

HPB

163

HOUSE COMMITTEE REPORT

(5)

Date referred: 3/4/87

FURTHER REFERRALS: Finance

DATE: 03/20/87

The Community and Regional Affairs Committee has considered HB 163

"An Act relating to advisory elections on certain annexation proposals."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SPRINGER Heinrich Springer

—

— Typographical error

— Noted

— p. 2 l. 8

— should refer to

— Article X not Article IX

— of State constitution

—

—

SIGNING OTHER RECOMMENDATIONS:

— CATO Better Cato - No Rec.

— COLLIER Opinion Callous

— No Rec.

— HERMANN Adelheid Herrmann No Rec.

—

—

—

Springer Heinrich Springer
Chairman's signature

 DATE: 03/20/87 FRIDAY TIME: 03:00 PM AST DUR 120 MIN 0
 ----- 0
 SPONSOR: HCRA 0
 SITES: JNU*, DLG, HNS,
 SUBJECT: LEG.PUB.HEAR./HB163: ADVISORY ELECTIONS ANNEXATION PROPOSALS
 JNU ROOM: CT-603, HCRA

 DATE: 03/20/87 FRIDAY TIME: 03:00 PM AST DUR 120 MIN 0
 ----- 0
 SPONSOR: HOUSE STATE AFFAIRS 3
 SITES: JNU*, ANC, FBX, KTN, MAT, NOM, SIT, VAL,
 SUBJECT: LEG.PUB.HEAR./HB167: MANDATORY USE OF SEAT BELTS
 HB158: PENALTY FOR CERTAIN TRAFFIC OFFENSES
 JNU ROOM: C-102, HSA

PRESS ENTER OR PF8 TO DISPLAY NEXT PAGE, PF7 FOR PREVIOUS PAGE

SCHMS03 12/12/83

SCHFRIN

Mr. Nelson,

Per our telecon, the meeting is scheduled, as you
 can see from the above printout.

You may wish to contact

Elaine, Sitka moderator, 747-6276
 or Aleta, there in Haines.

to reconfirm the teleconference, just prior to
 Friday, since you do not have a phone where
 we can reach you at.

Thank you for calling. I look forward to hearing
 from you at the teleconference.

Martha Fischbach
 Secretary
 HCRA

Lynn

LHSCMMI-
(pls call, too)

(B) HB163

LEGISLATIVE SPONSOR:

HCRA

pub hear

work ses

inv hear

T/C DATE/DAY: 3/20-Fri

TIME: 3:00-4:30

LEGISLATIVE REFERENCE: HB163

JUNEAU ROOM: Ct 603-

SUBJECT: Advisory Elections
Annexation Proposals

BRIDGE: _____

OF PORTS: _____

CONTACT: Martha PHONE: 4833

DATE TAKEN/BY: 3/12-AR

Rep. Springer

SITES PARTICIPATING:

LIO'S

LTC'S

VTS'S

- Anchorage
- Barrow
- Bethel
- Delta Junction
- Dillingham
- Fairbanks
- Glennallen
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg
- Sitka
- Soldotna
- Valdez

- Fort Yukon
- Galena
- Homer
- Naknek
- Newhalen
- St. Paul
- Sand Point
- Togiak
- Unalaska
- Wrangell

See List on Reverse Side } Haines

ALL LIO'S

ALL LIO's/LTC'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATIO

CFFNETS: _____

CHAIRING SITE: JNU

CHAIRPERSON: Rep Springer

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

MS
SIGNATURE OF SPONSOR/CONTACT PERSON

3/12/87
DATE

SPECIAL INSTRUCTIONS

Martha will contact Linda from Rep. Goll's office to get participant(s) name(s) for Haines. 3/12 AR

Haines



(Herman) Louie Nelson

Mayor Bob Nelson Henderson

766-2231

- notified 3/12 of telecon told to participate (TH)

(A) HB 163

PRINT L10U
OPERAND 1 NOT RECOGNIZED
SUBJECT: FINAL STATS FR HAINES
FROM: LIDCELA
FOLDER:

DELIM ;
INBOX
SENT 03/20/87 20:25

SECURITY LEVEL: 2 RETENTION PERIOD: 3
.....2.....+.....3.....+.....4.....+.....5.....+.....6.....+.....7.....+.....8.. 001/01
MARCH 20, 1987 001/02
COMMUNITY & REGIONAL AFFAIRS -H 001/03
HB 163-ANNEXATION PROPOSALS 001/04
HAINES 001/05
ALETA ADKINS - VOLUNTEER MODERATOR 001/06

FINAL STAT (FORWARD BY SITKA LIO TO MODERATOR & MARTHA)

SITKA
NAME/REPRESENTING ADDRESS PHONE # T O
1. LOUIS NELSON, BOX 2097, HAINES, AK. TESTIFIED 001/11
2. GEORGE MEACOCK, BOX 56, HAINES, AK. TESTIFIED 001/12
3. BOB HENDERSON, BOX 105, HAINES, AK. TESTIFIED 001/13
4. SCOTT CAREY, BOX 883, HAINES, AK. TESTIFIED 001/14
5. LOUISE HOLMSTEAD, BOX 87, HAINES, AK. TESTIFIED 001/15

001/16
001/17
001/18
MORE...
DELIM ;
INBOX

SUBJECT: FINAL STATS FR HAINES
FROM: LIDCELA
FOLDER:

SENT 03/20/87 20:25

SECURITY LEVEL: 2 RETENTION PERIOD: 3
.....2.....+.....3.....+.....4.....+.....5.....+.....6.....+.....7.....+.....8.. *****
5 TESTIFIED 001/18
0 UNABLE 001/19
0 OBSERVED 001/20
5 TOTAL 001/21
001/22
001/23
001/24

3:00-4:10PM START/END TIME 001/25
001/26

Dillingham

Jeff Labahn, City Mgr, Box 889, 99876⁵ Testified

76 HB 163

BILL WORKSHEET

Bill #: HB 163
Date Sched.: HCRA Committee, Friday, March 20, 1987
Title: "An Act relating to advisory elections on certain annexation proposals"
Sponsor: Rep. Goll

Info Attached: Copy of Bill
Fiscal Note
Existing statute
Position paper from Department of Community and Regional Affairs
Data from Fourteenth Legislature re: HB 15
Memo to Rep. Goll from T. Cook re: Constitutional amendment
Memo to Rep. Goll from T. Cook 12.5.83
Letter to Rep. Goll from Local Boundary Commission
DCRA position paper 3.22.85
Position paper 3.6.85
Letter to Rep. Goll from DCRA Commissioner 4.2.85
DCRA position paper 5.6.86
Memo to Rep. Goll from House Research Agcy.

Sponsor's Briefing, Intent/purpose:

At this writing we have recieved no information from sponsor. Obviously 'legislative review' annexation proceedings in Haines raised citizen ire as usual; only in this case, the furor has not died away.

Effect of Bill:

- Sec. 1 -- Advisory Elections on Annexations
 - Subsections (a) and (b) require that advisory elections be conducted in an area proposed for annexation and the results be presented to the Local Boundary Commission at their formal hearing. The initiator of the annexation proceedings would conduct and pay for the advisory election: The municipality in subsection (a) and the LBC in subsection (b).
 - Subsection (c) provides that a municipality may conduct an advisory election (in which all municipal voters may participate) on an annexation proposal and may present the results to the LBC if the municipality is having its territory affected by annexation proceedings.
 - Subsection (d) reiterates that the elections authorized in this bill are advisory in nature and do not have to sway the LBC. NOTE: an error in this subsection refers to Art. IX in the State Constitution, the reference should be to Art. X.
- Sec. 2 -- Limitations on Home Rule Powers
 - This section extends applicability of the bill to Home Rule municipalities as does subsection (e) of the bill.

Fiscal Impact:

DCRA fiscal note: 0 (Zero)

Division of Elections fiscal note: annualized figure of \$1142/year with analysis.

Proponents: Rep. Goll, Mr. Louis Nelson

Opponents: Dept. of Community and Regional Affairs and Local Boundary Commission

Analysis of Bill's effect, by staff:

Arguments against this bill fall into two categories, philosophical/Constitutional and practical. The 'legislative review' process of annexation was included in the Constitution in order to provide municipal governments with the means to effect an annexation to accommodate a compelling public need or public interest in those circumstances where a majority of the residents in the territory proposed for annexation may not support it. Since the nature of legislative review annexations is that they are seldom supported by the residents or property owners of the area proposed for annexation, the implications of requiring an advisory election seem to conflict with the principles behind the process.

The LBC would respond that the legislative annexation process is a legitimate means of annexation and that adequate safeguards exist against misuse of the process. These include DCRA investigation and report, LBC hearing and decision, and legislative review. The argument can be made that the municipality can conduct an opinion poll or an advisory election and present the results to the LBC now.

Chief among the practical concerns is that special elections would have to be pre-approved by the U.S. Dept. of Justice because the Federal Voting Rights Act (1965) applies. Preparation to submit the Federal application would require considerable effort. Approval would involve a delay of about two months. Second practical concern is the high cost of elections under sections (a) and (b) of the bill since areas proposed for annexation would probably not coincide with established voting precincts.

Committee Report:

(D) HB 163

DELIM ;
INBOX

SUBJECT: FINAL NAMES FOR MARTHA

SENT 03/23/87 12:35

FROM: LIOCFWW

FOLDER: SECURITY LEVEL: 2 RETENTION PERIOD: 3

.....2.....3.....4.....5.....6.....7.....8.. 001/01

FINAL STATS 001/02

HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE TELECONFERENCE ON 001/03

HB163 - ANNEXATION 001/04

SITE: DILLINGHAM LIO 001/05

DATE: MARCH 20, 1987 001/06

TO TESTIFY 001/07

1. JEFF LABAHN, CITY MANAGER, CITY OF DILLINGHAM, BOX 889, 001/08

DILLINGHAM, ALASKA 99576 001/09

TO OBSERVE 001/10

1. VIVIAN BRASWELL, CITY CLERK, CITY OF DILLINGHAM, DILLINGHAM, 001/11

MORE... 001/12

DELIM ;
INBOX

SUBJECT: FINAL NAMES FOR MARTHA

SENT 03/23/87 12:35

FROM: LIOCFWW

FOLDER: SECURITY LEVEL: 2 RETENTION PERIOD: 3

.....2.....3.....4.....5.....6.....7.....8.. *****

1. VIVIAN BRASWELL, CITY CLERK, CITY OF DILLINGHAM, DILLINGHAM, 001/18

ALASKA 99576 001/19

001/20
001/21

print

DELIM ;
INBOX

SUBJECT: NAMES FOR MARTHA

SENT 03/23/87 12:35

FROM: LIOCFWW

FOLDER: SECURITY LEVEL: 2 RETENTION PERIOD: 3

.....2.....3.....4.....5.....6.....7.....8.. 001/01

MARCH 20, 1987 001/02

COMMUNITY & REGIONAL AFFAIRS --H 001/03

HB 163-ANNEXATION PROPOSALS 001/04

HAINES 001/05

ALETA ADKINS - VOLUNTEER MODERATOR 001/06

FINAL STAT (FORWARD BY SITKA LIO TO MODERATOR & MARTHA)

NAME/REPRESENTING ADDRESS PHONE # T O 001/07

1. LOUIS NELSON, BOX 2097, HAINES, AK. TESTIFIED 001/08

2. GEORGE MEACOCK, BOX 56, HAINES, AK. TESTIFIED 001/09

3. BOB HENDERSON, BOX 105, HAINES, AK. TESTIFIED 001/10

4. SCOTT CAREY, BOX 883, HAINES, AK. TESTIFIED 001/11

5. LOUISE HOLMSTEAD, BOX 87, HAINES, AK. TESTIFIED 001/12

001/13

001/14

001/15

001/16

001/17
001/18
MORE...

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

MARCH 19, 1987

POSITION PAPER (revised 3/19/87)

RE: HB 163 - - "An Act relating to advisory elections on certain annexation proposals."

SPONSOR: Representative Goll

Program Effects of Bill

If a municipality requests annexation under the legislative review process [AS 29.06.040(b)], the bill would require the municipality to conduct an advisory election on the proposed boundary change in the area proposed for annexation. If the annexation was not initiated by the municipality whose boundaries were to be changed, the Alaska Division of Elections would be responsible for conducting the election. In either case, the results of the advisory election must be made available to the Local Boundary Commission (LBC) at a hearing to be conducted on the proposed annexation.

Subsection (c) of the bill would permit advisory votes to be conducted in which all municipal voters may participate. A municipality may present the results of such an advisory election to the Local Boundary Commission if the area of the proposed annexation is located within the municipality or proposed to be annexed to the municipality.

Subsection (d) clarifies the advisory nature of the vote by noting that "nothing in this section affects the authority of the Local Boundary Commission to present proposed boundary changes to the legislature."

Comments

The department opposes this bill for the following reasons:

- ° The value and benefit of these advisory elections is somewhat questionable, especially when one considers the "red-tape" and cost involved in conducting them. It is a valid assumption that residents affected by legislative review annexations will not generally support an action that may bring with it increased taxation and government control. These persons are given adequate opportunity to testify and make their case at a locally conducted public hearing of the LBC. Residents may submit petitions representing the views of affected persons and rebut municipal arguments supporting the annexation.

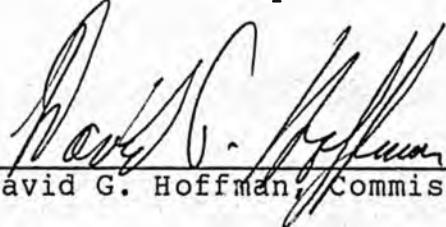
② HB 163 2/8

STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

The opportunity to air relevant facts and differing opinions already exists and it is unclear how much additional light is shed on the process by conducting an advisory election on the annexation action. An advisory election would simply quantify opposition which, based on past experience is always assumed by the LBC to be significant. Given this opposition, it is the Commission's task to consider broader interests, equity, and uniformity outside of the parochial interests of the area affected by the boundary change. The LBC has established standards that are objectively applied to annexations and the Department believes these standards insure that the Commission acts upon petitions in an equitable and consistent manner as carefully defined by law. The 45 day review by the Legislature provides a further opportunity for appeal of controversial decisions made by the Commission.

- ° The special elections required under the bill would, we believe, be subject to provisions of the Federal Voting Rights Act of 1965, as amended (FVRA). Thus, before such an election could be held, the concurrence of the U.S. Department of Justice to hold the election would have to be gained under the provisions of the FVRA. The preparation of the FVRA submission will, in most instances, represent a substantial effort for a municipality. Review of the submission by the Department of Justice would entail a minimum of 60 days.
- ° Conducting elections will be expensive for the municipalities involved. (NOTE: nearly all of the legislative review annexation petitions are initiated by municipalities. Thus, the burden of this bill would fall principally upon those entities.) In addition to preparing the FVRA submission, municipalities would have to schedule and conduct the elections. Because the area proposed for annexation would, in virtually every instance, differ from any established voting precinct, conducting such elections would be particularly difficult.
- ° We believe that the bill would add three months or more to the time required to prepare and submit a petition for annexation under the legislative review process.



David G. Hoffman, Commissioner



STATE OF ALASKA
HOUSE OF REPRESENTATIVES

HB 163

I. BACKGROUND

There are several alternative ways of effecting an annexation provided for by the statutes and regulations of Alaska. The ways listed below are the methods to achieve annexation through local action.

The first is annexation by election of the residents in the area desiring to be annexed to an existing municipality. This type of annexation must be approved by the Local Boundary Commission and by a majority of the voters in the territory proposed for annexation. The statutory provisions for this type of annexation are found in AS 29.06.040(b)(1).

The next type of annexation is the annexation of municipally-owned property outside of the existing municipal boundaries which is contiguous to the present boundaries of the municipality. This type of annexation becomes effective when the notice of adoption of an ordinance effecting the annexation is filed with the Department of Community and Regional Affairs. The statutory authority for this type of annexation is AS 29.06.040(b)(2).

A municipality may annex non-contiguous territory when the land in the territory is wholly-owned or leased by the municipality or used primarily for the performance of municipal functions and is necessary to enable the municipality to achieve adequate control, protection, or management of the property. This is allowed by 19 AAC 10.070(b).

Another method of local-option annexation is through a petition presented by 100 percent of the owners/registered voters under provisions of AS 29.06.040(b)(3), an area adjoining a municipality may be annexed by all of the property owners and all of the registered voters who reside in the territory petitioning for the boundary change. This type of annexation becomes effective through the adoption of an ordinance by the governing body of the municipality and receives the consent of the Local Boundary Commission. The territory again must be contiguous to the municipality the area desires to be annexed to.

The only alternative to the local-option annexation methods is the method addressed in this legislation. This type of annexation may be initiated by a municipality, and requires the approval of the Local Boundary Commission and the acquiescence of the Legislature.

If the Local Boundary Commission determines that the proposed boundary change meets the standards established by law and regulations, the Commission presents its recommendation for the boundary change to the Legislature during the first ten days of any regular session. The recommended change will become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution receiving concurrent approval from a majority of the members of each house.

This process does not ensure that either the Local Boundary Commission or the Legislature is fully advised of the position of affected residents of the area proposed to be annexed. The provision of the public hearing allows for the presentation of the compelling public need, however, this does not necessarily document the sentiments of the affected residents.

The advisory vote that this legislation establishes will give the municipality, the Local Boundary Commission and the Legislature a documented indication of the strength of support for or opposition to the annexation.

II. HISTORY

This legislation was originally introduced during the Fourteenth Legislature to address the public concern that decisions were being made without sufficient opportunity to consider public comment.

An annexation was proposed by the City of Haines, approved by the Local Boundary Commission and presented to the Legislature for approval. This annexation was unpopular with the residents of the affected area, and only marginally supported by residents within the city. The proposal was voted on by affected residents of the Haines Borough who disapproved the proposal. This proposed annexation was presented to the Legislature, and was disapproved by Legislative Resolve 34, in 1984.

III. LEGISLATIVE HISTORY

HB 163 Materials

Page 3

March 20, 1987

HB 163 was previously before the Legislature as HB 15, during the Fourteenth Legislature. It received thorough scrutiny by the House Committee on Community and Regional Affairs, the House Committee on State Affairs, the House Committee on Finance, and the Committee on Rules. It passed the House on April 7, 1986, by a vote of 39-1.

The bill was referred to the Senate Committees on State Affairs, Community and Regional Affairs, and the Finance Committee. When the Legislature adjourned, the legislation was before the Finance Committee in the form herein presented.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

March 27, 1985

MEMORANDUM

TO: Representative Peter Goll

ATTN: Bob Berry

FROM: Rob Waldman *RW*
Legislative Analyst

RE: Historical Background of the Local Boundary Commission
Research Request 85-262

You asked that we provide historical background on the formation of the Local Boundary Commission. Historical information was obtained through interview with Senators Victor Fischer and Jack Coghill and through review of the minutes of the Alaska Constitutional Convention; the text of the State Constitution and Statehood Committee reports.¹

According to Senator Coghill, the concept of the Local Boundary Commission resulted from the constitutional convention's attempt to resolve jurisdictional conflicts between the different types of governmental entities that functioned under territorial law.² Its function was to review local government structure and adjudicate conflicts between jurisdictions. Prior to statehood, all jurisdictional disputes and boundary modifications were adjudicated by federal district courts. The members of the convention felt that the function of settling these issues should not be delegated to the court system; they felt that the executive branch should adjudicate boundary disputes and modifications.

¹Minutes to the Proceeding of the Alaska Constitutional Convention, 1955-56, pages 2665-2666, 2745-2753, and 2759-2760.

A Citizens's Guide to the Constitution of the State of Alaska, Gordon Harrison, 1982; Alaska's Constitutional Convention, Victor Fischer 1975.

Proposed Organization of the Executive Branch, State of Alaska, A Survey Report, 1958; Local Government Under the Alaska Constitution, A Survey Report, 1959, Public Administration Service.

²Under Territorial law, jurisdiction conflicts could arise between school districts, utility districts, cities, road districts, etc.

Representative Goll
March 26, 1985 ~
Page Two

In Alaska prior to 1959, all annexation was conducted by local governments.³ At times, annexation issues became very controversial. Senator Fischer states that the commission was seen as a mechanism that circumvented local turmoil, brought the issues beyond "vested local interests" and prejudices, and permitted implementation of the "broad public intent". He believes that there was a need to ensure that municipal boundaries could be altered to adjust for changes in population and in the demand for local services. If the municipalities retained control over boundaries and annexation, there could be difficulty in altering boundaries once local interests became vested. Article X, Section 12 of the State Constitution which established the Local Boundary Commission was designed to overcome those type of roadblocks.

The convention committee on local government recommended that the boundary commission be modeled after the "Canadian system" (provincial governments exercise considerable control over local governments). It was felt that boundary and annexation issues affect all incorporated and unincorporated areas and not just the specific communities involved. Therefore, it was recommended that adjudication be at the State level.

In addition, the intent of the convention was for the commission to have the authority to regulate boundary changes without prior requests from the communities involved. Communities could request that referenda, polls, and surveys be considered by the commission when developing its recommendations. However, according to Senator Fischer, the convention was very specific in its position that these types of community input are not a requirement.

During the committee sessions, there was considerable discussion of the relation between the commission and the legislature. Some members wanted total control in the hands of the legislature, and recommended that all boundary changes and rules related to boundary changes be addressed by statute because the commission was within the executive branch and requiring legislative approval would violate the "separation of powers" concept. The amendment supporting this concept was defeated.

The majority of the members felt that legislative involvement in the process was useful and necessary at times but not required for all boundary changes. Their intent was to allow legislative participation as long as it did not become prohibitive for all proposed boundary

³For annexation, local elections had to be held concurrently in the city and area to be annexed, and majority votes were necessary.

Representative Goll
March 26, 1985
Page Three

changes.⁴ A compromise was adopted which permitted legislative intrusion into the administrative function of the executive branch only by resolution concurred in by a majority of the members of both houses. In addition, it was recommended that proposed changes become effective if the legislature is "inactive" in its function. As was described within the minutes, the legislature opted for the "negative approach to enactment of legislation," which means that the legislature must act only to reject the proposal and may grant "approval without any action at all by the body that should act on it."⁵

In 1958, the Alaska Statehood Commission was given the following recommendations for implementation of the commission:

The Local Boundary Commission should operate so far as possible in the manner of a quasi-judicial body. Its determinations should be based upon a careful assembling and weighing of relevant geographic, demographic, fiscal, and governmental facts, not disregarding expressions of judgement and sentiment by the public officials and citizens most directly concerned. So far as possible, decisions should be made in the light of a realistic projection of probable future demographic and economic trends."⁶

I hope that this information is useful to you. If you have any questions, please contact us.

RW

⁴It was felt that "in the press of business" the legislature may not get around to considering minor boundary changes, and major boundary changes could require considerable legislative time.

⁵Minutes to the Proceeding of the Alaska Constitutional Convention, page 2752.

⁶Proposed Organization of the Executive Branch State of Alaska: A Survey Report, 1958, page 147.

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

January 22, 1985

The Honorable Andre Marrou
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative Marrou:

Re: Municipal Annexations

When I met recently with you and other members of the House Community and Regional Affairs Committee, you asked a number of questions concerning alternative means of annexation and standards for annexation. This letter is to follow up our conversation concerning those matters.

The local action methods for annexation are governed by Section 29.68.010(b) of the Alaska Statutes and Sections 19 AAC 10.065-090 and 19 AAC 10.630-730 of the Alaska Administrative Code. Briefly, the local action methods of annexation consist of the following:

1. Election: under the provisions of AS 29.68.010(b)(1), territory may be annexed through election by the residents of the territory. To become effective the proposed boundary change must be approved by the Local Boundary Commission and by a majority of voters in the territory proposed for annexation.

2. Municipally owned property: under the provisions of AS 29.68.010(b)(2), property which is owned by a municipality and which adjoins its present boundaries may be annexed by ordinance without voter approval. The annexation becomes effective with the filing of the notice of the adoption of the ordinance with the Department of Community and Regional Affairs. This process requires that the property be contiguous to the municipality.

3. Petition by 100% of owners/registered voters: under the provisions of AS 29.68.010(b)(3), an area adjoining a municipality may be annexed if all of the property owners and all of the registered voters who

- POUCH BH
JUNEAU, ALASKA 99811
PHONE: (907) 465-4707
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 561-8586
- P.O. BOX 348
BETHEL, ALASKA 99559
PHONE: (907) 543-3475
- P.O. BOX 41
NOME, ALASKA 99762
PHONE: (907) 443-5457
- P.O. BOX 280
KOTZEBUE, ALASKA 99752
PHONE: (907) 442-3675
- 1514 CUSHMAN STREET, ROOM 201
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-7126
- P.O. BOX 10041
DILLINGHAM, ALASKA 99576
PHONE: (907) 842-2245

The Honorable Andre Marrou
Municipal Annexations
January 22, 1985
Page 2

reside within the territory petition for the boundary change. The annexation becomes effective through the adoption of an ordinance by the governing body of the municipality and the consent of the Local Boundary Commission. This process requires that the property be contiguous to the municipality.

There is only one alternative to the local action methods for annexation, the Legislative review process. Section 29.68.010(a) of the Alaska Statutes and Sections 19 AAC 10.065-090 and 19 AAC 10.450-620 govern boundary changes related to the legislative review process. This process requires approval of a proposed boundary change by both the Local Boundary Commission and the State Legislature.

This process is being used for two proposed boundary changes to be recommended for approval by the current Session of the Legislature for the Cities of Fairbanks and Togiak. The recommendations are to be submitted to the Legislature on January 23.

The legislative review process is often initiated by municipalities in circumstances where there is a compelling public need for a boundary change, but where a majority of the residents in the territory involved in the proposed boundary change may not support it. However, such is not the case in the territory proposed for annexation by either the City of Fairbanks or the City of Togiak.

The Commission always conducts a public hearing in the municipality proposing the boundary change under this process. If, following the hearing, the Commission determines that the proposed boundary change meets the standards established by laws and regulations, the Commission presents its recommendation for the boundary change to the Legislature during the first 10 days of any regular session. The recommended change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution receiving concurrent approval from a majority of the members of each house.

You also asked when territory which is not contiguous to a city

The Honorable Andre Marrou
Municipal Annexations
January 22, 1985
Page 3

may be annexed. 19 AAC 10.070(b) provides that non-contiguous territory may be annexed to a city when:

1. the land in the territory is wholly owned or leased by the city or used primarily for the performance of city functions; and
2. annexation is necessary to enable the city to achieve adequate control, protection, or management of the property.

I have attached copies of the appropriate laws and regulations for your review. If you would like additional information concerning these matters, please contact me.

Sincerely,


Marty Rutherford
Director

Enclosures as stated

cc: Representative Peter Goll, Chair
House C & RA Committee

STATE OF ALASKA THE LEGISLATURE

POUCH STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 5, 1983

SUBJECT: Voter approval of
annexations (WO 13-1464)

TO: Representative Goll

FROM: Tamara Brandt Cook
Legislative Counsel

130

You have provided me with additional comments from Mr. Louis O. Nelson and asked for my specific recommendations as to how citizen input into annexation decisions can be guaranteed within the limits of existing constitutional restraints.

Mr. Nelson has requested that local boundary changes, particularly annexations, be permitted to occur only if the voters in the annexing municipality, the area to be annexed, and the municipality that will loose the area, if any, separately approve the annexation. This, as I have indicated to you previously, would conflict with Article X, sec. 12 of the state constitution which places primary responsibility for local boundary changes with the Local Boundary Commission.

Assuming that you wish to avoid changing the state constitution, I think that the best way to insure that citizens have the chance to be heard on annexation decisions would be to provide for a vote along the lines suggested by Mr. Nelson. except that the vote would be advisory only. This would insure that, before making a decision on a particular proposed annexation, the Local Boundary Commission would necessarily be made aware of the feelings of the majority of the people directly affected. In addition, since recommendations for change by the Local Boundary Commission must be presented to the legislature, if after a negative vote the commission nevertheless chooses to approve an annexation, the unpopularity of that decision would be immediately clear to the legislature. The legislature would undoubtedly take that into consideration in determining whether to reject the proposed change.

Representative Goll
December 5, 1983
Page 2

Existing law requires that a public hearing be held to give the citizens a chance to express their views regarding a proposed annexation. However, because vocal minority opinions can predominate during the hearing process, I think it is easier for any agency to ignore public input during a hearing than it is to ignore a vote that reflects the feelings of the majority. Consequently, requiring a vote, even though it is advisory only, would probably go a long way towards addressing the concerns of Mr. Nelson. Even without ultimate legal control over an annexation issue, the majority would exert considerable political influence on the outcome.

The drawbacks to this approach would be the added expense of holding elections and additional delay this would inevitably cause in implementing an annexation. The expense could be reduced, of course, by limiting the scope of the election requirement. For example, perhaps only one election in the area to annexed needs to be held rather than holding an election in each of the three areas proposed by Mr. Nelson. Also, since the issue at hand involves an annexation, perhaps this bill could be limited to annexation procedures only and not affect other types of boundary changes. If the approach of requiring an advisory vote of some kind is taken, I believe that only procedures for annexation under AS 29.63.010(a) for which legislative review is required need to be altered. No changes will be needed to procedures for annexations by local action under AS 29.63.010(b), since that type of annexation necessarily reflects the desires of the local people. Enclosed you will find copies of administrative regulations 19 AAC 10.450 -. 590 and 19 AAC 10.630 -. 790 which Mr. Nelson requested. Please let me know if I can be of further assistance.

TBC:csh
w2/117

cc: Mr Louis O. Nelson

Dear Peter

Feb 6 1987

I just started to write you about HB-15. How important I think it is because we can't trust the city of Haines. I support it for all the obvious reasons: don't want to be part of the city, want to keep rural lifestyle, don't want more taxes and so on. I'm sure you are doing your best to push this through and I thank you. After deciding to write you about this it occurred to me I had a few questions that ~~you could help with~~ ~~we are glad to have you~~ ~~working for us~~ ~~HB-55~~ ~~job~~

Scott Carey Box 883



HAINES BOROUGH

P.O. Box 200 - Haines, Alaska 99827 - (907) 766-2711

January 17, 1986

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

Dear Representative Goll:

This fall, the Haines Borough Assembly passed Resolution #243, which supported the passage of HB 15.

This bill requires an advisory election on any contested annexation. While it does not prohibit any action the Local Boundary Commission might take, it does allow more information to the Commission so they can make a better decision. The more information the Boundary Commission can gather, the better the decision they can make. The cost of the above election will be borne by the Borough or City unless part of the annexed area is in an unorganized Borough - then the State would have to pay the cost of the election.

The only reason the City of Haines didn't triple its size was because the Borough held an advisory election and was able to show the Legislature that annexation was not wanted. Unfortunately, the Local Boundary Commission had already made their decision before the election so they were unable to use this information.

I urge you to vote in favor of HB 15 when it reaches the floor of the House.

Sincerely,

R.E. Henderson
Mayor

The Gradus House Lodge (5-10-85)
V.R. Justice Mgr.

Re: Peter Gall
Juneau, Alaska

Dear Sir:

I urge you to vote for this
Bill no. 15 so it will give the people a
chance to decide if they want to be annexed
to a larger community & pay additional taxes.
This would be more in line with a Democratic
form of govt.

I hope you will agree that this
would be for the good of most all the people.

Thank you

Vern R. Justice
Billy J. Justice
P.O. Box 873576
WASILLA, AK.

99687

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

February 20, 1985

Mr. Ed Hays
P.O. Box 98
Wasilla, AK 99827

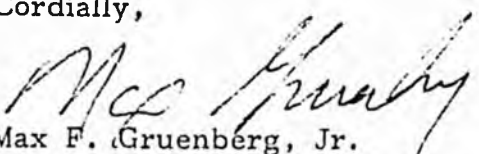
Dear Mr. Hays:

Thank you for your telegram in support of House Bill 15, requiring an advisory election before an annexation may be proposed to the legislature. It is coincidental that you sent me this letter at this time, because literally last evening in a special session, the joint Community & Regional Affairs House and Senate Committees met and discussed this issue generally. Your representative, Peter Goll, who chairs the House Community & Regional Affairs Committee was working with several of us on this bill. We are now attempting to find out more information about how other states handle this problem.

From my recollection of my law school days, different states have different procedures for ensuring fair representation in the annexation process. Several cases have just been brought to the committees' attention, that may show significant problems with the present procedure.

I am sending a copy of this letter to Chairman Goll for his information, along with a copy of your telegram, with the request that it be included in the official committee file on this bill, so that your recommendation in support of it can be passed out to the other members of the committee.

Cordially,


Max F. Gruenberg, Jr.

MFG/ke
cc: Rep. Peter Goll



HAINES BOROUGH

P.O. Box 200 - Haines, Alaska 99827 - (907) 766-2711

March 13, 1985

Representative Peter Goll
Chairman, Community and Regional Affairs
House of Representatives
Pouch V - Mail Stop 3100
Juneau, AK 99811

Dear Representative Goll:

The Haines Borough Assembly was instrumental in the introduction of HB 15 and feel that this is a necessary check device on Local Boundary Commissions, yet will not interfere with their constitutional authority.

I understand that Representative Goll will soon introduce a Sponsor Substitute for this bill so that he can fully support the bill. We have no problem with the Substitute bill and urge you to support it.

Enclosed is a copy of Haines Borough Resolution #235 supporting HB 15.

Sincerely,

R. E. Henderson
Haines Borough Mayor

Enclosure (1)

HAINES BOROUGH

Resolution 235

A RESOLUTION OF THE HAINES BOROUGH ASSEMBLY SUPPORTING HOUSE BILL 15 IN THE FIRST SESSION OF THE FOURTEENTH ALASKA LEGISLATURE.

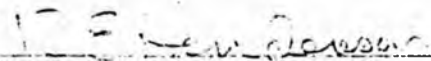
WHEREAS, annexations have occurred throughout the state by various municipalities, and

WHEREAS, the very citizens who are being annexed into the municipality have not had an opportunity to express themselves on the issue by voting in an election, and

WHEREAS, the desires of the citizens in the area proposed for annexation should be one of the considerations in the annexation procedure,


NOW THEREFORE, BE IT RESOLVED that the Haines Borough Assembly approves of HB 15 which requires an advisory election before any annexation action can be proposed before the Legislature by the Local Boundary Commission.

ADOPTED January 15, 1984



R. E. Henderson, Mayor

ATTEST:



Frank M. Haas, Assembly Clerk



Audrey M. Jackson, Borough Clerk

Box 621
Haines, Alaska 99827

March 14, 1985

Pouch V
Juneau, Alaska 99811

Dear Representative *Peter Dool*,

We are definitely for House Bill Number 15 requiring an advisory election before any annexation should be imposed on the people of Haines. We believe it is the greatest protection of our freedom to have such an election.

Sincerely,



Richard Fredricks

Susan Fredricks

HAINES BOROUGH
Resolution 235

A RESOLUTION OF THE HAINES BOROUGH ASSEMBLY SUPPORTING
HOUSE BILL 15 IN THE FIRST SESSION OF THE FOURTEENTH
ALASKA LEGISLATURE.

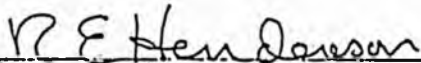
WHEREAS, annexations have occurred throughout the state
by various municipalities, and

WHEREAS, the very citizens who are being annexed into
the municipality have not had an opportunity to express them-
selves on the issue by voting in an election, and

WHEREAS, the desires of the citizens in the area proposed
for annexation should be one of the considerations in the
annexation procedure,

NOW THEREFORE, BE IT RESOLVED that the Haines Borough
Assembly approves of HB 15 which requires an advisory
election before any annexation action can be proposed before
the Legislature by the Local Boundary Commission.


ADOPTED January 15, 1984



R. E. Henderson, Mayor

ATTEST:

Frank M. Haas, Assembly Clerk



Audrey M. Jackson, Borough Clerk



Telegram

R

02002

NL TOA HAINES ALASKA 50 02-12 905A AST

PMS

REPRESENTATIVE MAX GRUNBERG

1237

JUNEAU AK

I URGE YOUR SUPPORT OF HOUSE BILL NBR 15, REQUIRING ADVISORY ELECTION BEFORE AN ANNEXATION MAY BE PROPOSED TO THE LEGISLATURE. GIVE THE CITIZENS BEING ANNEXED A CHANCE TO EXPRESS THEMSELVES, BY VOTING IN AN ELECTION.

ED HAYS

BOX 98

HAINES AK 99827

19 47

P. O. Box 297
Haines, Alaska 99827

Feb 4, 84

Honorable Senator Dick Eliason,
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason,

It was a real privilege to be able to hold the phone receiver and be a part of the teleconference this past Jan 31, 84.

I wish to make a couple of comments.

I * I. is regretted that Jim Saunders doesn't understand the financial workings of the Haines borough. He mentioned that the people of the city of Haines are part of the borough and this is true. However the Haines Museum, Library and Arts center are financed by funds from municipal assistance and revenue sharing.

The funding depends upon the number of citizens who live outside the city of Haines. Therefore the people in the city of Haines are not counted when these funds are received. Jim mentioned that the people in the city contributed to this fund etc.

Also Frank Hess mentioned that when people living in the city do not have water and sewer (many do not have sewers) then they are charged accordingly. This is not true. I have gone to the assessor and checked records of people who do not have sewers and their mill rate is the same as the people who do have sewers. Representative Peter Goll will hear me out on this.

Mr. Eliason the people of our great valley are looking forward to your fine efforts to help stop this annexation and you may rest assured that if it can be stopped we will be forever grateful to you both.
(Rep. Peter Goll)

If I can be of further assistance please feel free to contact me. I am temporarily at P. O. Box 2515 Waterloo, Iowa 50704 Phone 319 232 3889

Thanks for your fine cooperation.

With much respect

Louis C. Nelson

P. S. Copy sent to Peter Goll

MANY THANKS PETER - IF POSSIBLE WOULD A
RECEIVE A COPY OF THE BILL AGAINST
ANNEXATION
THANKS A LOT
Louis C. Nelson

14-0020
Ford
12/19/84 ✓

IN THE HOUSE

BY GOLL BY REQUEST

HOUSE BILL NO. 15

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act requiring an advisory election before an annexation may be proposed to the legislature."

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

* Section 1. AS 44.47 is amended by adding a new section to read:

Sec. 44.47.582. ADVISORY ELECTIONS ON ANNEXATIONS. (a) A proposed annexation may not be voted on by the Local Boundary Commission unless an advisory election on the proposal has been held, and the results considered by the commission. The advisory election shall poll

(1) the area proposed to be annexed;

(2) any municipality that includes the area proposed to be annexed; and

(3) the proposed annexing municipality.

(b) The director of elections shall supervise an advisory election held under this section in the general manner prescribed by the Alaska Election Code (AS 15). The state shall pay all election costs.

Original sponsor: Goll

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 163 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to advisory elections on certain
7 annexation proposals."

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

9 * Section 1. AS 29.06 is amended by adding a new section to read:

10 Sec. 29.06.045. ADVISORY ELECTIONS ON ANNEXATIONS. (a) If a
11 municipality requests an annexation proposed to be effected under
12 AS 29.06.040(a) and (b), and if there are people residing in the area
13 proposed for annexation, the municipality shall present the results of
14 an advisory election on the proposal to the Local Boundary Commission
15 at the hearing conducted under AS 44.47.581. The advisory election
16 shall be conducted by the municipality in the area proposed for
17 annexation in accordance with procedures for a regular or special
18 election.

19 (b) If an annexation that is not requested by a municipality is
20 proposed, be effected under AS 29.06.040(a) and (b), and if there
21 are people residing in the area proposed for annexation, the director
22 of elections shall present the results of an advisory election on the
23 proposal to the Local Boundary Commission at the hearing conducted
24 under AS 44.47.581. The advisory election shall be conducted by the
25 director of elections in the area proposed for annexation in the
26 general manner prescribed by the Alaska Election Code (AS 15). The
27 state shall pay all election costs for elections under this subsec-
28 tion.

29 (c) A municipality may conduct an advisory election on an

1 annexation proposal in which all municipal voters may participate and
2 the municipality may present the results of the election to the Local
3 Boundary Commission if the area of the proposed annexation is

4 (1) located within the municipality; or

5 (2) proposed to be annexed to the municipality.

6 (d) Nothing in this section affects the authority of the Local
7 Boundary Commission to present proposed boundary changes to the legis-
8 lature under art. X, sec. 12, Constitution of the State of Alaska.

9 (e) This section applies to home rule and general law municipal-
10 ities.

11 * Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

12 (49) AS 29.06.045 (advisory elections on annexations)
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

MEMORANDUM

June 16, 1983

SUBJECT: Constitutional amendment requiring voter approval of annexations (Work Order No. 13-1464)

TO: Representative Peter Goll

FROM: Tamara Brandt Cook
Legislative Counsel

You have asked me to draft a bill that would amend the Constitution of the State of Alaska dealing with annexation. Before property outside a municipality may be annexed the annexation is to be approved by a majority of the voters in the municipality and in the area proposed for annexation. Several questions need to be considered before this amendment can be drafted.

1. Article X, section 5 grants authority to establish service areas within boroughs. However a new service area may not be set up if

. . . the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

What if a service can be provided by annexation to a city, but the city refuses to approve the annexation? Is the borough precluded from establishing the service area under this section? If so, there is no way to provide a special service to the area even though the voters strongly desire the service. This potential problem might be avoided by requiring approval of the voters only in the area to be annexed. That way if the voters desire a particular level of service that cannot otherwise be obtained, the area could be annexed to a city and the voters of the city would not be able to halt the annexation.

2. If an area within a municipality is annexed to a second municipality, the first municipality might be considerably

affected. Should annexation be approved by the municipality that will lose the area as well as by the municipality that will gain it? What will the effect be if annexation is approved by one municipality and not by the other?

3. If annexation must be approved by the voters in the area proposed to be annexed, how is the annexation of unoccupied land going to be accomplished?

4. You have asked for an amendment that would address the question of annexations particularly. Should a vote also be required before two municipalities can be merged or consolidated? Now Article X, section 7 provides that cities may be

. . . merged, consolidated, classified, reclassified or dissolved in the manner provided by law.

5. Under Article X, section 12 the local boundary commission considers proposed local government boundary changes. It may present a proposed change to the legislature, which may, in turn, disapprove the proposal or, by taking no action, approve the proposal. Under this requested amendment will the local boundary commission have any role in the annexation process? For example, is the local vote to be held only after the local boundary commission accepts a proposed annexation or may annexation occur upon voter approval regardless of whether the local boundary commission also approves of the annexation? Likewise, what role is the legislature to play in these matters? Is a proposed annexation to be presented to the legislature only if approved by the local voters, only if disapproved by the local voters and approved by the local boundary commission for a final legislative decision, or is the legislature to retain any say in the matter at all?

6. If the local boundary commission is to have no responsibility in considering annexations under this requested draft, but if it still retains jurisdiction over every other type of local boundary change, what is to prevent the local boundary commission from reversing an annexation approved by the voters simply by presenting a proposed local boundary change to the legislature that reestablishes the old boundaries?

7. If annexation determinations are ultimately controlled by local vote, at least some boundary decisions will no longer be dealt with on a statewide rather than local level.

Representative Peter Goll

Page 3

June 16, 1983

Is there any reason to retain statewide control over the remaining boundary decisions? If a boundary decision is not popular locally it could probably be overturned through the local annexation process despite the fact that the decision is of benefit to the state as a whole. Unless all boundary decisions are made on a statewide basis, perhaps they all should be made locally and the local boundary commission should be abolished.

8. The last question I would like to pose is philosophical rather than technical. Nevertheless, it ought to be considered, at least in passing, with regard to this requested amendment. Article X, section 1 provides in part:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions.

One way to avoid the proliferation of local government units is through annexation of property to existing municipalities. To the extent that the effect of this requested amendment is to make annexation more difficult, does it further the purpose of this article? It seems apparent that the framers of the state constitution considered questions of local boundary changes to be of statewide rather than local concern and sought to avoid local boundary disputes by placing the responsibility for boundary determinations with a state commission. A copy of some of the discussion of this issue from the Alaska Constitutional Convention Proceedings is attached for your information.

At your request, I am holding this work order until I hear from you.

TBC:ljb

Enclosure

24/021

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

December 5, 1983

SUBJECT: Voter approval of
annexations (WO 13-1464)

TO: Representative Goll

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have provided me with additional comments from Mr. Louis O. Nelson and asked for my specific recommendations as to how citizen input into annexation decisions can be guaranteed within the limits of existing constitutional restraints.

Mr. Nelson has requested that local boundary changes, particularly annexations, be permitted to occur only if the voters in the annexing municipality, the area to be annexed, and the municipality that will loose the area, if any, separately approve the annexation. This, as I have indicated to you previously, would conflict with Article X, sec. 12 of the state constitution which places primary responsibility for local boundary changes with the Local Boundary Commission.

Assuming that you wish to avoid changing the state constitution, I think that the best way to insure that citizens have the chance to be heard on annexation decisions would be to provide for a vote along the lines suggested by Mr. Nelson, except that the vote would be advisory only. This would insure that, before making a decision on a particular proposed annexation, the Local Boundary Commission would necessarily be made aware of the feelings of the majority of the people directly affected. In addition, since recommendations for change by the Local Boundary Commission must be presented to the legislature, if after a negative vote the commission nevertheless chooses to approve an annexation, the unpopularity of that decision would be immediately clear to the legislature. The legislature would undoubtedly take that into consideration in determining whether to reject the proposed change.

Representative Goll
December 5, 1983
Page 2

Existing law requires that a public hearing be held to give the citizens a chance to express their views regarding a proposed annexation. However, because vocal minority opinions can predominate during the hearing process, I think it is easier for any agency to ignore public input during a hearing than it is to ignore a vote that reflects the feelings of the majority. Consequently, requiring a vote, even though it is advisory only, would probably go a long way towards addressing the concerns of Mr. Nelson. Even without ultimate legal control over an annexation issue, the majority would exert considerable political influence on the outcome.

The drawbacks to this approach would be the added expense of holding elections and additional delay this would inevitably cause in implementing an annexation. The expense could be reduced, of course, by limiting the scope of the election requirement. For example, perhaps only one election in the area to annexed needs to be held rather than holding an election in each of the three areas proposed by Mr. Nelson. Also, since the issue at hand involves an annexation, perhaps this bill could be limited to annexation procedures only and not affect other types of boundary changes. If the approach of requiring an advisory vote of some kind is taken, I believe that only procedures for annexation under AS 29.68.010(a) for which legislative review is required need to be altered. No changes will be needed to procedures for annexations by local action under AS 29.68.010(b), since that type of annexation necessarily reflects the desires of the local people. Enclosed you will find copies of administrative regulations 19 AAC 10.450 -. 590 and 19 AAC 10.630 -. 790 which Mr. Nelson requested. Please let me know if I can be of further assistance.

TBC:csh
w2/117

cc: Mr Louis O. Nelson

(2) the petitioner or his representative; and

(3) any person, entity, or municipality who has filed an answering brief pursuant to 19 AAC 10.390. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.980

19 AAC 10.410. REPLY BRIEF. Before the hearing described in 19 AAC 10.400 is held, the petitioner may file a brief in reply to any new matter raised in an answering brief. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.980

19 AAC 10.420. HEARING. (a) At a hearing held pursuant to 19 AAC 10.400, the petitioner shall first proceed to support the petition through exhibits, testimony, and other means which bear upon the issues raised by the petition. The presentation shall proceed in substantially the following manner:

(1) the presentation shall be conducted by the petitioner or his designated representative;

(2) the presentation shall be opened with a brief discussion of the reason for and the nature of the proposed incorporation;

(3) at the conclusion of the opening statement, the petitioner shall submit a list of the persons who will give statements in support of the petition; and

(4) the petitioner shall proceed to conduct his presentation in the manner indicated in his outline; however, the chairman of the commission may allow the petitioner to deviate from his outlined presentation.

(b) Upon completion of the petitioner's presentation, each respondent shall proceed, in the manner established by the chairman and in the same manner as prescribed for the petitioner, to present his views. The respondent's presentation shall include the information and arguments which the respondent wishes to advance in rebuttal of the petitioner's presentation.

(c) The petitioner may rebut the respondent's

presentation. Upon completion of the petitioner's rebuttal, the commission will hear views of interested persons who are not petitioners or respondents. To obtain the floor, a person must be recognized by the chairman and must state his name, address, and the nature of his interest. A person purporting to speak on behalf of a municipality shall demonstrate his authority to do so. The chairman may impose a reasonable limitation of the time allotted to each speaker and may curtail repetitive and irrelevant statements.

(d) Members of the commission may at any time pose questions or comment on matters raised during the hearing. Representatives of the department, with consent of the chairman, may pose questions or comment on matters raised during the hearing.

(e) The chairman may temporarily suspend the order of proceedings set forth in this section to allow rebuttal, counterrebuttal, or general public comment on a particular issue or issues. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.980

19 AAC 10.430. DECISIONAL MEETING. (a) Within 90 days after a public hearing held pursuant to 19 AAC 10.400, the commission shall convene a decisional meeting to examine all aspects of the written and oral testimony before it, to consider other relevant and reliable information available to it, and to enter a decision. A majority of the total membership of the commission voting in favor of accepting a proposed incorporation is needed to decide the issue. The votes for and against the proposed incorporation shall be recorded. A petition is rejected if not accepted. If unable to meet as one body, the commission will, in its discretion, provide for a conference telephone or radio phone decisional meeting open to the public at a time and place to be determined by the commission.

(b) The commission will keep written minutes summarizing its decisional meetings. The minutes approved by the commission are a public record. The votes taken by the commission shall be entered into the minutes.

(c) Within 30 days after the date of reaching its decision, the commission will prepare a written statement of its decision, including an explanation of the major considerations upon which it relied in reaching its decision.

(d) The commission will immediately mail its written decision to the petitioner and to other interested parties who give written notice that they desire a copy of the decision. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.980

19 AAC 10.440. PUBLIC MEETINGS. The commission will, in its discretion and before consideration of a petition requesting incorporation of a municipality, require a petitioner to conduct informational meetings or hearings in the area proposed for incorporation to acquaint the residents of the area with the purposes sought to be accomplished and the benefits which are expected to be derived by the residents should the incorporation be made and to solicit public opinions on the proposed incorporation. The commission will, in its discretion, require that transcripts or minutes be taken of the meetings or hearings for the commission's use and require that the petitioner's representative certify to the commission that the meetings or hearings were conducted as directed by the commission. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.980

**ARTICLE 13.
PROCEDURES FOR BOUNDARY
CHANGES REQUIRING LEGISLATIVE
REVIEW**

Section

- 450. Applicability
- 460. Petition
- 470. Petitioner
- 480. Form and contents
- 490. Exhibits
- 500. Briefs
- 510. Service
- 520. Review of petition
- 530. Notice of petition
- 540. Call for hearing
- 550. Answering brief
- 560. Reply brief

- 570. Department report
- 580. Hearing and decisional meeting
- 590. Noncompliance
- 600. Determination of procedure
- 610. Certification of boundary changes
- 620. Public meetings

19 AAC 10.450. APPLICABILITY. The provisions of 19 AAC 10.460 – 19 AAC 10.620 apply to an annexation or detachment proceeding initiated pursuant to AS 44.47.567(b)(2) and AS 29.68.010(a). (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

19 AAC 10.460. PETITION. A request for a local government boundary change under 19 AAC 10.450 – 19 AAC 10.620 is initiated by filing an original and six copies of a petition and supporting brief with the commissioner. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.460 is based on a former version of 19 AAC 10.010.

19 AAC 10.470. PETITIONER. (a) A petition may be initiated by

(1) the governing body of a municipality whose boundaries are to be changed;

(2) the governing body of an organized borough in which the territory is located;

(3) at least 10 percent of the registered voters residing in the territory to be annexed or detached, in the municipality to be dissolved, or in each municipality to be merged or consolidated;

(4) the commissioner.

(b) The person or entity initiating the petition shall be designated the petitioner. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.470 is based on a former version of 19 AAC 10.020.

19 AAC 10.480. FORM AND CONTENTS. (a)

The petition shall be addressed to the commission and shall bear a caption which clearly identifies the nature of the boundary change and the municipality or municipalities whose boundaries are to be changed.

(b) The petition shall contain the following information about the territory:

(1) the name and residence address or mailing address of each petitioner;

(2) the name, telephone number, and mailing address of the representative designated by the petitioner to receive service, notice, and other correspondence relating to the proceedings on behalf of the petitioner;

(3) a legal boundary description;

(4) a legal description of the boundaries of the municipality should the boundary change be effected;

(5) the assessed or estimated value of taxable property, giving separate totals for real and personal property;

(6) the number of residents in the territory;

(7) the rate or rates at which real and personal property are taxed;

(8) the rate or rates of sales and use taxes levied and collected;

(9) the amount and a full explanation of the outstanding bonded indebtedness for which the territory is wholly or partially responsible;

(10) the population and area of the municipality affected by the proposed boundary change. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.480 is based on a former version of 19 AAC 10.030.

19 AAC 10.490. EXHIBITS. (a) The petitioner shall append to the petition the following exhibits:

(1) a map or maps showing

(A) the present boundaries of the municipality whose boundaries are to be changed and the boundaries of the municipality if the proposed boundary change becomes effective; and

(B) sufficient detail to define the streets and roadways of the municipality;

(2) an affidavit of the petitioner, or his representative who prepared the petition, indicating the source from which the information contained in the petition was acquired and stating that a census or other reliable enumeration of the territory was conducted by him or under his direct supervision, specifying the dates when the census or enumeration was begun and completed and verifying that it was taken accurately;

(3) a copy of the agreements, if any, entered into with another municipality regarding the transitional provision of services and distribution of assets and liabilities;

(4) a certified copy of the resolution or ordinance authorizing the municipality to file the petition if the petitioner is a municipality;

(5) the affidavit of the petitioner or his representative that service of the petition has been made in compliance with 19 AAC 10.510.

(b) Maps submitted as exhibits to copies of the petition shall conform in color and other distinguishing markings to the original exhibit.

(c) If an official census has been made of the territory by the federal, state, or municipal government within three years of the date of the petition, a copy of that census may be appended to the petition in lieu of the census affidavit required under (a)(2) of this section. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.490 is based on a former version of 19 AAC 10.040.

19 AAC 10.500. BRIEFS. The petition must be accompanied by a written brief. The brief shall fully set forth the reasons supporting the boundary change and shall demonstrate that the boundary change meets the applicable standards established in this chapter for annexation or detachment. The commission will, in its discretion, require additional information which it determines will be useful for evaluation of the petition. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.500 is based on a former version of 19 AAC 10.050.

19 AAC 10.510. SERVICE. (a) The petitioner shall, by certified mail, serve a copy of the petition and brief, together with accompanying exhibits, upon every municipality in or adjoining the territory. The service shall be made at the same time that the petition is filed with the commissioner.

(b) The petitioner shall arrange that the petition, exhibits, and brief will be available for inspection by the general public at a designated place in or near the territory. The affidavit required under 19 AAC 10.490 shall specify the exact location where and when the petition is available for inspection. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.510 is based on a former version of 19 AAC 10.060.

19 AAC 10.520. REVIEW OF PETITION. (a) The department will review the petition and brief and determine whether they

- (1) are in substantially the proper form; and
- (2) contain the factual information required by this chapter.

(b) If the department determines that the petition or brief is deficient as to form or content, it will return the defective petition or brief for correction or completion. If the department determines that the petition and brief are in substantial compliance with these regulations, it will notify the petitioner that the petition

and brief have been accepted. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.520 is based on a former version of 19 AAC 10.070.

19 AAC 10.530. NOTICE OF PETITION. (a) Upon receipt of notice from the department that the petition and brief have been accepted, the petitioner shall cause notice of the filing of the petition to be published in a newspaper of general circulation in the territory. The notice shall be in the form specified by the commissioner; shall include a brief explanation of the proposed boundary change, the name of the petitioner, and the name of each municipality whose boundaries are to be changed; and shall indicate the place where the petition and brief may be inspected by the public as provided in 19 AAC 10.510. Additionally, the notice shall advise persons that they may file an answering brief pursuant to 19 AAC 10.550 in response to the proposal or that they may submit written comments to the department.

(b) The petitioner shall furnish the commissioner with proof of compliance with (a) of this section. Upon receipt of the proof, the commissioner shall submit the petition and brief to the commission.

(c) A petition filed with the commissioner may not be considered to be pending before the commission until the petition and brief have been submitted to the commissioner pursuant to this section. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.530 is based on a former version of 19 AAC 10.080.

19 AAC 10.540. CALL FOR HEARING. The commission will establish a time and place for a hearing concerning a proposed boundary change which shall be held in or near the territory. The commission will publish notice of the hearing at least 15 days before the date of the hearing at least three times in a newspaper of general circulation in the territory, through other news media, or by posting in a public

place, whichever is most feasible. At least 15 days before the date of the hearing, the commission will give public notice of the hearing and cause notice of the hearing to be served by certified mail upon

(1) the municipalities specified in 19 AAC 10.510;

(2) the petitioner or his representative; and

(3) any person or municipality who has filed an answering brief pursuant to 19 AAC 10.550. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.540 is based on a former version of 19 AAC 10.090.

19 AAC 10.550. ANSWERING BRIEF. (a) A person or entity residing or owning property in the territory, or the governing body of a municipality affected by a proposed boundary change may file a brief in opposition to the proposed boundary change. The original of the brief shall be filed with the commissioner together with proof that one copy was served upon the petitioner or his designated representative.

(b) A person, entity, or municipality filing an answering brief shall be designated a respondent.

(c) The answering brief shall indicate the factual information thought to be incorrectly or incompletely presented in the petition or the petitioner's brief and shall demonstrate the manner in which the proposed boundary change fails to satisfy the appropriate standards prescribed in this chapter. The brief shall include a discussion of the considerations set forth in 19 AAC 10.500. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.550 is based on a former version of 19 AAC 10.100.

19 AAC 10.560. REPLY BRIEF. Before a hearing is held pursuant to 19 AAC 10.540, the petitioner may file a brief in reply to any new

matter raised in an answering brief. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.560 is based on a former version of 19 AAC 10.110.

19 AAC 10.570. DEPARTMENT REPORT. The department will prepare a report on the proposed boundary change. The report will summarize the issues raised in the petition and briefs and may comment upon those issues or any other issue which the department considers relevant to the proposal. The report will contain recommendations to the commission. The report will be filed with the commission before the date of the hearing established under 19 AAC 10.540. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.570 is based on a former version of 19 AAC 10.120.

19 AAC 10.580. HEARING AND DECISIONAL MEETING. The commission's public hearing and decisional meeting concerning a proposed boundary change will be conducted in the manner set forth in 19 AAC 10.420 - 19 AAC 10.430. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.580 is based on former versions of 19 AAC 10.130 and 19 AAC 10.140.

19 AAC 10.590. NONCOMPLIANCE. The commission will, in its discretion, waive compliance with the regulations of this chapter if substantial rights of interested parties are not prejudiced by the waiver. A deviation from the procedures set forth in this chapter is waived by the commission unless the commission or a party objects. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.590 is based on a former version of 19 AAC 10.150.

19 AAC 10.600. DETERMINATION OF PROCEDURE. If there are alternative procedures for effecting a boundary change, the commission will select the procedure which it considers most appropriate under the circumstances. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.600 is based on a former version of 19 AAC 10.160.

19 AAC 10.610. CERTIFICATION OF BOUNDARY CHANGES. Within 30 days after a boundary change becomes effective, the department will prepare a certificate of the new boundaries. The department will transmit duplicate originals of the certificate to the municipality or municipalities whose boundaries have been changed. The department will also record a copy of the certificate in the recording district in which the boundary change has taken place. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.610 is based on a former version of 19 AAC 10.170.

19 AAC 10.620. PUBLIC MEETINGS. The commission will, in its discretion, and before considering a petition requesting a boundary change, require municipalities whose boundaries are proposed to be changed to conduct meetings or hearings in the area to acquaint residents with the purposes sought to be accomplished and the benefits which are expected to be derived by residents should the boundary change be made and to solicit public opinions on the proposed boundary change. The commission will, in its discretion, require that transcripts or minutes be taken of the meetings or hearings for the commission's use and require that the municipality certify to the commission that such meetings or hearings were conducted as directed by the commission. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.620 is based on a former version of 19 AAC 10.180.

ARTICLE 14. PROCEDURES FOR BOUNDARY CHANGES BY LOCAL ACTION

Section

- 630. Application of provisions
- 640. Filing of petition
- 642. Department review of petition
- 645. Review by local boundary commission
- 650. Annexation without election
- 660. Annexation or detachment by election
- 670. Notice of election
- 680. Conduct of election
- 690. Form of ballot
- 700. Canvassing of election
- 710. Effective date of boundary change
- 720. Annexation of municipally owned property
- 730. Timeliness

19 AAC 10.630. APPLICATION OF PROVISIONS. The provisions of 19 AAC 10.460 – 19 AAC 10.530 apply to boundary changes under 19 AAC 10.630 – 19 AAC 10.730. However, at least 25 percent of the registered voters of the territory must petition for a boundary change under 19 AAC 10.630 – 19 AAC 10.730, rather than the 10-percent requirement provided by 19 AAC 10.470(3). The provisions of 19 AAC 10.630 – 19 AAC 10.730 apply to local boundary changes authorized under AS 29.68.040(b). (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.630 is based on former versions of 19 AAC 15.010, 19 AAC 15.020, 19 AAC 15.030, 19 AAC 15.170, 19 AAC 15.180 and 19 AAC 15.190.

19 AAC 10.640. FILING OF PETITION. A petition initiated by 25 percent or more of the registered voters of the territory shall be filed with the clerk of the municipality affected by the proposed boundary change. Within 14 calendar days of the receipt of the petition, the governing body of the municipality shall conduct a public review of the petition. Within 14 calendar days following the public review, the municipality shall forward the petition, exhibits, and related materials, together with a report of its findings and recommendations concerning the petition, to the department. A petition initiated by the governing body of a

municipality shall be forwarded, along with other required materials, directly to the department. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.640 is based on former versions of 19 AAC 15.050 and 19 AAC 15.210.

19 AAC 10.642. DEPARTMENT REVIEW OF PETITION. (a) The department shall review the petition and brief and determine whether they are in substantially the proper form and contain the factual information required by 19 AAC 10.630 – 19 AAC 10.730. If the department determines that the petition is deficient as to form or content, it will return the defective petition for correction or completion. If the department determines that the petition is in substantial compliance with these regulations, it will so notify the petitioner.

(b) The action required by the department in (a) of this section will be accomplished in no more than 30 working days from the date the department receives the petition. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.642 is based on former versions of 19 AAC 15.060 and 19 AAC 15.220.

19 AAC 10.645. REVIEW BY LOCAL BOUNDARY COMMISSION. (a) A decision of the commission on a petition submitted under 19 AAC 10.630 – 19 AAC 10.730 will be rendered within 30 days of receipt of the petition from the department. The commission will, in its discretion, act by telephone or mail. However, noncompliance with the time limit established in this subsection for commission action will not affect the validity of a resulting boundary change.

(b) Notwithstanding other provisions of this chapter, if the commission determines that a proposed boundary change is of compelling public importance or if the interests of an individual or organization may not be properly protected the commission will, in its discretion and without limitation, require that the petition be acted upon pursuant to 19 AAC 10.450 – 19 AAC 10.620. If the determination is made,

the commission will schedule public hearings within 45 days, and will notify the petitioner of its determination. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.645 is based on former versions of 19 AAC 15.070 and 19 AAC 15.230.

19 AAC 10.650. ANNEXATION WITHOUT ELECTION. (a) Notwithstanding the provisions of 19 AAC 10.660 – 19 AAC 10.710, an area adjoining a municipality may be annexed by ordinance of the municipality if all property owners and registered voters within the area petition the assembly or council for annexation.

(b) If an annexation petition is submitted pursuant to AS 29.68.010(b)(3) and this chapter, the department will determine whether the requisite signatures have been obtained. The department shall notify the assembly or council whether the petition is in accordance with this section and if it is in accordance with this section and the commission does not object to the annexation within 30 days, the annexation is effective upon the date of the notification.

(c) For the purposes of this section, "property owners" means all persons or entities necessary to convey fee title to the real property in question but does not include mortgagees, trustees, beneficiaries under deeds of trust, or the federal, state, or any municipal government. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.650 is based on a former version of 19 AAC 15.140.

19 AAC 10.660. ANNEXATION OR DETACHMENT BY ELECTION. Not less than 60 nor more than 90 days after the notification required by 19 AAC 10.670, the assembly or council shall submit the proposition to the voters in the area proposed to be annexed or detached. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.660 is based on former versions of 19 AAC 15.080 and 19 AAC 15.240.

19 AAC 10.670. NOTICE OF ELECTION. The assembly or council of a municipality which receives a petition for a boundary change under 19 AAC 10.660 - 19 AAC 10.710 shall give notice of an election by publication in a newspaper of general circulation in the territory proposed to be annexed or detached once each week for a period of three successive weeks before the election, and by posting notice in three public and prominent places within the territory proposed to be annexed or detached during the same period. If no newspaper of general circulation is available, public posting of the notice will suffice. Posting of the notices and initial publication of the notice in the newspaper shall be at least four weeks before the date of the election. The notice shall state

..... ? Yes or No." (Eff. 2/21/82, Reg. 81)
Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.690 is based on former versions of 19 AAC 15.110 and 19 AAC 15.270.

19 AAC 10.700. CANVASSING OF ELECTION. The assembly or council shall meet within 10 days of the election and canvass the votes cast. The assembly or council shall issue a certificate showing the number of votes cast in favor of the proposal and the number of votes cast against. The certificate, together with the ballots cast, shall immediately be filed with the clerk of the municipality and a copy forwarded to the department. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.700 is based on former versions of 19 AAC 15.120 and 19 AAC 15.280.

19 AAC 10.710. EFFECTIVE DATE OF BOUNDARY CHANGE. A boundary change is effective upon the approval by a majority of the voters voting on the question residing within the territory and upon the subsequent filing of the certificate required by 19 AAC 10.700. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.710 is based on former versions of 19 AAC 15.130 and 19 AAC 15.290.

19 AAC 10.720. ANNEXATION OF MUNICIPALY OWNED PROPERTY. (a) Notwithstanding other provisions of this chapter, municipally owned property adjoining the municipality may be annexed by ordinance without voter approval.

(b) Within five days of adoption of an ordinance annexing territory pursuant to (a) of this section, one certified copy of the ordinance, giving the date of adoption, shall be filed with the department. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.720 is based on a former version of 19 AAC 15.150.

- (1) the proposition to be submitted;
- (2) the boundaries of the territory to be annexed or detached; and
- (3) any provision or agreement governing distribution of liabilities or assets. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.670 is based on a former version of 19 AAC 15.090.

19 AAC 10.680. CONDUCT OF ELECTION. Except as otherwise provided in this chapter, the assembly or council of the municipality affected by the proposed boundary change shall conduct the election in the manner prescribed by its election code. The municipality whose boundaries would be affected shall pay the election costs. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.680 is based on former versions of 19 AAC 15.100 and 19 AAC 15.260.

19 AAC 10.690. FORM OF BALLOT. The assembly or council shall place upon the ballot the following proposition: "Shall the following described territory be annexed (detached) to (from) the (name of municipality)

19 AAC 10.730. TIMELINESS. A proposal under this chapter which is defeated in an election may not be included in a like proposal covered by a subsequent petition under this chapter filed within one year after the first petition. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.730 is based on former versions of 19 AAC 15.160 and 19 AAC 15.300.

ARTICLE 15. PROCEDURES FOR STEP ANNEXATION

Section

- 735. Applicability
- 740. Petition
- 750. Local election
- 760. Taxes
- 770. Voting
- 780. Ordinances
- 790. Borough services

19 AAC 10.735. APPLICABILITY. The provisions of 19 AAC 10.740 – 19 AAC 10.790 apply to annexation proceedings initiated pursuant to AS 44.47.567(a)(4). (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

19 AAC 10.740. PETITION. An annexation petition submitted to the commission may request that during each of not more than five full fiscal years after the annexation takes effect, the rate of taxation for city services on the annexed properties shall be at a specified percentage of the full city tax rate. The proposal shall provide an increase from fiscal year to fiscal year until the percentage equals 100 percent of the full city tax rate. The city may not tax annexed property at a rate other than the percentage authorized for that year; however, the city pursuant to AS 29.53.405 may levy taxes on the annexed area at a different percentage from that authorized for the year in question, if the difference is attributed to the cost of provision in the territory of a special

service not supported by the general city levy. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.740 is based on a former version of 19 AAC 10.190.

19 AAC 10.750. LOCAL ELECTION. The commission will require the governing body of the city to which annexation is sought to submit the proposal to the voters in the area to be annexed. The city shall bear the expenses of the election and shall submit to the department or commission the information and reports that either may require before, during, or after the election. The election is not valid unless the notices pertaining to the election, the way in which the proposal is phrased on the ballot, and the timing of the election have been approved by the commissioner. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.750 is based on a former version of 19 AAC 10.200.

19 AAC 10.760. TAXES. The percentage of city taxes on newly annexed properties is determined as follows:

(1) city services to be provided during each year are scheduled by the petitioners or the commission in consultation with city officials;

(2) the cost of each service as a percentage of the gross general fund expenditure for the fiscal year immediately preceding the annexation is computed;

(3) newly annexed residents pay a percentage of the full city property tax rate equal to the total percentage cost of all services provided. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.760 is based on a former version of 19 AAC 10.210.

19 AAC 10.770. VOTING. Residents in the newly annexed territory have the same voting privileges as other city residents. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.770 is based on a former version of 19 AAC 10.220.

19 AAC 10.780. ORDINANCES. City sales-tax ordinances and all other city ordinances except those applicable to city services not yet provided in the territory are immediately effective in the annexed territory. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.780 is based on a former version of 19 AAC 10.230.

19 AAC 10.790. BOROUGH SERVICES. The city must accept immediate responsibility for non-area-wide borough services currently provided in the annexed territory. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.790 is based on a former version of 19 AAC 10.240.

ARTICLE 16.
PROCEDURES FOR MERGER OR
CONSOLIDATION OF MUNICIPALITIES

Section

- 800. Procedure for merger or consolidation
- 810. Effective date of merger or consolidation

19 AAC 10.800. PROCEDURE FOR MERGER OR CONSOLIDATION. (a) In considering a merger or consolidation petition, the commission will use the same process as set out in 19 AAC 10.630 - 19 AAC 10.700 for considering local action annexations except that the election on the question of merger or consolidation shall be counted in the following two categories:

- (1) votes cast within cities; and

- (2) votes cast outside cities.

(b) To pass, the merger or consolidation proposal must be approved in both categories set out in (1) and (2) of this section. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

19 AAC 10.810. EFFECTIVE DATE OF MERGER OR CONSOLIDATION. If the proposal to consolidate or merge two or more municipalities is approved as required by 19 AAC 10.800, the merger or consolidation is effective 90 days from the filing of the certificate of election results with the commissioner. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

ARTICLE 17.
MISCELLANEOUS PROVISIONS

Section

- 820. Severability of parts of regulations
- 830. General provisions
- 840. Definitions

19 AAC 10.820. SEVERABILITY OF PARTS OF REGULATIONS. The provisions of this chapter are severable, and if any provision of this chapter is declared invalid by a court of competent jurisdiction, the invalidity does not affect the remaining provisions of this chapter. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.820 is based on a former version of 19 AAC 20.010.

19 AAC 10.830. GENERAL PROVISIONS. (a) Nothing in this chapter may be construed to require the commission to approve a boundary change which the commission determines not to be in the best interest of sound local government.

(b) The enumeration in this chapter of standards or factors for consideration may not be construed as exclusive of other factors which,

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

LOCAL BOUNDARY COMMISSION

March 7, 1985

Honorable Peter Goll
Chairman
House Community and Regional
Affairs Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Goll:

Please accept my apologies for the delay in informing you of the Local Boundary Commission's thinking on H.B. 15 (with your penciled changes).

As I had indicated to you in Juneau on February 19, the Local Boundary Commission did discuss this subject during a work session held in Anchorage on February 25. Additional discussion also took place informally en route to a Local Boundary Commission hearing in Akiachak on March 2.

Basically, the Commission opposes requiring an advisory election to be held for legislative annexations. We feel that the legislative annexation process is a legitimate means for a municipality to annex territory and that adequate safeguards against the misuse of this process, i.e. Department of Community and Regional Affairs investigation and report, Local Boundary Commission hearing and decision, and Legislative review, already exist.

The Commission has no objection to a municipality undertaking opinion polls in areas proposed for legislative annexation. However, we do not feel that an advisory election should be mandated since the "popularity" of legislative annexations is not the primary issue which the Commission must consider in making a judgement in such cases.

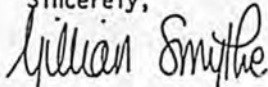
In am sorry I cannot be of more assistance to you on this subject as I realize it is one about which you are personally concerned. I would

- POUCH BH
JUNEAU, ALASKA 99811
PHONE: (907) 465-4707
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 561-8586
- P.O. BOX 348
BETHEL, ALASKA 99559
PHONE: (907) 543-3475
- P.O. BOX 41
NOME, ALASKA 99762
PHONE: (907) 443-5457
- P.O. BOX 280
KOTZEBUE, ALASKA 99752
PHONE: (907) 442-3675
- 1514 CUSHMAN STREET, ROOM 201
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-7126
- P.O. BOX 10041
DILLINGHAM, ALASKA 99576
PHONE: (907) 842-2245

Honorable Peter Goll
March 7, 1985
Page 2

I like to thank you for the courtesy which you showed me and other Local
Boundary Commission members in Juneau. It was very much appreciated.

Sincerely,


Gillian Smythe

GS:da

cc: DCRA, MRAD
LBC Commission Members

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

March 22, 1985

POSITION PAPER

RE: CSHB 15

SPONSORS: Representatives Peter Goll and Andre Marrou (by request)

Program Effects of the Bill (with Division of Election's involvement);

The Committee Substitute is substantially different from the original bill in two respects:

1. The Committee Substitute would require that an advisory election be conducted only in the area proposed for annexation. The original bill would also have required advisory elections in:
 - a) any municipality that includes the area proposed to be annexed; and
 - b) the municipality proposing annexation.
2. The Committee Substitute would no longer require the State to conduct the elections in those instances where a "legislative review" annexation petition is initiated by a municipality. However, our experience has been that such petitions are virtually always submitted by a municipality (although administrative regulations also permit such petitions to be submitted by residents or the Commissioner of the Department of Community and Regional Affairs).

Comments

The effects of these changes are to:

1. Reduce the fiscal impact of the bill by reducing the extent of the elections required;
2. Transfer this reduced fiscal impact from the State to municipal governments (again, our experience has been that legislative review annexation petitions are virtually always submitted by a municipality).

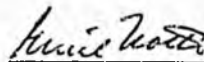
CSHB 15
March 22, 1985
Page 2

As such, the philosophical issues concerning the aspects of this bill which do not relate to cost are basically the same as those expressed in the Department's position paper regarding the original bill.

Again, it must be recognized that the Legislative Review process for annexation has been a part of the State Constitution since its ratification by the people of Alaska in 1956. This process was included in the Constitution in order to provide municipal governments with the means to effect an annexation to accommodate a compelling public need or public interest in those circumstances where a majority of the residents in the territory proposed for annexation might not support it.

While CSHB 15 would not require that Legislative Review annexations gain approval from the voters, it does require that the Commission consider the results of the advisory election. Further, the results of the advisory election would, no doubt, enter into the deliberations of the Legislature. Again, the nature of Legislative Review annexations is such that they are seldom supported by the people proposed for annexation. As such, the implications of requiring an advisory election seem to conflict with the principles behind this process.

Therefore, the Department is opposed to this measure.



Emil Notti
Commissioner

March 6, 1985

POSITION PAPER

RE: HB 15

SPONSOR: Representative Peter Goll

Program Effects of Bill

The bill would add a new section (AS 44.47.582) to the laws governing the procedures of the Alaska Local Boundary Commission. The new section would require that before the Local Boundary Commission could act upon a petition for annexation pursuant to the Legislative Review process (i.e. AS 29.68.010(a)), an advisory election on the proposed annexation would have to be held and the results considered by the Commission. The required election would have to separately tally the votes of the residents of:

1. the area proposed to be annexed;
2. any municipality that includes the area proposed to be annexed; and
3. the proposed annexing municipality.

The bill requires the Division of Elections to supervise the election and for the State to pay all election costs.

Comments

There are four different means of annexing territory to a city. Three of the four methods require approval of the Local Boundary Commission and/or all of the property owners and/or resident voters before an annexation may be effected. The fourth means, the Legislative Review process, requires the approval of the Local Boundary Commission and the State Legislature. It is this fourth process which is the target of House Bill 15.

The Legislative Review process for annexation has been a part of the State Constitution since its ratification by the people of Alaska in 1956. This process was included in the Constitution in order to provide municipal governments with the means to effect an annexation to accommodate a compelling public need or public interest in those circumstances where a majority of the residents in the territory proposed for annexation might not support it.

HB 15
March 6, 1985
Page 2

While, HB 15 would not require that Legislative Review annexations gain approval from the voters, it does require that the Commission consider the results of the advisory election. Further, the results of the advisory election would, no doubt, enter into the deliberations of the Legislature. Again, the nature of Legislative Review annexations is such that they are seldom supported by the people proposed for annexation. As such, the implications of requiring an advisory election seem to conflict with the principles behind this process.

Interestingly enough, shortly before this bill was introduced, certain members of the Local Boundary Commission expressed a desire to have municipal governments conduct a poll of the residents of an area proposed for annexation through the Legislative Review process.

Other concerns we have regarding this bill are:

- ° that the requirements for the election could add from 45 to 90 days to the time required for the processing of a legislative review annexation petition;
- ° that presently, the State is not involved in conducting local elections within a municipal government, this may be considered by local governments as an infringement by the State on local responsibilities;
- ° the elections would require the expenditure of substantial amounts of money [note: Division of Elections to prepare fiscal note].

Of course, the last two concerns could be resolved by modifying the bill to require that the elections be conducted by the municipality to which the territory has been proposed for annexation.

Emil Notti, Commissioner

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

April 2, 1985

The Honorable Peter Goll, Chairman
Community and Regional Affairs Committee
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative *Peter* Goll:

RE: CSHB 15

You have requested our suggestions for improvements to CSHB 15, an Act requiring advisory elections for legislative review annexation proposals. We have identified three alternatives to advisory elections which we feel have substantial benefits over an election. These alternatives, in order of our preference, are mandatory public hearings by the Department, informational meetings conducted by the Local Boundary Commission and mandatory public opinion polls.

Our preference would be to add a new section to AS 29.68 which would require the Department to conduct a public hearing on petitions for annexation using the legislative review process. Such requirements would be similar to the provisions currently required by AS 29.18.070 for incorporation proposals.

The hearing could accomplish the same objective as that proposed by CSHB 15, in that it would enable residents of the territory to state their preference on the proposed annexation. In fact, a hearing would provide the residents with far greater opportunity than that provided by an advisory election to impact this agency's recommendation on proposed annexations. An advisory election would simply tally the number of voters in favor and the number opposed to the proposed annexation, whereas a hearing would enable individuals to articulate the rationale for their positions.

The fiscal impact of such requirements would not be great. I estimate that the costs relating to travel, per diem, providing public notice of the hearing and other direct expenses (excluding currently salaried personnel costs) would be approximately \$500 per hearing. Assuming five such annexation proposals per year, the fiscal impact of this requirement would be estimated at \$2,500 per year.

The Honorable Peter Goll
RE: CSHB 15
April 2, 1985
Page 2

As an alternative to a statutory mandate for the public hearing, the Committee could request the Department to begin, as a matter of policy, conducting hearings on such annexations in the manner discussed above. The Department could even include such provisions in the administrative regulations governing proceedings concerning legislative review annexations.

The second option would require, by either statute or regulation, that the Local Boundary Commission hold an informational meeting on the petition prior to the public hearing.

As the less preferred alternative, the Committee could propose adding a new section to AS 29.68 which would require that a public opinion poll be conducted in the territory proposed for annexation. As is the case with the public hearing, a proper public opinion poll could serve to provide the Department and the Local Boundary Commission with greater useful information than would be provided with a simple tally of votes from an advisory election.

Standards and procedures for the conduct of public opinion polls would have to be carefully developed to ensure that the poll was both accurate and creditable. For example, by requiring a poll of every registered voter in the territory proposed for annexation whose State Voter Number ends with an odd number, would ensure that the poll would be highly representative of the total number of registered voters and that the individuals polled were selected in an unbiased manner.

I feel that the burden for conducting the poll should be placed on the petitioner. As such, there would be no fiscal impact on the State for such requirements. Again, as an alternative to imposing such requirements by law, the Department could require public opinion polls through its administrative regulations.

Attached for your information is a list of questions which might be used in such a poll.

The Honorable Peter Goll
RE: CSHB 15
April 2, 1985
Page 3

Another idea to improve the process would be to have the Local Boundary Commission make available summaries of the testimony at the public hearing, along with the other material currently provided.

If you would like to discuss this matter further, please contact me.

Sincerely,



Jeff Smith
Deputy Commissioner

cc: Marty Rutherford, Director
Municipal and Regional Assistance Division

Tom Lane, Planner
Municipal and Regional Assistance Division

Attachment: as stated

PUBLIC OPINION POLL REGARDING ANNEXATION
PAGE ONE OF TWO

1. Are you aware of the City's proposal to annex _____ square miles, including the territory in which you live? [Note: if not, see the attached map showing the boundaries of this territory]
() yes () no
2. In your opinion, does any part or all of the territory proposed for annexation have the following characteristics?
- URBAN (is the population density approximately equal to that of the City, is the development in this area the result of growth beyond the present City boundaries, is the property suitable for urban purposes);
() yes () no
 - NEED FOR SERVICES BY CITY (is the territory in need of municipal services which the City can provide more efficiently than another municipality);
() yes () no
 - GROWTH (is there a reasonable likelihood that future growth and development will occur in the territory in a manner that would benefit from City planning and control);
() yes () no
 - HEALTH (are there conditions developing or existing in the territory which could endanger the health, welfare or safety of residents which could be relieved through annexation);
() yes () no
 - TERRITORY NEEDED TO EXTEND SERVICES (is it necessary to annex this territory to enable the City to extend facilities or services to other individuals presently residing in the City);
() yes () no
 - RESIDENTS ALREADY RECEIVING SERVICES (are residents or property owners within the territory using City facilities and services without paying for them);
() yes () no
 - OTHER PUBLIC PURPOSE (are there other reasons why this territory should be annexed);
() yes () no
3. Are you in favor of annexation?
() yes () no

PUBLIC OPINION POLL REGARDING ANNEXATION
PAGE TWO OF TWO

4. State the principal reason(s) for your answer to question #3

-

-

-

-

-

-

5. How long have you been a resident of the territory proposed for annexation?

_____ years _____ months

6. Are you a head of household?

() yes () no

7. Are you a female or male?

() female () male

8. Do you own or rent your current residence?

() own () rent

9. Do you own other real property in the area proposed for annexation?

() yes () no

10. If your answer to question #9 is yes, is this property comprised of land or land and buildings?

() land () land and buildings

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

May 6, 1986

POSITION PAPER

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

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

Gina Ragle
Ag's Office
3600

RE: SCSCS HB 15 (State Affairs)

SPONSORS: Representatives Goll and Marrou by request

Program Effects of Bill

If a municipality requests annexation under the legislative review process [AS 29.06.040(b)], the bill would require the municipality to conduct an advisory election on the proposed boundary change among the registered voters residing in the area proposed for annexation. If the annexation was not initiated by the municipality whose boundaries were to be changed, the Alaska Division of Elections would be responsible for conducting the election. In either case, the results of the advisory election must be made available to the Local Boundary Commission at a hearing to be conducted on the proposed annexation.

The effects of subsection (c) of the bill are unclear. Presumably, it is intended to permit municipalities to gain advisory opinions from individuals other than the registered voters of the territory proposed for annexation.

Additional confusion results from the reference in the bill to AS 29.06.040(a).

Comments

The Department opposes this bill for the following reasons:

- ° The special elections required under the bill would, we believe, be subject to the provisions of the Federal Voting Rights Act of 1965, as amended (FVRA). Thus, before such an election could be held, the concurrence of the U.S. Department of Justice to hold the election would have to be gained under the provisions of the FVRA. The preparation of the FVRA submission will, in most instances, represent a substantial effort for a municipality to comply with this requirement. Review of the submission by the Department of Justice would typically entail a minimum 60 day period of time.



① How does the election process affect time?

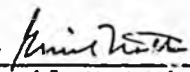
② How much administrative burden?

③ Does Elections have authority to help clearing out up elections. They were born...

21-PILH

- ° Conducting elections will be expensive for the municipalities involved. (NOTE: nearly all of the legislative review annexation petitions are initiated by municipalities. Thus, the burden of this bill would fall principally upon those entities) In addition to preparing the FVRA submission, municipalities would have to schedule and conduct the elections. Because the area proposed for annexation will, in virtually every instance, differ from any established voting precinct, conducting such elections will be particularly difficult.
- ° We believe that the bill would add three months or more to the time required to prepare and submit a petition for annexation under the legislative review process.
- ° Last, but certainly not least, we believe that the requirement that the Local Boundary Commission must consider the results of such advisory elections contravenes the intent of Article X, Section 12 of the State Constitution. It is the specific purpose of this Article that such boundary changes be considered by the Local Boundary Commission and the Legislature in the broad interests of the State, outside of the parochial interests of the area affected by the boundary change.

Therefore, we do not recommend that the bill become law.

APPROVED: 
Emil Notti, Commissioner

Offered: 5/1/86
Referred: Community & Regional Affairs
and Finance

Original sponsors: Goll and Marrou
by request

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 15 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to advisory elections on certain
7 annexation proposals."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 29.06 is amended by adding a new section to read:
10 Sec. 29.06.045. ADVISORY ELECTIONS ON ANNEXATIONS. (a) If a
11 municipality requests an annexation proposed to be effected under
12 AS 29.06.040(a) and (b), and if there are people residing in the area
13 proposed for annexation, the municipality shall present the results of
14 an advisory election on the proposal to the Local Boundary Commission
15 at the hearing conducted under AS 44.47.581. The advisory election
16 shall be conducted by the municipality in the area proposed for
17 annexation in accordance with procedures for a regular or special
18 election.
19 (b) If an annexation that is not requested by a municipality is
20 proposed to be effected under AS 29.06.040(a) and (b), and if there
21 are people residing in the area proposed for annexation, the director
22 of elections shall present the results of an advisory election on the
23 proposal to the Local Boundary Commission at the hearing conducted
24 under AS 44.47.581. The advisory election shall be conducted by the
25 director of elections in the area proposed for annexation in the
26 general manner prescribed by the Alaska Election Code (AS 15). The
27 state shall pay all election costs for elections under this
28 subsection.
29 (c) A municipality may conduct an advisory election on an



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

March 27, 1985

MEMORANDUM

TO: Representative Peter Goll

ATTN: Bob Berry

FROM: Rob Waldman *RW*
Legislative Analyst

RE: Historical Background of the Local Boundary Commission
Research Request 85-262

You asked that we provide historical background on the formation of the Local Boundary Commission. Historical information was obtained through interview with Senators Victor Fischer and Jack Coghill and through review of the minutes of the Alaska Constitutional Convention; the text of the State Constitution and Statehood Committee reports.¹

According to Senator Coghill, the concept of the Local Boundary Commission resulted from the constitutional convention's attempt to resolve jurisdictional conflicts between the different types of governmental entities that functioned under territorial law.² Its function was to review local government structure and adjudicate conflicts between jurisdictions. Prior to statehood, all jurisdictional disputes and boundary modifications were adjudicated by federal district courts. The members of the convention felt that the function of settling these issues should not be delegated to the court system; they felt that the executive branch should adjudicate boundary disputes and modifications.

¹Minutes to the Proceeding of the Alaska Constitutional Convention, 1955-56, pages 2665-2666, 2745-2753, and 2759-2760.

A Citizens's Guide to the Constitution of the State of Alaska, Gordon Harrison, 1982; Alaska's Constitutional Convention, Victor Fischer 1975.

Proposed Organization of the Executive Branch, State of Alaska, A Survey Report, 1958; Local Government Under the Alaska Constitution, A Survey Report, 1959, Public Administration Service.

²Under Territorial law, jurisdiction conflicts could arise between school districts, utility districts, cities, road districts, etc.

In Alaska prior to 1959, all annexation was conducted by local governments.³ At times, annexation issues became very controversial. Senator Fischer states that the commission was seen as a mechanism that circumvented local turmoil, brought the issues beyond "vested local interests" and prejudices, and permitted implementation of the "broad public intent". He believes that there was a need to ensure that municipal boundaries could be altered to adjust for changes in population and in the demand for local services. If the municipalities retained control over boundaries and annexation, there could be difficulty in altering boundaries once local interests became vested. Article X, Section 12 of the State Constitution which established the Local Boundary Commission was designed to overcome those type of roadblocks.

The convention committee on local government recommended that the boundary commission be modeled after the "Canadian system" (provincial governments exercise considerable control over local governments). It was felt that boundary and annexation issues affect all incorporated and unincorporated areas and not just the specific communities involved. Therefore, it was recommended that adjudication be at the State level.

In addition, the intent of the convention was for the commission to have the authority to regulate boundary changes without prior requests from the communities involved. Communities could request that referenda, polls, and surveys be considered by the commission when developing its recommendations. However, according to Senator Fischer, the convention was very specific in its position that these types of community input are not a requirement.

During the committee sessions, there was considerable discussion of the relation between the commission and the legislature. Some members wanted total control in the hands of the legislature, and recommended that all boundary changes and rules related to boundary changes be addressed by statute because the commission was within the executive branch and requiring legislative approval would violate the "seperation of powers" concept. The amendment supporting this concept was defeated.

The majority of the members felt that legislative involvement in the process was useful and necessary at times but not required for all boundary changes. Their intent was to allow legislative participation as long as it did not become prohibitive for all proposed boundary

³For annexation, local elections had to be held concurrently in the city and area to be annexed, and majority votes were necessary.

Representative Goll
March 26, 1985
Page Three

changes.⁴ A compromise was adopted which permitted legislative intrusion into the administrative function of the executive branch only by resolution concurred in by a majority of the members of both houses. In addition, it was recommended that proposed changes become effective if the legislature is "inactive" in its function. As was described within the minutes, the legislature opted for the "negative approach to enactment of legislation," which means that the legislature must act only to reject the proposal and may grant "approval without any action at all by the body that should act on it."⁵

In 1958, the Alaska Statehood Commission was given the following recommendations for implementation of the commission:

The Local Boundary Commission should operate so far as possible in the manner of a quasi-judicial body. Its determinations should be based upon a careful assembling and weighing of relevant geographic, demographic, fiscal, and governmental facts, not disregarding expressions of judgement and sentiment by the public officials and citizens most directly concerned. So far as possible, decisions should be made in the light of a realistic projection of probable future demographic and economic trends."⁶

I hope that this information is useful to you. If you have any questions, please contact us.

RW

⁴It was felt that "in the press of business" the legislature may not get around to considering minor boundary changes, and major boundary changes could require considerable legislative time.

⁵Minutes to the Proceeding of the Alaska Constitutional Convention, page 2752.

⁶Proposed Organization of the Executive Branch State of Alaska: A Survey Report, 1958, page 147.

(4) HB 103

§ 29.06.040

ALASKA STATUTES SUPPLEMENT

§ 29.06.040

Article 2. Annexation and Detachment.

Section

40. Local boundary commission

50. Annexation of military reservations

Section

60. Application

Effective date of article. — Section 90, ch. 74, SLA 1985 provides: "This Act takes effect January 1, 1986."

Sec. 29.06.040. Local boundary commission. (a) The Local Boundary Commission may consider any proposed municipal boundary change. It may reject the proposed change, accept the proposed change, or alter the boundaries and accept the proposal as altered. A Local Boundary Commission decision under this subsection may be appealed under the Administrative Procedure Act (AS 44.62).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.47.567, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection include a provision that

(1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

(2) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 5 ch 74 SLA 1985)

2 HB 163

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 163

Publish Date: _____

Revision Date: _____
Title: "An Act relating to advisory elections on certain annexation..."

Agency Affected: Community & Regional Affairs
BRU: Local Government Assistance

Sponsor: Representative Goll

Components: Local Boundary Commission

Requestor: House C & RA Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Doug Griffin, Deputy Director
Division: Municipal and Regional Assistance

Phone: 465-4750

Date: 3/17/87

Approved by Commissioner: Wendell Bell
Agency: Community & Regional Affairs

Date: 3-18-87

Distribution (by preparer):

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

26 HB163

REQUEST: _____

Bill Version : HR #163
Publish Date : 3/4/87

Revision Date: _____
Title : Advisory Elections on Certain Annexation Proposals

Agency Affected: Office of the Governor
BRU : Division of Elections

Sponsor : Goll
Requestor : House C&BA Committee

Components : Component 1

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	*	*	*	*	*	*
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* SEE ATTACHED

Prepared by : Linda Edgeworth Phone : 465-4611
Division : Division of Elections Date : 3/18/87

Approved by Commissioner : Casual P. Kastelin Date : 3/19/87
Agency : Office of the Governor

Distribution (by preparer) :

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB #163

Annexations proposed by an entity other than a municipality, for which the Division of Elections would be responsible for conducting an advisory vote election, are rare, according to input provided by the Department of Community and Regional Affairs. It is difficult, therefore, to make any assumptions as to anticipated fiscal impact on the Division in any given year.

At such time an advisory election were to be conducted by the State under this legislation, costs would be based on the type of precinct in which the annexation issue was being voted upon. They are as follows:

Hand Mark Precinct	2.8
Punch Card Precinct	5.8

Computer counted punch card precincts are generally higher in cost due to the need for programming and a Data Processing Review Board to oversee the computer counting of ballots.

HB 163

BASIS
BILL: HB 163
NAME:

Bill/Resolution History

04:09 PM 03/13/87

TITLE: "An Act relating to advisory elections on certain
annexation proposals."

PRIME SPONSOR: GOLL

CURRENT STATUS: (H) CRA

STATUS DATE: 03/04/87

PRESS <ENTER> TO VIEW ACTION

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	ACTION	EXIT	MENU	TEXT	PRINT						QUIT
HB 163				Bill/Resolution Action					Page 1	of 1	
				Current Status: (H) CRA							
	Date		Page		Action						
	03/04/87	(H)	391		READ THE FIRST TIME - REFERRAL(S)						
	03/04/87	(H)	391		COMMUNITY & REGIONAL AFFAIRS, FINANCE						

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU	TEXT	PRINT	END	FWD		FIRST	LAST	QUIT