICT RATHER THAN AT LARGE.

AFFECTS ONLY DISTRICTS WITH 5000 OR MORE STUDENT POPULATION (ANCHORAGE, FAIRBANKS, MAT-SU, KENAI).

ALL ARE INTENDED TO PROVIDE BETTER LOCAL REPRESENTATION ON SCHOOL BOARDS.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

HESS 4-25-85 1:45 pm

REPRESENTATIVE
SAM COTTEN
DISTRICT 15



P.O. BOX 296, EAGLE RIVER, AK 99577
POUCH V, JUNEAU, AK 99811

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

MEMO

TO: Rep. Max Gruenberg RE: Request to schedule a hearing
Rep. Niilo Koponen for HB 226, an act relating
Co-Chairmen, House HESS to school boards

FROM: Rep. Sam Cotten DATE: March 22, 1985

There are three elements to this bill, all of which aim to improve representation on school boards:

-- The C&RA substitute for HB 226 would amend the statutes pertaining to the election of school board members in regional educational attendance areas (REAA). This amendment allows the Commissioner of Education to make an exception to the existing requirements on numbers of board members allowed per section upon determining that the REAA has "substantial population fluctuations" that result in over- or under-representation. Under these circumstances, the commissioner could permit a section containing more than one community to be represented by more members than currently allowed (under AS 14.08.051 (d)(2)). When this exception is made, no more than two board members may be elected from the same community.

For example, the Southeast Island School District consists of 2 sections and has a high population turnover, caused by its logging economy and such idiosyncracies as communities on floats. To ensure fair representation at this time the district would like to have a Thorne Bay section with one seat, and an at-large section with four seats. Current statutes won't allow this, requiring that each section (within a 5-member school board area) have no more than three seats. With existing law, the school district has no alternative but to continually request section boundary changes to accompany the shifting population. This is inefficient and impractical. The statutory change requested would allow more adequate representation. Due to the stringent limitations on board members per community, and the uniqueness of this school district's situation, this amendment would not currently affect any other REAAs.

-- HB 226 would allow school districts with more than 5,000 students to elect board members by district, if they so choose. School board members are now only elected at large. Election by district would allow residents of these larger school districts to have local representation on the board.

-- HB 226 would allow borough and city school districts with more than 5,000 students to expand the number of school board members from the present 7 up to 11, if they so choose. Having more board members again enhances the chances for better representation.

STATE OF ALASKA
THE LEGISLATURE

FOUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 16, 1985

SUBJECT: Analysis of SB 242 (REAA school boards)
TO: Senator Richard I. Eliason
FROM: Keith B. Levy *KBL*
Legislative Counsel

You have requested an analysis of SB 242, relating to regional educational attendance area school boards. This bill amends the existing law pertaining to the number of school board members who may be elected from a section within an REAA, and from a community within a section.

Under existing law, the Commissioner of Education may, in consultation with the Commissioner of Community and Regional Affairs and the local communities, divide an REAA into sections for the purpose of electing REAA board members (AS 14.08.051(a)). If an REAA is divided into sections, each school board member must represent, to the extent possible, an equal number of people.

Existing law also limits the number of board members who may be elected from a section, depending on the total number of members on the school board. For example, if the board has only five members, no more than three members may be elected from one section (AS 14.08.051(d)). HB 242 provides for an exception to this limitation in certain circumstances.

Under HB 242, the Commissioner of Education may permit a section that contains more than one community to be represented by more board members than the number specified if the commissioner determines that (1) the REAA has had a pattern of substantial population fluctuations within the REAA and (2) compliance with the number limit would result in continuous underrepresentation and overrepresentation in certain sections. In other words, this provision gives the commissioner the power to respond to population fluctuations to allow fair representation within the REAA.

Senator Richard I. Eliason

April 16, 1985

Page 2

The bill also provides that in an REAA section that contains more than one community, if the commissioner allows a higher number of members to be elected from one section, no more than two members may be elected from the same community. The question has been raised whether this provision might result in unfair representation in a section in which the population of one community is so high that more than two members should be elected from that community. This provision could present a problem with respect to the state and federal constitutional requirement that apportionment for voting purposes be related to population.

The limit on the number of members from one community is only activated if an REAA section has more than one community and the Commissioner of Education exercises the power to increase the number of board members from a single section. If the commissioner does not exercise that power, the limitation does not apply. However, in cases in which the limitation does apply, unfair representation could potentially be a problem if the limitation requires underrepresentation in a community. However, because the law allows the section boundaries to be drawn in a way that avoids this problem, the bill is not unconstitutional on its face. It is only a problem if the Commissioner of Education establishes sections that result in unfair representation in a community. This problem could be avoided in HB 242 by providing that no more than two members may be elected from one community unless the population distribution requires it. This would make it clear that the law requires compliance with the constitutional requirement of "one man, one vote."

If I may be of further assistance, please feel free to contact me.

KBL:ojb
J13/102



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

December 21, 1984

MEMORANDUM

TO: Representative Randy Phillips

FROM: Jeanne Fortier, Legislative Analyst *JF*

RE: Altering the Composition of the Anchorage School Board
Research Request 85-065

You requested information regarding State laws, the Anchorage Municipal Charter, and/or Anchorage municipal ordinances regulating the size of the Municipality of Anchorage School Board. Information was also requested regarding the process of amending those rules to permit representation on the School Board similar to that on the Assembly.

Findings

State statutes are not applicable to this situation. The Municipal Charter, as well as the Municipal Code of Anchorage, contains provisions regarding the composition of the School Board. Because municipal ordinances may not conflict with the Charter, changing the composition of the School Board requires amendments to both the Charter and municipal ordinances. The required changes and the process for making changes are described below. To aid in distinguishing the Charter provisions from the Municipal Code, this memorandum lists the relevant code at the beginning of each section, with the Charter provisions in parentheses.

Establishing the School Board and the Assembly

Ordinance 29.10.010 (Charter Section 6.02) establishes the School Board. It reads:

The system of public schools for the Municipality shall be operated by a School Board of seven (7) persons elected at large from seats designated as Seat A, Seat B, Seat C, Seat D, Seat E, Seat F, and Seat G.

If the objective is to amend this provision to create a School Board similar in composition to the Assembly, then Ordinance 2.25.010 is of interest.

Representative Phillips
December 21, 1984
Page Two

Ordinance 2.25.010 (Charter Section 4.01) establishes the composition of the Assembly:

- A. The Assembly shall consist of eleven Members elected for terms of three years.
- B. There are established six election districts, each of which is entitled to the following numbers of Assembly members:
 1. District 1 (Downtown), two members;
 2. District 2 (Eagle River/Chugiak), one member;
 3. District 3 (Spenard), two members;
 4. District 4 (Fairview), two members;
 5. District 5 (Muldoon), two members;
 6. District 6 (Sand Lake/Hillside), two members.

The geographic boundaries of the districts established in this section are described on the copy of the official Assembly apportionment map...the original of which is maintained in the Office of the Municipality.

An initiative or ordinance proposing the specified compositional change in the School Board could simply substitute the term 'School Board' for 'Assembly', using the wording of the above ordinance. Another method would be to tie the composition of the School Board to that of the Assembly, allowing any changes in rules regulating Assembly composition to similarly affect rules regarding the composition of the School Board.

Amending the Charter

Section 18.01 of the Charter provides that the Charter can be amended only upon the concurrence of a majority of the qualified voters of Anchorage voting on a proposed amendment. There is an exception which requires a three-fifths majority vote, but that is limited to Article II changes (Bill of Rights), or Municipal utility changes. Amending the Charter with regard to School Board composition would require a simple majority vote.

According to Section 18.02 of the Charter, amendments may be proposed by an ordinance approved by two-thirds of the total membership of the Assembly, by a Charter Commission established in the manner provided by law, or by initiative petition. The initiative procedure is a grassroots process, allowing for the enactment of an ordinance or resolution by vote of the people without Assembly action. Initiative petitions require 6,611 signatures in order to be placed on the ballot.

The proposed amendment would be submitted to voters at the next regular election occurring more than forty-five (45) days after the effective

Representative Phillips
December 21, 1984
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date of the proposal. If the proposed amendment were approved by the voters, it would become effective at the time set in the amendment. If no time is specified, the approved amendment would become effective thirty (30) days after certification of the results of the election.

Amending the Ordinance

If a Charter amendment to enlarge the School Board were approved, action would have to be taken to repeal the ordinance which would be in conflict with the new Charter provisions. In such a case, a simple majority vote of the Assembly would be required to adopt a new ordinance consistent with the provisions of the amended Charter.

Public Access to School Board and Assembly Meetings

Municipal Ordinance 4.05.090 (Charter Section 17.05) prescribes that all meetings of the Assembly, the School Board, and other boards and commissions shall be public, except for executive sessions which may be closed.

Additionally, Municipal Ordinance 29.20.010 (Charter Section 6.04) requires the Assembly and the School Board to meet at least four (4) times annually in public sessions to discuss and coordinate financial planning, capital improvement needs, the comprehensive plan, and other matters of mutual concern.

It is generally advisable to call the Assembly or School Board offices seven to fourteen days in advance of the next meeting to schedule an appearance request, should you so desire. The numbers for contacting these offices are listed below:

Anchorage School Board Secretary: 333-9561
Municipal Clerk: 264-4311

* * * *

We hope that this information has been useful to you. Please let us know if we can be of further assistance.

JF

STATE OF ALASKA

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99817-9974

OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181


OPINION PAPER
CS FOR HOUSE BILL NO. 226 (C&RA)
March 12, 1985

The Division of Elections has reviewed the Committee Substitute for House Bill No. 226 (C&RA), "An Act relating to school boards", and raises no objections to its intent or content. It should be noted, however, that the issues covered by this bill do not fall under the normal jurisdiction of the division.

There may^{be} some school districts within the Rural Educational Attendance Areas which experience extreme population fluctuations making the establishment of stable section boundaries within the district difficult to maintain. We would concur that a solution as provided by the new subsection, AS 14.08.051 (f), could provide a viable alternative for districts facing these unusual circumstances. Further, we acknowledge that any action taken in the proper exercise of this provision would rest with the Commissioner of Education.

The impact of this amendment on the division would only be evident in terms of any special elections resulting from a ruling of the Commissioner to realign section boundaries and assignment of school board seats, under this statute. In general, it is assumed that the flexibility provided by this section would help to minimize the frequency of section realignment in school districts with continuing population fluctuations. We would further anticipate that prior to any election necessitated by the exercise of this provision, the division would require notice in writing from the commissioner authorizing such an election.

With regard to the proposed amendments to AS 14.12.030(b) and AS 29.23.310, the division offers no opinion. The provisions outlined in these sections, would seem to primarily impact incorporated communities, over whose elections we have no jurisdiction.


Sandra J. Stout
Director

Southeast Island School District

640 Park Ave. - P.O. Box 8340 - Ketchikan, Alaska 99901 - (907) 225-9658 or 225-9659



March 6, 1985

Representative Peter Goll
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Goll:

This is to follow up on earlier information sent to you expressing concern regarding AS 14.08.051, and its limitation on the number of board members which can be elected from a section in a regional educational attendance area which has been divided into sections (section (d) (2)).

My understanding of this limitation is that it is designed to prevent a large community in a given section from having the power, by virtue of number of votes, to elect more than a simple majority of members of the school board, effectively denying representation to smaller communities.

The problem that we have is that it is not practical for the Southeast Island School District to adhere to the statutory standards. Prior to mid-1983, this District was divided into two sections, one with two members from Thorne Bay and one at-large area with three members from the remaining communities. In mid-1983, the State reapportioned regional educational attendance area board sections in light of the 1980 census. This created several problems for this District. First, the census was grossly inaccurate for rural communities in southern Southeast Alaska. One of our communities with 200 people was listed on the census as having 0 residents. Areas that are federal bird sanctuaries were listed as having human residents, and so on. Second, to compound the census errors, this District experiences significant population changes in many, although not all, communities due to the nature of the economy in this part of the state. We have approximately a 50% student turnover annually, and frequently open up schools in new communities and close schools in areas which have suffered a population decline. In addition, we also have cases where entire communities, sometimes built on floats, move around the district.

Third, the population of the District had changed significantly since the 1970 census so that Thorne Bay had only about 20% of the population. Consequently, the recommended reapportionment reduced the Thorne Bay section from two seats to one, and created two additional sections along an arbitrary east-west line. The Southeast Island School District Board

Representative Peter Goll
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requested that the State establish a Thorne Bay section with one seat, and an at-large area with four seats. We were told that existing statutory limitations would not allow this, so we looked for some type of reasonable alternative. As a result of information supplied by this District, the State agreed to modify the line to reflect actual population at that time. Since the reapportionment, the usual changes have occurred. In 1982, the schools in the north and south sections had 39% and 45% of our student population (which can be used as a fairly reasonable measure of the general population). In 1983, just after the reapportionment along the new lines, each section had 41% of the student population; i.e. the sections did provide fair representation for that one moment. In 1984, the north and south sections had 31% and 43% of our student population respectively. Put in terms of variance combining the overpopulation and underpopulation of existing sections (which is the statistic normally used at times of reapportionment), the current total combined variance is about 55%, far exceeding the level normally acceptable during reapportionments. This variance increased from 15% to 55% in one year, again reflecting the massive population changes which occur across arbitrary section lines in this District. (Note: Again this data is based upon student population, which can be used as a guide as to general population variations and changes.) The point I am trying to make is that there are substantial annual population changes, by section, although the total population remains about the same.

Now, we have an additional problem which magnifies the issue for us. As a result of the population changes we normally have, we have had a fairly high turnover in Board members. We historically have had an average of one Board member resignation per year due to the member moving from the District. However, prior to the reapportionment, if a Board member (or the community in which the Board member resided) moved elsewhere in the at-large section, the Board member could remain on the Board. Now, if this occurs, the Board member would have to resign from the Board. Thus, an already difficult management situation is being compounded. This year, we have lost one Board member due to a move from the District (Thorne Bay section). At a Board meeting last week, I was informed that an additional Board member (south section) would be resigning for the same reason, while still a further board member (south section) would be resigning because, for the first time, a move of a community was being made across the new arbitrary Board section lines. In less than one year, 60% of the Board will have resigned. While two resignations were unavoidable, I believe the third could be avoided by the application of a reasonable standard to this District.

At a meeting of February 5, the Southeast Island School District Board approved a resolution requesting that the State review this situation and change the sections, administratively if possible, to one section with one seat (Thorne Bay) and an at-large area, with four seats, consisting of the remainder of the District. After a considerable amount of discussion

Representative Peter Goll
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with the Department of Education and Division of Elections, it has become apparent that the Division of Elections feels that existing statutes prevents us from arriving at a practical administrative solution to our problem.

Therefore, the Southeast Island School District Board is requesting your assistance in this matter. Enclosed you will find some possible language for a statute change. The intent of the proposal is:

1. To allow the Commissioner of Education to exempt a regional educational attendance area, upon the request of its Board, from the limitations of AS 14.08.051 (d) (2) upon a determination that population fluctuations make it impractical for the existing statutory standards to be applied. This would eliminate the need for continual revisions due to frequent population changes across section boundaries, and significantly reduce existing variance between sections;
2. To prevent, by a limitation on the number of Board members who can be elected from a given community in an exempted board section, one community from excessively dominating the Board [as does subsection (d) (2)].

This proposal should have little, if any, effect upon other REAA's, due to the stringent limitation suggested for the number of board members from a single community. Please advise me if you have any questions about the enclosed information, or if I may answer additional questions.

Thank you for your assistance.

Sincerely,



Robert Weinstein
Superintendent

RW:cm

cc: Senator Dick Eliason
Senator Robert Ziegler, Sr.
Senator Frank Ferguson
Representative Mike Miller
Representative Robin Taylor
Representative John Sund
Representative Niilo Koponen

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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
465-3603

March 29, 1985

The Honorable Max F. Gruenberg, Jr.
Alaska State House
Pouch V
Juneau, AK 99811

Re: CSHB 226 (C&RA)
Our file: 366-414-85

Dear Representative Gruenberg:

You have asked us whether certain language in CSHB 226 (C&RA) violates the one man-one vote principle enunciated by the U.S. Supreme Court in such cases as Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964), and Baker v. Carr, 369 U.S. 186, 82 S.Ct. 671, 7 L.Ed.2d 663 (1962). In order to get this opinion to you as soon as possible our research has not been exhaustive; however, it is our opinion that the language of CSHB 226 (C&RA) does not violate this principle.

Sections 1 and 2 of CSHB 226 (C&RA) state as follows:

Section 1. AS 14.08.051(d) is amended to read:

(d) Multi-member sections may be created. However,

(1) each seat on the regional board shall be designated by letter or number and when the declaration of candidacy or other nomination papers of a candidate for the regional school board are filed those papers must indicate the seat that the candidate seeks; and

(2) except as provided in (f) of this section, a [NO] section may not be presented by more than

(A) three members, if a board consists of five members;

(B) four members, if a board consists of seven members;

(C) five members, if a board consists of nine members; or

(D) six members, if a board consists of 11 members.

Sec. 2. AS 14.08.051 is amended by adding new subsections to read:

(f) The commissioner may permit a section that contains more than one community to be represented by more board members than the number set out in (d)(2) of this section if the commissioner determines that

(1) the regional educational attendance area has had a pattern of substantial population fluctuations between geographic areas within the regional educational attendance area; and

(2) compliance with the requirements of (d)(2) of this section could result in continuous underrepresentation and overrepresentation of sections.

(g) In a regional educational attendance area section subject to (f) of this section, no more than two members may be elected from the same community.

Basically these sections are an attempt to refine the method by which school board members of a regional educational attendance area (REAA) are elected in those areas which have opted to subdivide the REAA into sections and which have also opted to permit the election of more than one member from a section. Your question relates specifically to the amendment of AS 14.08.051(d)(2) and the enactment of AS 14.08.051(g), both which on their face provide for an absolute number of members to be elected from a section or a community within a section. It is my understanding that you are concerned that these maximums could run afoul of the one man-one vote constitutional principle.

As we understand it the introduction of this bill is principally the result of a request by the Southeast Island School District for amendments which would permit it to more equitably elect and retain its school board members within its REAA. At the present time REAA #19 (see Exhibit A) is divided into three sections and we are told that because much of the population is involved with the logging industry, there is considerable intersectional population movements which hamper the ability of members to remain on the school board and for the population to have continuous equal representation. This occurs mainly because although school board members are elected at-large, particular members must represent and live in a

specific section. This bill is designed to alleviate that problem, mainly by the addition of AS 14.08.051(f) and (g).

Under subsection (f) the commissioner could permit a district to elect members other than in accordance with subsection (d)(2) in response to "substantial population fluctuations between geographic areas within the regional educational attendance area" which "result in continuous underrepresentation or overrepresentation of sections." 1/

Subsection (g) would basically prohibit one community from within a section from electing more than two members to a school board, regardless of the effect of population fluctuations within or outside of its section. 2/

It is an established canon of statutory construction that statutes on the same subject be construed together. It is also assumed that a legislature has in mind already enacted statutes on the same subject and therefore will enact new legislation in harmony therewith. 2A N. Singer, Sutherland Statutory Construction § 51.02 (4th ed. 1984). AS 14.08.051 establishes the procedures by which an REAA may be divided into sections for the purpose of electing representatives to the district school boards. AS 14.08.051(a) requires that "each school board member shall represent, as nearly as practicable, 3/ an equal number of

1/ We note that since the commissioner has no authority to increase the total number of board members, that the commissioner's authority is really to decrease representation in one section and increase it in another, and vice versa, in response to the factors mentioned above.

2/ One can envision circumstances where underrepresentation of a particular community within a section could be exacerbated because of the fact that the population movement was into that particular community. Subsection (g) would apparently prevent that community from having more than two members on the school board regardless of the percentage of the population within the section which it might possess because of the fluctuations. We don't believe that this worse case possibility makes the subsection invalid as a matter of law. However, under certain facts this subsection could be unconstitutional as applied.

3/ This language is identical to that used by the U.S. Supreme
(Footnote Continued)

persons." (Emphasis added). When read together it seems clear that the intent of the statute is to permit individual school districts, to the extent possible, to adopt school board election procedures which suit local conditions. At the same time it is clear that the legislature has intended and required that as closely as possible those procedures conform to providing equal and fair representation within the district. As a matter of law we simply do not see the amendments proposed by CSHB 226 (C&RA) as doing violence to that intent. In fact, for the most part, the amendments appear to enhance a school district's ability to have equal and fair representation.

Since the early 1960's the United States Supreme Court has reviewed a large number of reapportionment plans and redistricting schemes. While the Court has consistently ruled that districting plans be based upon population, with the ideal being that each election unit have as near as possible equal population, the Court has actually accepted different descending levels of compliance with that ideal, depending upon whether the election unit in question was a federal, state, or local political unit, respectively. Reynolds, 377 U.S. at 568; Kirkpatrick v. Preisler, 394 U.S. 526, 89 S.Ct. 1225, 22 L.Ed.2d 519; White v. Weiser, 412 U.S. 783, 93 S.Ct. 2348, 37 L.Ed.2d 335; Wesberry v. Sanders, 376 U.S. 1, 84 S.Ct. 526, 11 L.Ed.2d 481.

The Court has recognized that mathematical equality in the real world is rarely possible; states may deviate from the equal population standard as long as they make a good faith effort to achieve population equality and can justify deviations from it. Kirkpatrick, 394 U.S. at 530-531; White, 412 U.S. at 790. Accord Karcher v. Daggett, 103 S.Ct. 2653 (1983). The Alaska Supreme Court in Groh v. Egan, 526 P.2d 863 (Alaska 1974), indicated its approval of the standard set by the U.S. Supreme Court that population of state election districts may deviate up to 10 percent without justification. See also Carpenter v. Hammond, 667 P.2d 1204 (Alaska 1983) at 1212-1213. As we stated earlier, the procedures set out in AS 14.08.051, including those which would be incorporated by CSHB 226 (C&RA), do not appear

(Footnote Continued)

Court in stating the one man-one vote principle. See, for example, Reynolds v. Sims, 377 U.S. at 577.

Hon. Max F. Gruenberg, Jr.
Alaska State House
366-414-85

March 29, 1985
Page 5

inconsistent with the above standard. ^{4/} In any event under the U.S. Supreme Court's descending levels of compliance, as a local political unit, the REAA's may well have more flexibility.

The provisions of AS 14.08.051(d) were enacted by the legislature in 1975 and have therefore been in effect for nearly 10 years. We are aware of no circumstances in its use to-date which indicate that it has had the effect of diluting the voting strength of persons living in school districts which have elected multi-member districting plans. Even so, the amendment to subsection (d) contemplated by CSHB 226 (C&RA), if anything, will only enhance the ability of the school district to attain "as nearly as practicable" the standard required by the one man-one vote principle.

In short, it is our opinion that the bill does not run afoul of the one man-one vote principle.

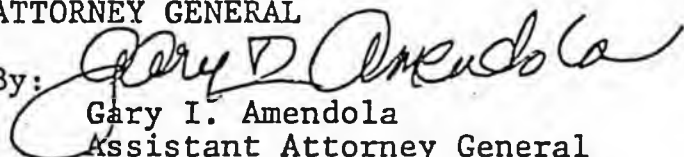
Finally, we note that the State of Alaska is subject to the preclearance requirements of § 5 of the Voting Rights Act of 1965, 42 U.S.C. §§ 1973 et seq. This means that if enacted, the election procedure changes in CSHB 226 (C&RA) must be submitted to the U.S. Attorney General for approval.

I apologize for not getting this information to you sooner. If you have further questions do not hesitate to contact us.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Gary I. Amendola
Assistant Attorney General

GIA:jal
cc: Hon. Peter Goll

^{4/} The Courts have required only that when reapportionment takes place in response to the census taken decennially, that it be in conformity with the above standards. Interim imbalances may and do likely occur. However, we have no facts before us to indicate that this legislation is necessary as a matter of constitutional law.

REAA #19 - SOUTHEAST ISLANDS

- o Nominate by Section and Elect at Large
- o Number of Seats: 5 (A,B,C,D,E)
- o Number of Sections: 3
 - a. Section I - 1 Seat; A
 - b. Section II - 2 Seats; B,C
 - c. Section III - 2 Seats; D,E
- o Terms: All are 3-year Seats



SECTION I

Thorne Bay

SECTION II

Coffman Cove •
 Flat Creek
 Kupreanof
 Labouchere Bay •
 Pt. Baker •
 Port Alexander
 Rowan Bay •
 Whale Pass •
 Portage Bay

SECTION III

Big Salt Lake •
 Cape Pole
 Edna Bay
 El Capitan
 Hollis •
 Hyder
 Kasaan •
 Long Island
 Marble Island
 Meyers Chuck •
 Naukati •
 Port Alice
 Roosevelt Harbor
 Smith Cove
 St. John's Harbor
 View Cove

*Mr Josephson
Ray
Zhaloff*

*Falks
V Fischer*

15-5

CSHB 226 (HESS) RELATING TO SCHOOL BOARDS (SPONSOR: COTTEN)

MOVE THE HESS COMMITTEE SUBSTITUTE.

SECTIONS 1 AND 2 ARE IDENTICAL TO AN ELIASON BILL:

ALLOW VARIANCE IN THE NUMBER OF SCHOOL BOARD MEMBERS PER R.E.A.A. SECTION IF THERE HAVE BEEN SUBSTANTIAL FLUCTUATIONS IN POPULATION. INTENDED TO ADDRESS SOUTHEAST ISLAND SCHOOL DISTRICT, WHICH HAS LOTS OF LOGGING CAMPS SO A POPULATION THAT MOVES AROUND A LOT.

THE CHANGE IN THE H.E.S.S. CS IS ON PAGE 2, LINE 7 AND WAS PUT IN TO ALLEVIATE STURGULEWSKI'S CONCERNS OVER THE ONE-MAN ONE-VOTE RULE. IT ALLOWS VARIATION IN THE NUMBER OF MEMBERS PER COMMUNITY WITHIN AN R.E.A.A. SECTION IF THE POPULATION DISTRIBUTION REQUIRES IT.

SECTIONS 3 AND 4:

ALLOW INCREASES IN THE NUMBER OF CITY AND BOROUGH SCHOOL BOARD MEMBERS (FROM THE PRESENT 7 UP TO 11) AND ALLOW MEMBERS TO BE ELECTED BY DISTRICT RATHER THAN AT LARGE. WOULD APPLY ONLY TO DISTRICTS WITH 5000 OR MORE STUDENT POPULATION (ANCHORAGE, FAIRBANKS, MAT-SU, KENAI), AND IS INTENDED SPECIFICALLY TO ADDRESS EAGLE RIVER'S LACK OF REPRESENTATION ON THE ANCHORAGE SCHOOL BOARD.

(Decisions would be made at the local level.)

YOU WERE THE ONLY DO PASS OUT OF COMMITTEE (REST NO REC). SINCE THE COMMITTEE MEETING, WE HAVE RECEIVED A LETTER FROM THE FAIRBANKS SCHOOL DISTRICT (ATTACHED) OPPOSING THE BILL FOR FEAR IT WILL PIT ONE SEGMENT OF THE COMMUNITY AGAINST ANOTHER AND NOT ULTIMATELY SERVE THE NEEDS OF ALL CHILDREN. WE RECEIVED A SIMILAR LETTER FROM MAT-SU.

ZERO FISCAL NOTE. STATE BOARD'S FORMAL POSITION IS NEUTRAL.



Office of the Superintendent

M E M O R A N D U M

KENNETH STEPHEN BURNLEY, Ph.D.
Superintendent of Schools

TO: Senator Don Bennett DATE: May 1, 1985
Senator Bettye Fahrenkamp
Senator Jack Coghill

FROM: Dr. Ken Burnley, Superintendent *Ken Burnley*
Fairbanks North Star Borough School District

RE: Senate CS for CS HB 226 (HESS)
"An Act relating to school boards."

In reference to HB 226 above, now in Senate Rules, the Fairbanks North Star Borough School District requests that the bill be held in the Rules Committee to allow the Board of Education time to analyze and react. Should HB 226 reach the floor of the Senate, we request that Senators vote against adoption.

While taking this time to formalize our concerns, we previously voiced our concerns during the committee process.

Since the beginning of the organized Borough School District, the process of at large election of school board members has worked well. The process has allowed representation of all geographic segments of the community. Likewise, the various points of view evident in Fairbanks have historically been presented by our 7 member elected at large board.

While the bill allows for the optional language of 'may be elected', in most school districts, district versus at large elections of school board members may pit one segment of the community against another. This option opens the door on this topic.

With its 13,500 students Fairbanks is not in need of district elected board members. In fact, this approach is uncommon for the size of most school districts.

When the Board makes decisions in Fairbanks it considers excellence and equity for all students. In order to continue an equal educational opportunity for all, a singular or at large point of view must be maintained.

On May 8 a Board Resolution will be mailed reaffirming this point of view. If I can answer any questions, please contact me or my staff.

REPRESENTATIVE
SAM COTTEN
DISTRICT 15



P.O. BOX 296, EAGLE RIVER, AK 99577
POUCH V, JUNEAU, AK 99811

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

MEMO

TO: Sen. Bettye Fahrenkamp
Chairman, Senate HESS

RE: Request to schedule a hearing
HB 226, an act relating
to school boards

FROM: Rep. Sam Cotten *SC*

DATE: April 18, 1985

The purpose of HB 226 is to improve representation on school boards.

I introduced the bill to enhance school board representation for residents of Chugiak-Eagle River in particular, and residents of the state's larger school districts in general. During review in the House C&RA, an amendment was added addressing the unique problems of a Rural Education Attendance Area in Southeast. The revised bill passed the House unanimously.

The lack of local representation on the Anchorage School Board is a particularly troubling issue for Chugiak-Eagle River residents who have seen numerous school-related problems in the past few years due to sudden population growth. My original bill -- now reflected in sections 3 and 4 of revised HB 226 -- would help them in two ways:

- (1) Would allow school districts with more than 5,000 students to elect school board members by district, if they so choose. I believe district elections would provide better regional representation on large school boards, however, HB 226 would let each community decide for itself. State law currently requires school board members to be elected at large.
- (2) Would allow school districts with more than 5,000 students to expand the number of school board members from the present 7 up to 11, if they so choose. Having more board members again enhances representation.

There are pros and cons to both of these points, but they should be decided at the local level rather than by the state.

Sections 1 and 2 of HB 226 would amend the statutes pertaining to the election of school board members in Regional Education Attendance Areas (REAAAs).

This amendment allows the Commissioner of Education to make an exception to the existing requirements on numbers of board members allowed per section upon determining that the REAA has "substantial population fluctuations" that result in over- or under-representation. Under these circumstances, the commissioner could permit a section containing more than one community to be represented by more members than currently allowed (under AS 14.08.051 (d)(2)). When this exception is made, no more than two board members may be elected from the same community.

For example, the Southeast Island School District consists of 2 sections and has a high population turnover, caused by its logging economy and such idiosyncracies as communities on floats. To ensure fair representation at this time the district would like to have a Thorne Bay section with one seat, and an at-large section with four seats. Current statutes won't allow this, requiring that each section (within a 5-member school board area) have no more than three seats. With existing law, the school district has no alternative but to continually request section boundary changes to accompany the shifting population. This is inefficient and impractical. The statutory change requested would allow more adequate representation.

Due to the stringent limitations on board members per community, and the uniqueness of the Southeast Island School District, this amendment would not currently affect any other REAAAs.

* State's five largest school districts and student populations:

Anchorage -- 41,747
Fairbanks -- 13,355
Mat-Su -- 8,471
Kenai -- 8,471
Juneau -- 4,706

MEMORANDUM

State of Alaska

TO: The Honorable Peter Goll
Alaska State Representative
Chairman, House Community and
Regional Affairs Committee

DATE: March 8, 1985

FILE NO: 006.3(1)

TELEPHONE NO. 465-2800

FROM: Harold Reynolds, Jr., Commissioner
Department of Education

SUBJECT: House Bill 226

During its March 4 and 5 meeting, the State Board of Education decided to take no position on this bill.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB-226
 Title: An Act relating to school boards
 Sponsor: Cotten
 Requestor: House C & RA
 Date of Request: 3-7-85

FISCAL DETAIL

Agency Affected: Education
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

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	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

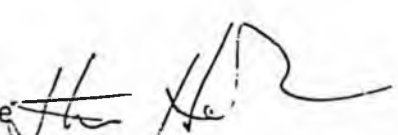
GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The bill has no fiscal impact on this department.

Prepared By: Steve Hole  Phone: 2800
 Division: Commissioner's Office Date: 3-7-85
 Approved by Commissioner: Harold Reynolds, Jr. Date: 3-7-85
 Agency: Education

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84