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FILE NAME HB 65

ref. 1/22/87

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①	1/23/7	Bill	1/22/87	Dissolution of a municipality		Doc.	y
②		F.N.	1/29/87	Dept. of Law			y
③		F.N.	1/22/87	DCRA			y
④	1/29/7	memo	1/29/7	Fr. Tam Cook	Sectional Analysis	LAA	y
⑤		sect. analy		Sectional Analysis	HB 65	AG office	x
⑥		position paper	2/6/7	DCRA	Position Paper	DCRA	y
⑦		Ltr.	2/4/7	Dept of Law	dissol. require., distrib. of assets. m.u. Oakland.	AG's of	y
⑧		Rpt.		from LBC Rpt to 14 th leg.	2/22/86		y
⑨		AS.		Pertinent Statutes		AS	y
A	2/11/7	wit reg	2/11/7	Wit. Reg.		3	n
⑩	1/28/87	CS Draft #1	1/28/7	Work Draft,	CS 65		y
⑪	2/13/7	CS Draft #2	2/13/87	" " "			y
⑫	2/11/7	Ltr	2/2/7	Referred to by Ren Scrivener	CRA mtg. 2/11/87,	Somerville	n
B	2/16/7	Min.	2/11/7	Mtg. Minutes	2/11	3	n
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⑬	2/17/87	article	2/17/7	Life Mag	Willie Kasayulic	Th	y
D	2/20/7	wit. reg	2/20/7	Wit. Reg.	2/20/7	3	n
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⑮	3-4-7	Ltr.	2/27/7	To H.S.	Fr. LBC, Eder	H.S.	y
H	3-5-7	Ltr.	1/31/86	To Rep. Goll	Fr. W. Kasayulic	Th	n
⑯	3-9-7	Ltr Furtide	3/1/7	To Sen. Fehrenkam	Fr. Mary Bishop w/ ANS & N 12/12/86 article	Sp.	y
⑰	3-10-7	CS SB 50 (CRA) draft	3/10/7	Work draft	CS SB 50 CRA	Th	y
⑱	3-12-7	CS HB 65 draft	3/10/7	Work draft	CS HB 65 (CRA)	Th	y
⑲	3-12-7	CS SB 50 CRA	3/11/7	CS SB 50	CRA	ch clk	y
⑳	3-12-7	AS	3/13/7	relevant A.S.		Th	y
㉑	3-13-7	Com Rpt	3/13	Com Rep.	3 cc pres 2 no Rec.	com	y

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465-3800

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May, 1988

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

Mary Van Nimwegen

House C+RA	2-11-87	3:00 p.m.
" "	2-20-87	3:00 p.m.
" "	2-23-87	3:00 p.m.
" "	3-13-87	3:00 p.m.

Attorneys
Robert T. Anderson
Lawrence A. Aschenbrenner

Native American Rights Fund

310 "K" Street, Suite 708 • Anchorage, Alaska 99501 • (907) 276-0680

#14 HB 65

Appellate

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Deputy Director
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Boulder, Colorado 80302-6296
(303) 447-8760

Terry
Canfile

MAR 3 1987

February 25, 1987

MAR 16 1987

David Hoffman, Commissioner
Department of Community and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner Hoffman:

Mr. Willie Kasayulie asked me to write this letter on behalf of the Akiachak Native Community respecting SB 50 - "An Act relating to dissolution of a municipality." The comments also relate to your position paper dated February 6, 1987, which I presume was submitted to the committee. As you know, the proposed legislation was prompted by the community of Akiachak's effort to dissolve its municipality. It was frustrated by the Local Boundary Commission's refusal to allow an election on the matter pursuant to present state law. Your support of the legislation is appreciated and the Community offers the following comments.

Section 1 of the bill is acceptable as drafted, although we have no problem with your suggestion that the advisory vote be designated as an official election subject to state procedural requirements. We do not agree, however, that the legislation be changed to require that dissolution be approved by a majority of residents registered to vote. There is no such corresponding requirement for incorporation of a municipality. Further, if local residents do not care enough about their municipality to vote in the election, their non-participation should not be counted as an effective "no" vote.

Section 2 of the bill should be amended to provide ~~that the assets of a dissolved municipality may be distributed to local traditional councils which have not reorganized under federal law, in addition to Native councils organized pursuant to 25 U.S.C. 476.~~ Such councils are already recognized by the federal government as such and by the state through its revenue sharing program. See AS 29.60.140.

You express concern over the Local Boundary Commission's ability to provide for the disposition of

assets and we share that concern. As you stated, the purpose of the legislation is to effect "the will of local residents to determine the type of local organization they will have represent and govern them." Thus, the assets of the former municipality should be distributed to the entity designated by the residents of the community. The Local Boundary Commission should not be burdened with deciding which local entity should receive the assets. There are no state-wide ramifications involved in the determination of who the successor to the municipality is, rather, it is strictly a matter of local concern.

Further, the preferences laid out in the bill could lead to the absurd result of distribution of assets to a small non-profit organization, when the community actually desired conveyance to another entity representing the majority of residents. Since the purpose of the legislation is to effect local desires as to the form of governance, it is the local residents who should decide where the assets go upon dissolution. This could be accomplished by including a question on that issue on the ballot. ←

Finally, it is our view that existing law protects the interest of all residents in the enjoyment of facility use and access to services and that no additional language is necessary. There is likewise no need to ensure the accountability of the successor trustee for the expenditure of public funds since that too is provided for under existing state and federal law. See e.g. AS 29.60.140; 25 U.S.C. 1302.

Again, we appreciate your support of this important legislation. Please contact me to discuss any questions you have regarding these comments.

Sincerely,

Bob Anderson

Robert T. Anderson

cc: Willie Kasayulie
Senator Binkley
Representative Hoffman
Doug Mertz

K 3/15/87

HOUSE COMMITTEE REPORT

(21) HB 65

(5)

Date referred: 1/22/87

FURTHER REFERRALS: Judiciary

DATE: 03/13/87

The Community and Regional Affairs Committee has considered HB 65

"An Act relating to dissolution of a municipality."

RECOMMENDS:

- replace with CSHB65 (C&RA) 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:

 Cato Better Cato
 Herrmann Adelheid Herrmann
 Springer Heinrich Springer

SIGNING OTHER RECOMMENDATIONS:

Collins Collins No Rec
 Zawacki James Zawacki No Rec

Springer Heinrich Springer
 Chairman's signature

(16) HB 65

for
Teny
put in HB 65
file to
all CHA
member
MAR 5 1987

1555 Gus's Grind
Fairbanks, AK 99709
March 1, 1987

Dear Senator Fahrenkamp:

Thanks for your prompt response regarding SB 50 and HB 65--dissolving municipalities. And thank you for attaching the letter from the AG's office to Senator Sturgulewski on this matter.

But with regard to the Division of Legal Services argument: What good is the Alaska Constitution doing in Tyonek? (see attached *Anchorage Daily News* story of December 12, 1986.)

If Tyonek Village, through its IRA village council, can pass an ordinance forbidding the presence of non-tribal members in the community, how can our state Constitution or the suggested contracting procedure protect public use of the publicly funded assets of that community?

According to the newspaper report, a federal judge ruled that the Tyonek IRA council has sovereign government powers. That does not seem consistent with Article X, sec. 2 requiring "all local government power to be vested in cities and boroughs." Perhaps our state Constitution doesn't count so much in a federal court of law. Perhaps IRA villages are not under state law. We need to know.

The state should be joining in the appeal of that Tyonek case. The state should not pass HB 65 or SB 50 while the possibility exists for non-public or racially biased control of state funded buildings such as schools, libraries, and airports.

We have got to get the question of "Indian country" in Alaska settled--and soon. I hope you agree and are willing to make it a top priority.

Sincerely,
Mary Bishop
Mary Bishop

enclosure

cc: Interior delegation
Senate C&RA Committee members
House C&RA Committee members

Judge rules that Tyonek ren

By SHEILA TOOMEY
Daily News reporter

A local ordinance that bars non-Natives from renting homes in the Native village of Tyonek is valid, a federal judge has concluded.

But, in a 35-page decision dated Dec. 3, U.S. District Court Judge James Fitzgerald dismissed all lawsuits on both sides of the case without ordering enforcement of the ordinance. Fitzgerald said the cases, filed four years ago, should have been filed in some other court, if at all.

"I conclude that Ordinance 65-32 constituted a valid exercise of Tyonek's powers ... and that the attempts by Tyonek's officers to enforce that ordinance that have been challenged ... in this action did not exceed the scope of Tyonek's sovereign power," Fitzgerald wrote.

He also ruled that the village is a government and is therefore immune from lawsuits unless it chooses to waive that immunity.

Bob Wagstaff, attorney for two Tyonek Native families that rented their homes to whites, said he will appeal Fitzgerald's decision to the 9th U.S. Circuit Court of Appeals. Even if Fitzgerald's decision stands, said Wagstaff, without the promise of enforcement, it is "a pyrrhic victory" for the village.

A spokesman for Tyonek's attorney, Jim Vollintine, said he believed the village has not yet decided if it will appeal Fitzgerald's dismissal of the case.

Tyonek is a community of about 250 people located across Cook Inlet from Anchorage. In the summer of 1982, the Tyonek council acted to purge the village of all non-Natives except government employees. Ordinance 65-32, enacted in 1965, and a 1942 law barring whites from remaining in the village for more than 24 hours were invoked. Claims of Native sovereignty slammed up against charges of racism and the

Tyonek suit was heralded as the test case for drawing the legal line between the two.

Tyonek instigated the lawsuit in 1982 by taking legal action against four families, two Native and two white.

Alexandra and Esher Kaloa and Alec and Olga Constantine are members of the village, who own homes built by the village with communal money earned from oil leases on Native land. Ordinance 65-32 provided that people given such houses could not sell or lease them to anyone "who is not an enrolled member of the Village of Tyonek, Alaska." That effectively barred leasing to all non-Na-



tives.

Fitzgerald ruled the ordinance merely carried out the intention of the Department of the Interior that the oil money be "for the use and benefit of the Tyonek Indians."

Despite this prohibition, the Kaloas and the Constantines leased their homes to

Fred and Donald ett, both village officials. Puckett's but they ref

The Kalo stantines r them, argui things, that was illegally

Wagstaff ordinance il sub-divisio barred sale norities. Co that such c written, he cannot be en ment power

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HB 605

11

MAR - 5 1987

AKIACHAK NATIVE COMMUNITY

AKIACHAK IRA COUNCIL
AKIACHAK, ALASKA 99551 - (907) 825-4320

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

January 31, 1986

Dear Representative Goll,

The Akiachak Native Community has attempted to dissolve its' State chartered municipal government through a Local Option method, as advised by the Alaska Department of Community and Regional Affairs. However, due to the lack of or a clear means of dissolving the municipal government, the process has been unnecessarily delayed for over two years.

In order to make the process of dissolving the municipal governments more efficient, the Akiachak IRA Council is requesting an amendment to the Alaska Statute 29.06.470.

The amendment would empower the respective communities to hold an election to dissolve its' municipal government; Provided, that the State's interest and creditors are protected and satisfied. The amendment would also allow cities within a borough to petition for dissolution if the borough consents to assume the responsibilities. The consent to be ratified by a majority vote within the borough.

The amendment, as proposed, would simplify a dissolution process of a municipality. The issue of dissolving a city, like Akiachak, has shown that there is no clear procedure to satisfy the concerns of the local Community to select the choice of government the Community wants. The Akiachak IRA Council, in a cooperative effort, is proposing this amendment and request your consideration on the attached proposed Bill.

Your support and consideration for our proposed amendment to the Alaska Statute 29.06.470 will be appreciated. Should you have any specific questions to the dissolution proceedings or the proposed amendment, feel free to contact me at 825-4626 during normal business hours.

Sincerely,

- cc: Office of the Governor
- DCRA
- Senator John C. Sackett
- Senator Frank Ferguson
- Senator Edna DeVries
- Senator John B. Coghill
- Senator Vic Fisher
- Senator Arliss Sturgulewski
- Senator Fred Zharoff
- Representative Johnne Binkley
- Representative Kay Wallis
- Representative Nilo Koponen
- Representative Max Gruenberg
- Representative Randy Phillips
- Representative Walt Furnance
- Representative Andre Marrou
- Representative Adelhied Herrmann
- Representative Albert Adams
- Representative Jack Fuller
- AVCP, Inc.
- AFN, Inc.

AKIACHAK NATIVE COMMUNITY
Akiachak IRA Council

Willie Kasayulie
Willie Kasayulie
Chairman and CEO

Bob

A BILL

For an Act entitled: "An Act Relating To The Dissolution of Municipal Governments."

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

Section 1. Purpose

(a) It is the policy of the State of Alaska to permit communities to decide on the local level whether to incorporate as state-chartered municipalities pursuant to Title 29 of the Alaska Statutes.

(b) If a community has incorporated as a state-chartered municipality it should be free to revert to unincorporated status upon majority vote of those eligible to vote in municipal elections; Provided, however, that the legitimate interests of the State of Alaska and creditors of the municipality are protected.

Section 2. AS 29.06.470 is amended to read as follows:

Sec. 29.06.470. STANDARDS. (a) Except as provided in (b) of this section, voters of a municipality may petition for dissolution when the municipality is free of debt, or if in debt, each of its creditors is satisfied with a method of repayment.

(b) Voters of a city in a borough may petition for dissolution of the city if the borough consents to assume the city's rights, powers, duties, assets, and liabilities. The consent must be ratified by a majority of borough voters voting on the question.

STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

February 27, 1987

STEVE COWPER, GOVERNOR

949 EAST 36TH AVENUE, SUITE 404
ANCHORAGE, ALASKA 99508
PHONE: (907) 561-8586

The Honorable Henry Springer, Chairman
House Committee on Community &
Regional Affairs
Pouch V
Juneau, AK 99811

Dear Representative Springer:

The Alaska Local Boundary Commission convened last evening to formally consider the version of draft CS HB 65 which was discussed during the February 20, meeting of your committee. I am pleased to inform you that the Local Boundary Commission considers the draft revision to be a significant improvement to the original bill. All five members of the commission voted unanimously to strongly support the legislation embodied in the draft CS HB 65.

While the Local Boundary Commission unanimously supports the draft CS HB 65, we do feel that there are two changes that might be made that would strengthen the bill. These are the inclusion of a "best interest" standard and the prohibition of conducting dissolution elections by mail. The suggested additions are explained below.

BEST INTEREST STANDARD

The Commission believes that amending the proposed AS 29.06.470(a)(3) to add a requirement that "dissolution is determined by the Local Boundary Commission to be in the best interests of the state, the region and the territory served by the municipality proposed to be dissolved" would strengthen the bill. This additional standard would apply in those instances where dissolution has been requested by a majority of the registered voters.

The reason the Commission desires this addition is simple. The Alaska Constitution and state laws have, since statehood, uniformly recognized the need and importance of a state commission to deal with the creation of municipal governments, modifications of municipal government boundaries and the dissolution of municipal governments. The language of the draft CS HB 65 currently does not ensure a deliberative role for the state in dissolution proceedings.

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HB 65
MAR - 4 1987

The Honorable Henry Spinger
February 27, 1987
Page Two

Without language such as that suggested by the Local Boundary Commission, no safeguards exist against wholesale dissolution of municipalities. Conceivably, any and every current and future municipal government could easily meet the standards set out in the draft CS HB 65. While the Commission does not suggest that a significant number of the 159 municipalities in the state would seek to dissolve if this bill became law, we do feel it would enhance the bill to include a reasonable safeguard.

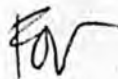
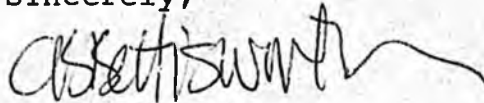
We suggest that situations will arise which will require discretionary application and deliberation of state level concerns. Thus, it seems prudent to include provision of language which would allow the commission to serve this legitimate role. We feel a "best interest" standard does just this.

ELECTIONS BY MAIL

The commission would also like to see the inclusion of statutory provisions to preclude the conduct of municipal dissolution elections by mail under AS 15.20.800. While it may be appropriate to conduct certain state elections by mail, the Commission opposes elections by mail either for municipal incorporation or dissolution. Our objections to conducting such elections by mail are numerous and have been conveyed to the Division of Elections. In general, we find that the significance of such elections and public preference warrant conducting municipal incorporation and dissolution elections in the conventional manner.

Thank you for this opportunity to comment on the proposed CS HB 65. We feel that the draft CS HB 65 will permit the Local Boundary Commission to respond fully to the current issues relating to dissolution. However, we do feel that our two suggestions will further improve the bill. Please feel free to contact the Local Boundary Commission should you require clarification of any points.

Sincerely,



Robert O. Eder, Chairman
Local Boundary Commission

The Honorable Henry Spinger
February 27, 1987
Page Three

cc: The Honorable Arliss Sturgulewski
Chair, Senate C&RA
The Honorable Johne Binkley
sponsor SB 50
The Honorable Lyman Hoffman
sponsor HB 65
C.B. Bettisworth, Member, LBC
Bert Greist, Member, LBC
Dave Hanson, Member, LBC
Jo Anderson, Member, LBC
David G. Hoffman, Commissioner, DCRA
Marty Rutherford, Director, MRAD/DCRA

HB 65

(13) HB 65

LIFE MAGAZINE
FEB 1987

AMERICAN DREAMER

By ANNE FADIMAN

WILLIE KASAYULIE:
GUARDIAN OF THE PROMISED LAND

After He made the world, the Raven dived into the river, and it filled with fish. He flew over the forests, and they teemed with animals. He flew across the sky, and thousands of birds appeared. The first man watched this happen and wept with wonder.

"Who am I?" asked the man.
"You are Yup'ik, the true man," answered the Raven. "You are on my *nuna*, my earth. Go then over this *nuna* and seek a way of life."

On the Kuskokwim Delta of western Alaska, the Yup'ik Eskimos followed the Raven's instructions. When Willie Kasayulle was growing up in the village of Akiachak, he fished for sheefish in the spring and salmon in the summer. In the winter he cut holes through the ice and jigged for burbot. He learned how to set underwater snares for beaver; how to trap muskrats, martens and wolverines; how to shoot whistling swans on the wing. He gathered blueberries, cranberries and salmonberries from the tundra thickets upriver.

Willie could imagine no finer *nuna* than the Kuskokwim Delta, but he was forced to leave it at the age of 12. Because he was the best student in Akiachak, perhaps in the entire history of Akiachak, his father and uncle told him that he must further his education outside the village. Willie spent six highly reluctant years as a scholarship student in southeast Alaska, Oregon and Vermont. While he ate canned spaghetti in a high school cafeteria 3,500 miles from home, he dreamed of *qerpertaq* (pike roe mashed with seal oil and berries) and stinkheads (salmon heads that have been buried in the mud for a few weeks).

If he had stayed in the lower 48, or, like many Eskimos, moved to urban Alaska, Willie Kasayulle undoubtedly could have been a successful lawyer or banker. Instead, he came home—"because home," he says, placing his hand over his chest, "is where the heart is." When he returned to Akiachak, the first thing he did was carry some water from the Kuskokwim River and take a bath in his family's steamhouse, the Yup'ik



Kasayulle, 35, and his younger son, Mark, 7, pay their respects to their ancestors at the Akiachak cemetery.

equivalent of a sauna. Today, when Kasayulle does business in Anchorage, Juneau or Washington, D.C., he takes daily showers in his hotel, but he says he never feels completely clean until he comes back to his village and fires up his steamhouse.

The business that periodically deprives him of steambaths is politics. Kasayulle is Chief Executive Officer of Akiachak, chairman of the Association of Village Council Presidents and chief of a 13-village tribal coalition called the Yup'it Nation (Yup'it is the plural of Yup'ik). Because of Kasayulle, the village of Akiachak (pop. 450, one and a quarter pages in the United Utilities telephone directory) has become known throughout Alaska as the epicenter of the native sovereignty movement, a campaign that has been compared to the civil rights movement of the '60s.

Kasayulle calls his cause *Wangkutnek Auluklerkarput*, Yup'ik for "self-determination." He believes that Alaska's 65,000 Eskimos, Indians and Aleuts should control their own schools and courts, administer their own fish and game regulations, and revive

their native languages and cultural traditions. With these ends in mind, the entire city council of Akiachak resigned three years ago, dissolved the state-chartered local government and declared that the village would henceforth be governed by tribal law. (The state denied the dissolution, and the case is currently under appeal.) Since then, several other Yup'ik villages have attempted to follow suit. Willie Kasayulle is now viewed throughout western Alaska as a kind of arctic cross between Martin Luther King Jr. and Abbie Hoffman. There is even a rumor afloat that Kasayulle is a shaman, a native sorcerer who has been called to lead his people out of bondage—though when I asked one of his friends if this was true, he laughed so hard he nearly choked on his moose soup.

I have been booked by a computer in Manhattan on Hermens Air, Flight 709, from Bethel, the largest town in the Kuskokwim Delta, to Akiachak. When I arrive in Bethel, I learn that Akiachak's airstrip has been closed for repairs for three months. A local float plane pilot offers to drop me

on the Kuskokwim River; I am then to wade, in the rubber boots Willie Kasayulle fortuitously instructed me to bring, to the banks of downtown Akiachak.

Most *kas'saqs*—the Yup'ik word for whites, analogous to a Hispanic's *gringos*—are disappointed when they see their first Eskimo village. Akiachak is set in a landscape of great natural beauty, between a gleaming river half a mile wide and an expanse of pond-spangled tundra that stretches to the horizon. But, as in most Alaska bush towns, its houses are largely government prefab, and its muddy yards are cluttered with old outboard motors, galvanized washtubs, broken dogsleds and parts of snowmobiles, which their owners call "iron dogs." The village's 15-foot satellite dish receives ten television stations, but there is no indoor plumbing.

Having heard so much about Akiachak as a hotbed of radicalism, I am surprised to find its residents immeasurably friendlier than those of the two other Eskimo towns I have visited, where *kas'saqs* were about as welcome as foxes in a barnyard (and →

PHOTO BY BALDWIN BROWN

AMERICAN DREAMER

for approximately the same reasons). Here, as soon as I slog ashore, I am surrounded by schoolchildren who offer to carry my backpack and ask me, with breathy, Yup'ik-accented voices, if I have ever met Michael Jackson or Brooke Shields.

In fact, I would be far less nervous about meeting a movie star than about meeting the CEO of Aklachak. I expect Kasayulle to be tough, brusque and resentful of my presence. It is hard to reconcile the celebrated militant I have read about in the Anchorage papers with the pudgy, grinning man who clomps toward me through the mud. Today his smile is extra broad because he has just had a tooth repaired that had fallen victim to an unusually obdurate piece of dried salmon. Kasayulle turns out to be the kind of fellow who would have received a good citizenship award in the sixth grade, a description that would fit many of the people in his village. The nearby town of Bethel has been plagued by alcoholism, violence and racial tension, but in Aklachak the residents leave their doors unlocked, attend Moravian church services three times a week and abide by no-liquor laws of their own making.

Kasayulle lives in a ramshackle four-room house with his wife, Sophie, and their four children, Tony, Georgiann, Melanie and Mark. Sophie, an Aklachak native whom he has known since they were infants, is a bilingual teacher at the village school. Two generations ago, Aklachak's teachers, all of whom were white, forbade the speaking of Yup'ik in school and rapped the knuckles of transgressors with a ruler. Because of their father's influence as president of the school board, the Kasayulle children and their classmates now study Yup'ik as part of their official curriculum and take classes from village elders in skin sewing, beading, tanning, trapping, Eskimo dancing, fish-trap building, dog sledding and tundra survival skills. They do not seem to find anything incongruous about practicing their Yup'ik on IBM PCs, learning traditional dances from VCR tapes, and weaving fish traps to the beat of the Pointer Sisters.

Because between them Willie and Sophie are related to approximately 40 percent of the people in their village, the Kasayulle home has a more-or-less constant flow of grandparents, siblings, uncles, aunts and cousins. This evening



Tony Kasayulle, 12, shows off part of his cranberry harvest.

is relatively quiet. Sophie is stuffing a quilt with swan, goose, duck and crane down (the gleanings of Willie's 16-gauge shotgun). Melanie is sewing a pair of fur slippers, while Georgiann, with the help of a great-uncle, assembles a traditional skin yoyo called a *yuuklik*. There is a steady stream of Yup'ik chatter.

"There are other parts of Alaska," says Kasayulle, surveying this domestic scene with contentment, "where children can't even speak their own language. It's beginning to happen in Bethel. I want the children of Aklachak to study English, too, so we can have native schoolteachers, native doctors, native lawyers. But we must not let our ancestors' voices fade away. Why do you think so many Eskimos have a problem with alcohol? Drug abuse? Suicide? It is because they have lost their 10,000-year-old culture. And in my village, we were beginning to lose it too." Kasayulle's voice, which is normally soft and amiable, sharpens. "My own generation made fish traps out of chicken wire instead of spruce boughs. We were forgetting what the elders knew, how to find our way home through a whiteout, how to predict a hard winter by the length of the grass or the fuzz on the caterpillars. But our children will know these things. One of the happiest days of my life was when my eldest son taught me how to repair a whitefish net."

Kasayulle has just returned from Washington, D.C., where he was lobbying for a series of amendments to the Alaska Native Claims Settlement Act, a 1971 act of Congress that distributed nearly a billion dollars and 44 million

acres of land to Alaska's natives. At first, ANCSA was hailed as the most generous real estate deal in history. But the corporate structure of shareholders and proxy statements that Congress set up to administer the bounty turned out to be poorly suited to the bush. Many of the native corporations are now in financial trouble. Worse still, in Kasayulle's view, is the provision that after 1990, natives will be able to sell their shares, thus allowing their land to pass into non-native hands.

The amendments Kasayulle favors would make such stock sales illegal. His own preference would be to scrap ANCSA entirely, dissolve the corporations and restore a tribal system of shared land ownership. "Sharing is our way of life," he explains. "If you are Yup'ik and you have no husband or sons to hunt for you, someone in the village will kill you a moose."

About 85 percent of the Kasayulle family's diet comes from the land. "We are the land," he says. "Without it we are nothing." His worst fear is that the subsistence lifestyle on which the Yup'ik depend may be jeopardized by insufficient land allotments, restrictive game laws and the depletion of his people's natural resources by non-native hunters and fishermen. In Aklachak the question "What do you do for a living?" would elicit laughter. Everyone knows that virtually all able-bodied men, including the Chief Executive Officer, are year-round subsistence hunters, fishermen and gatherers, and that most are commercial fishermen during the summer months. "Except for the store, the post office, the wash-

teria and the village government, there are no jobs in Aklachak," says Kasayulle. "Without subsistence, there would be only food stamps. That is not how my forefathers intended us to live. We must take matters into our own hands. As we say in our language, *Pinartuq*: It's time."

The Kasayulle family is going berry-picking. This conjures up an image for me of tripping through a meadow with a straw basket under one's arm, but I discover that for the Yup'ik it is serious work. Using aluminum tools that look like giant Afro combs, the Kasayulles gather between 150 and 200 pounds of berries annually, which appear on their table throughout the year in various forms—fresh, frozen, in jams and jellies, in *agutaq* (a mixture of rendered moose fat, berries and sugar) and *qerpetaq* (the dish Willie pined for when he was living in Vermont).

This is the season for low-bush cranberries. The best place for them, a spot where Kasayulle has come every year since he was four and where his parents and grandparents came before him, is 80 miles east of Aklachak, up the Kuskokwim, Kisaralik and Kasigluk rivers. The willows and alders that line the riverbanks are turning red and gold, and the tundra is a deep russet. The rivers will start to freeze within the month. Noticing that his passengers have started to freeze already, Kasayulle lands his motorboat on a sandbar halfway to the cranberry grounds. When he steps onto the beach, the prints of his rubber fishing boots mingle with hundreds of moose tracks. He dips a dented tin teakettle into the Kasigluk River. Much as one of his ancestors might have done 10,000 years ago, he assembles an elegant cone of twigs, branches and logs—and then lights it with a match from the Embassy Row Hotel in Washington, D.C.

"Just look around you," he says, in a gesture that would seem impossibly corny if a *kas'saq* were to make it, he spreads his arms to include the river, the tundra and the sky. This *kas'saq* feels not only frozen but chastened. Like most of the people I know, I am so accustomed to hedging my strongest feelings with irony that for a moment I expect Kasayulle to do the same. He doesn't, of course. "This," says the CEO of Aklachak, surveying his *nuna*, "is the Garden of Eden." □

(12) HB 65

Referred to by
Don Somerville
2/11/87 CRA mtg

February 2, 1987

Hon. Lyman Hoffman
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

Re: House Bill 65 -- dissolution
of a municipality

Dear Representative Hoffman:

Per your request, we have reviewed HB 65 relating to the requirements for dissolution of a municipality under the local option method and providing for the distribution of assets and liabilities of a municipality upon its dissolution.

Section 1. This section is amended by adding a third alternative by which a municipality can qualify its petition to dissolve under the local option method, AS 29.06.470(a). The new subsection, AS 29.06.470(a)(3) reads: "dissolution is approved in an advisory election held on the question by the municipality proposed to be dissolved." The terminology "approved in an advisory election ..." is not defined in this bill. In order for such an election to be useful to the Local Boundary Commission when it considers the adequacy of a municipality's petition for dissolution under AS 29.06.500, we believe that the advisory election alternative in AS 29.06.470(a)(3) should be more definitive.

Section 2. The basic problem in this section arises because it would have public assets of a dissolved municipality distributed to nonpublic entities, i.e., private nonprofit corporations and Native councils organized under the Indian Reorganization Act. Article IX, section 6 of the Alaska Constitution says, "No ... public property shall be transferred, ... except for a public purpose." Article X, section 2 requires all local government power to be vested in cities and boroughs. Both private corporations and IRA councils (whose membership is restricted by federal law to Natives) are not elected by or responsible to the entire electorate. We believe it would be unconstitutional to transfer public assets to private organizations which may not serve as substitute local governments under the Alaska Constitution, and to allow those organizations to make discretionary

Hon. Lyman Hoffman
Alaska House of Representatives
Re: HB 65 -- Dissolution of municipality

February 2, 1987
Page #2

decisions about assets which belong to the entire population of
the dissolved municipality.]

However, occasionally a local nonprofit or Native council may be in the best position to administer local assets, particularly when it has broad support from the community. In such cases, it may be possible to accomplish almost the same and despite the restrictions noted above, through the device of retaining title to the assets -- and ultimate control -- in the state, but contracting with local organization to administer the assets. Such delegations must be subject to strict controls to insure public access to facilities and state oversight, and truly discretionary governmental authority may not be delegated. But day-to-day operation of the former municipality's assets may be turned over to local private entities. We believe this can be accomplished under present law and does not require amending Title 29.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By:
Marjorie L. Odland
Assistant Attorney General

MLO/pjg

cc: Bob Evans
Acting Legislative Liaison
Office of the Governor



Official Business

COMMITTEE:

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: February 11, 1987

SIGN-IN

Subject of meeting:

(A) HB 65

~~HB 65~~ Dissolution of a Municipality
 HB 37 Municipal Property Tax procedures
 HB 68 Authority of Fire Dept. Officers

NAME (PLS PRINT)	YOUR TITLE & ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Bill Hagevig	Box 423 Douglas 99824	364-2154	Gzotinesu Chapter Alaska State Firefighter	Yes HB 68 ✓
Sam Richards	155 S. Seward Junction 99501	586-5221	Alaska Assessing Officer Association	No -
Gordon Brunton	450 Whittier	465-4331	Dept. Public Safety	Yes HB 68 ✓
Ron Somerville	Executive Director JUNEAU	789-2399	AK. Outdoor Council	Yes HB 65 ✓
MARK EARNEST		465-4985	SEN BANKLEY	No
DOUG GRIFFIN		4750	C&RA	Yes 65 ✓
Lyman Hoffmann		4350		Yes 65 ✓
GENE THERRIAULT	FOR REP. MILLER	4976	REP. MILLER	YES ✓
MIKE GIBBLEY	P.O. BX 15H, JUNEAU	4787	C&RA	HB 37 YES
DOUG MERTZ	Asst. Atty GEN. - LAW	3600	LAW	65 ✓

**STATE OF ALASKA
LOCAL BOUNDARY COMMISSION**

- Robert Eder, Chairman**
- Josephine Anderson**
- Bert Greist**
- David Hanson**
- Charles Bettisworth**



**Report
to the
Second Session
of the
Fourteenth Legislature**

January 22, 1986

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whether a majority of residents in the territory affected would support the proposed boundary change.

This last circumstance is, unquestionably, the most controversial of the various processes and circumstances surrounding municipal boundary changes. However, as was addressed earlier, the provisions of Article X § 12 of the State Constitution were established to accommodate this very type of situation.

Decisions of the Alaska Supreme Court confirm the constitutional principle associated with Article X § 12 of the State Constitution without exception. In Fairview Public Utility Dist. No. 1 v. City of Anchorage, 368 P.2d 540 (Alaska 1962), the Supreme Court stated that, "An examination of the relevant minutes of [the constitutional proceedings] shows clearly the concept that was in mind when the local boundary commission was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level." Id. at 543. The court concluded, "The subject of ... municipal boundaries is legitimately the concern of the state as a whole, and not just that of the local community." Id. at 546.

Further information concerning the procedures and standards which govern the annexation and detachment of territory to a municipality may be obtained by referring to the statutes and regulations listed below:

- ° standards for annexation to cities -
19 AAC 10.065-090;
- ° standards for detachment from cities and unified municipalities -
19 AAC 10.95-120;
- ° standards for annexation to organized boroughs -
19 AAC 10.185-220;
- ° standards for detachment from organized boroughs
19 AAC 10.225-250;
- ° procedures for boundary changes by Local Action -
AS 29.06.040(c), AS 44.47.567(a)(4), 19 AAC 10.630-730 and 19 AAC 10.735-790; and
- ° procedures for boundary changes by Legislative Review -
Article X § 12 of the State Constitution,
AS 44.47.567(b)(2), AS 29.06.040(b) and
19 AAC 10.450-620.

Dissolution of Municipal Governments:

The Local Boundary Commission examines proposed dissolutions of municipal governments using

standards and procedures established by law and administrative regulations.

Standards for the dissolution of municipal governments include the following: whether the municipality is free of debt, whether it still meets the standards for incorporation or whether the municipality still exercises municipal powers.

If the proposed dissolution of a municipality is approved by the Local Boundary Commission, it may not be effected unless approved by a vote of the residents of the municipality or by the Legislature, depending on the particular process used.

Further information concerning the procedures and standards which govern the dissolution of a municipality may be obtained by referring to the statutes and regulations listed below:

- standards for dissolution of a city -
AS 29.06.470 and 19 AAC 10.130-150;
- standards for dissolution of a borough -
19 AAC 10.260-280; and
- procedures for dissolution of a municipality -
AS 29.06.450-530.

Consolidation or Merger of Municipal Governments

The Local Boundary Commission examines proposals for consolidation of municipalities (the creation of a new municipality from the union of two or more existing municipalities) and for the merger of municipalities (the absorption of one municipality by another existing municipality) using a standard and the procedures established by law and administrative regulations.

The standard for the merger or consolidation of municipalities is whether the successor municipality meets the standards for incorporation.

Further information concerning the procedures and standards which govern the consolidation or merger of municipalities may be obtained by referring to the statutes and regulations listed below:

- standards for merger of municipalities -
19 AAC 10.290-300;
- standards for consolidation of municipalities -
19 AAC 10.310-320;
- procedures for merger or consolidation -
AS 29.06.090-170 and 19 AAC 10.800-810.

XIII. ISSUES TO BE BROUGHT TO THE ATTENTION OF THE LEGISLATURE

There are two issues which the Local Boundary Commission wishes to bring to the attention of the Legislature. The first relates to the desire of certain residents of the State to dissolve their municipal governments in favor of Native governments. The second issue concerns the impacts of the Federal Voting Rights Act upon the State and its political subdivisions on matters relating to Local Boundary Commission proceedings.

Dissolution of Municipal Governments

As was discussed in Section III of this Report, last year the Local Boundary Commission denied a petition of residents of the City of Akiachak for the dissolution of their municipal government. It has been reported that residents of a number of other communities are also contemplating attempts to dissolve their municipal governments.

While the Commission denied the petition for dissolution of the City of Akiachak, it was sympathetic to the desire of the residents of Akiachak for self-determination in that matter. It was amply demonstrated to the Commission that dissolution of the City of Akiachak and the vesting of all local government powers in the Akiachak IRA Council was strongly desired by many of the residents of the community.

The petition was denied simply because the present structure of State law concerning this matter would not permit the dissolution of the City under the current circumstances. The Commission suspects that residents of Akiachak may now simply ignore their municipal government.

The Commission believes that this circumstance poses several significant public policy questions which encompass matters which are far beyond the responsibilities of the Local Boundary Commission. The Commission does not advocate any particular position in this matter, rather it believes that the matter should be considered carefully by the Governor and the Legislature.

Policy questions relating to this matter include the following:

- impacts of dissolution on both the State and the community;
- equitable delivery of public services to unincorporated communities;
- civil rights of citizens of Alaska;
- distribution of assets and liabilities of a municipal government in the event of dissolution; and
- standards and procedures for dissolution.

Federal Voting Rights Act

The impact of the Federal Voting Rights Act upon matters brought before the Local Boundary Commission is of particular

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 4, 1987

Hon. Heinrich Springer
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: House Bill 65 -- dissolution
of a municipality

Dear Representative Springer:

Per your request, we have reviewed HB 65 relating to the requirements for dissolution of a municipality under the local option method and providing for the distribution of assets and liabilities of a municipality upon its dissolution.

Section 1. This section is amended by adding a third alternative by which a municipality can qualify its petition to dissolve under the local option method, AS 29.06.470(a). The new subsection, AS 29.06.470(a)(3) reads: "dissolution is approved in an advisory election held on the question by the municipality proposed to be dissolved." The terminology "approved in an advisory election ..." is not defined in this bill. In order for such an election to be useful to the Local Boundary Commission when it considers the adequacy of a municipality's petition for dissolution under AS 29.06.500, we believe that the advisory election alternative in AS 29.06.470(a)(3) should be more definitive.

Section 2. The basic problem in this section arises because it would have public assets of a dissolved municipality distributed to nonpublic entities, i.e., private nonpublic corporations and Native councils organized under the Indian Reorganization Act. Article IX, section 6 of the Alaska Constitution says, "No ... public property shall be transferred, ... except for a public purpose." Article X, section 2 requires all local government power to be vested in cities and boroughs. Both private corporations and IRA councils (whose membership is restricted by federal law to Natives) are not elected by or responsible to the entire electorate. We believe it would be unconstitutional to transfer public assets to private organizations which may not serve as substitute local governments under the Alaska Constitution, and to allow those organizations to make discretionary

⑦ HB 65

STEVE COWPER, GOVERNOR

REPLY TO:

- 1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550
- 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568
- POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

Hon. Heinrich Springer
Alaska State Legislature
Re: HB 65 -- Dissolution of municipality

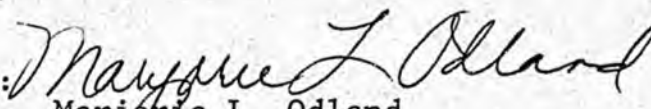
February 4, 1987
Page #2

decisions about assets which belong to the entire population of the dissolved municipality.

However, occasionally a local nonprofit or Native council may be in the best position to administer local assets, particularly when it has broad support from the community. In such cases, it may be possible to accomplish almost the same and despite the restrictions noted above, through the device of retaining title to the assets -- and ultimate control -- in the state, but contracting with local organization to administer the assets. Such delegations must be subject to strict controls to insure public access to facilities and state oversight, and truly discretionary governmental authority may not be delegated. But day-to-day operation of the former municipality's assets may be turned over to local private entities. We believe this can be accomplished under present law and does not require amending Title 29.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Marjorie L. Odland
Assistant Attorney General

MLO/pjg

cc: Bob Evans
Acting Legislative Liaison
Office of the Governor

(6) HB 65

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

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

February 6, 1987

POSITION PAPER

RE: HB 65 -- "An Act relating to dissolution of a municipality."

SPONSOR: Representative Hoffman

Program Effects of Bill:

Section 1 of the bill amends the standards by which the Local Boundary Commission (LBC) judges a petition allowing a municipality to dissolve by adding an advisory election option.

Section 2 of the bill designates to the Local Boundary Commission (LBC) the responsibility to distribute the assets of a dissolved municipality and sets out some general guidelines for this distribution. The designation of the LBC as the executor of a dissolved municipality's assets and liabilities is a new role for this constitutionally mandated body.

Comments:

The creators of the existing statutes pertaining to municipal dissolution apparently only envisioned the need for dissolving municipal government in those cases in which communities essentially ceased to exist (i.e., became ghost towns). Consequently, the existing statutory dissolution standards do not adequately address the situation in which the residents of a "viable" community, presently incorporated as a municipality, choose to dissolve their municipality and return to an unincorporated status. The existing standards which the LBC uses to judge a petition for dissolution are as follows:

1. It (the municipality) is free of debt, or it has satisfied its creditors with a method of repayment; and
2. it no longer meets the minimum standards for incorporation; or
3. it ceases to use its mandatory powers.

Clearly these standards were constructed to apply to the case in which a community's population has moved away and the municipality has ceased to function. With the exception of the debt standard, these standards become quite subjective, ambiguous, and generally strained when applied to the case of a thriving community. It is virtually impossible for a still existing community to satisfy the last two standards.

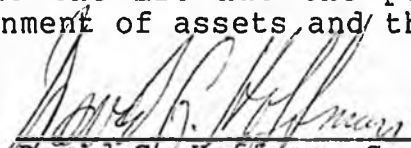
This situation thwarts the will of local residents to determine the type of local organization they will have represent and govern them. The proposed amendment, providing for a local advisory vote as an optional standard for dissolution, creates an objective and easily measured means to determine whether a municipal government should be allowed to dissolve. The Department advocates local control of government to the extent practical and, therefore, supports the purpose and intent of this legislation.

The bill does raise a number of questions concerning the mechanics of implementation. The Department recommends three technical amendments to clarify and strengthen new procedures set out in the bill:

- The Department recommends that the "advisory election" process provided for in this bill be clarified so that it is clear that the election is a municipal election by secret ballot and meets State procedural requirements.
- The Department also recommends the insertion of a requirement that the dissolution advisory vote, and the final vote on the question after LBC approval, be approved by a majority of residents registered to vote (this would require amendment of AS 29.06.510 which pertains to the dissolution election). Dissolution is clearly one of the most critical actions that residents of a municipality can take. It is therefore essential that such an election represent the broadest reasonable measure of community sentiment.
- It is recommended that the bill be amended to clearly state that the LBC shall require, in conjunction with the distribution of municipal assets, that facility use and services provided by such assets be provided equally to all residents and that the trustee of such assets be liable and accountable for the expenditure of public funds.

The Department believes these changes would strengthen the bill by more clearly defining the dissolution process and by making the trustee of local assets more accountable for public funds and services.

The proposed legislation presumes the LBC's ability to "provide for the distribution of assets and liabilities" and "consider the manner in which assets will best be used." However, it is not clear that the LBC has the power to place binding conditions on the assignment of assets, and the provision of services.



David G. Hoffman, Commissioner

AG office

SECTIONAL ANALYSIS - HOUSE BILL 65

For an Act entitled: "An Act relating to dissolution of a municipality."

Under current law the Local Boundry Commission cannot allow the dissolution of a community. Under HB 65 it is the intent that if a community approves dissolution in an advisory election then preceeds through the dissolution process; then the Local Boundry Commission may grant dissolution.

*Section 1. AS 29.06.470(a) is amended to allow for a community to decide by advisory election if dissolution is what the community desires.

*Section 2. AS 29.06.520 is repealed and reenacted to clarify the distribution process if dissolution is approved.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

④ HB 65
JAN 29 1987

POUCHY STATE CAPITOL
JULIAU ALASKA 99811
907 465 3800

MEMORANDUM

January 29, 1987

SUBJECT: Dissolution of a municipality (HB 65)

TO: Representative Heinrich Springer, Chair
House Community & Regional Affairs Committee

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

Here is the sectional analysis that you requested.

Sec. 1. This permits the voters of a municipality to petition for dissolution when the dissolution is approved in an advisory election. Existing law also requires that the municipality be free of debt, or if in debt, each creditor must be satisfied with a method of repayment before a petition for dissolution may be properly filed.

Sec. 2. The Local Boundary Commission is required to provide for the distribution of assets and liabilities of a municipality that is dissolved. They may be distributed to the state, another municipality, a nonprofit state corporation, or a Native council established under 25.U.S.C. 476. In distributing assets, the commission is to consider how the assets will best be used to provide services to the area of the dissolved municipality, with preference to be given to the state, another municipality or a nonprofit corporation. Under existing law, repealed by this section, the government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities.

TBC:mkr
m8/062

3 HB 65

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: HB 65

Bill Version: HB 0065A
Publish Date: 01/22/87

Revision Date: _____
Title: "An Act relating to dissolution of a municipality."
Sponsor: Representative Hoffman
Requestor: House C&RA

Agency Affected: Community & Regional Affairs
BRU: Local Government Assistance
Components: Local Boundary Commission

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)

[Empty box for analysis]

Prepared by: Douglas B. Griffin
Division: Municipal and Regional Assistance

Phone: 465-4750
Date: 02/06/87

Approved by Commissioner: David C. Hoffman
Agency: Community and Regional Affairs

Date: 2-6-87

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

2 HB65

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 65
Publish Date: _____

Revision Date: _____

Agency Affected: Department of Law
BRU: Legal Services

Title: "An Act relating to dissolution of a municipality."

Sponsor: Repr. Hoffman

Components: Legal Services Operations

Requestor: Repr. Hoffman

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)

Please see attached analysis.

* Fiscal Impact cannot be determined at this time; however, there is a high probability that cost will occur.

Prepared by: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: Jan. 29, 1987

Approved by Commissioner: Ronald W. Lorensen, Acting Attorney General Date: Jan. 29, 1987

Agency: Department of Law

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 65

Section 1 of this bill amends AS 29.06.470(a) by adding a new provision that permits dissolution if it is approved in an advisory election held on the question by the municipality proposed to be dissolved. Although some minor legal work may be necessary if such elections are conducted by the state, any work caused by this section of the bill would not warrant fiscal note costs.

Section 2 of this bill provides statutory guidelines for the distribution of a municipality's assets and liabilities upon its dissolution. The proposed statute places responsibility for this distribution with the Local Boundary Commission. This part of the bill may result in a substantial amount of legal work.

The bill provides that assets and liabilities may be distributed to the state, another municipality, a nonprofit corporation formed under the laws of the state, or a Native council organized under 25 U.S.C. 476. It is our view that there is a high probability that succession determinations of the Local Boundary Commission will be challenged because of the potential of conflicting interests on the part of successors. We are not able, at this time, to predict the level of work that may be necessary because the number of dissolutions and the extent and form of potential challenges that will occur is unknown.

The Department of Law is facing severe budget reductions in the coming fiscal year. The general fund resources to deal with the sort of legal work that will be caused by the section were reduced by 15 per cent in FY 87, and these resources face a further reduction of 20 per cent in FY 88. To the extent that this bill does result in a substantial body of new legal work it will be necessary to seek a supplemental appropriation to cover the cost of such work in FY 88.

Original sponsor: Hoffman

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 65 (C&RA)

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 dissolution of a municipality."

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

8 * Section 1. AS 29.06.470(a) is amended to read:

9 (a) Except as provided in (b) of this section, voters of a
10 municipality may petition for dissolution when the municipality is
11 free of debt, or, if in debt, each of its creditors is satisfied with
12 a method of repayment and

13 (1) the municipality [IT] no longer meets the minimum
14 standards prescribed for incorporation by AS 29.05, or former AS 29.-
15 18.030 if it is a third class borough; [OR]

16 (2) the municipality ceases to use each of its mandatory
17 powers; or

18 (3) dissolution is requested by petition on a form provided
19 by the department signed by a number of voters of the municipality
20 proposed to be dissolved greater than 50 percent of the number of
21 votes cast in the last general election in that municipality.

22 * Sec. 2. AS 29.06.500(a) is amended to read:

23 (a) If the Local Boundary Commission determines that a munic-
24 ipality fails to meet the standards for dissolution under AS 29.06.-
25 470, it shall reject the petition. If the commission determines that
26 the municipality meets the standards, it shall accept the petition.

27 * Sec. 3. AS 29.06.510(c) is amended to read:

28 (c) The director of elections shall certify the election re-
29 sults. If dissolution is approved by two-thirds of the votes cast on

1 the question, the director of elections shall declare that the munic-
2 ipality is dissolved effective on the date of certification.
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Original sponsor: Hoffman

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 65 (C&RA)

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 dissolution of a municipality."

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

8 * Section 1. AS 29.06.470(a) is amended to read:

9 (a) Except as provided in (b) of this section, voters of a
10 municipality may petition for dissolution when the municipality is
11 free of debt, or, if in debt, each of its creditors is satisfied with
12 a method of repayment and

13 (1) the municipality [IT] no longer meets the minimum
14 standards prescribed for incorporation by AS 29.05, or former AS 29.-
15 18.030 if it is a third class borough; [OR]

16 (2) the municipality ceases to use each of its mandatory
17 powers; or

18 (3) dissolution is requested by petition on a form provided
19 by the department signed by a number of voters of the municipality
20 proposed to be dissolved greater than 50 percent of the number of
21 votes cast in the last general election in that municipality.

22 * Sec. 2. AS 29.06.500(a) is amended to read:

23 (a) If the Local Boundary Commission determines that a munic-
24 ipality fails to meet the standards for dissolution under AS 29.06.-
25 470, it shall reject the petition. If the commission determines that
26 the municipality meets the standards, it shall accept the petition.

27 * Sec. 3. AS 29.06.510(c) is amended to read:

28 (c) The director of elections shall certify the election re-
29 sults. If dissolution is approved by two-thirds of the votes cast on

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the question, the director of elections shall declare that the municipality is dissolved effective on the date of certification.

(17) HB 65

5-0163B ✓

Cook
3/10/87

Original sponsor: Binkley

Binkley bought off on this

1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 50 (C&RA)

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 dissolution of a municipality."

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

8 * Section 1. AS 29.06.470(a) is amended to read:

9 (a) Except as provided in (b) of this section, voters of a
10 municipality may petition for dissolution when the municipality is
11 free of debt, or, if in debt, each of its creditors is satisfied with
12 a method of repayment and

13 (1) the municipality [IT] no longer meets the minimum
14 standards prescribed for incorporation by AS 29.05, or former AS 29.-
15 18.030 if it is a third class borough; [OR]

16 (2) the municipality ceases to use each of its mandatory
17 powers; or

18 (3) dissolution is requested by petition on a form provided
19 by the department signed by a number of voters of the municipality
20 proposed to be dissolved greater than 50 percent of the number of
21 votes cast in the last general election in that municipality.

22 * Sec. 2. AS 29.06.500(a) is amended to read:

23 (a) If the Local Boundary Commission determines that a munic-
24 ipality fails to meet the standards for dissolution, it shall reject
25 the petition. If the commission determines that the municipality
26 meets the standards under AS 29.06.470(a)(1) or (2), it shall accept
27 the petition. If the commission determines that the municipality
28 meets the standards under AS 29.06.470(a)(3) and that dissolution of
29 the municipality is in the best interest of the state, it shall accept

1 the petition.

2 * Sec. 3. AS 29.06.510(c) is amended to read:

3 (c) The director of elections shall certify the election re-
4 sults. If dissolution is approved by a number of voters greater than
5 50 percent of the number of people registered to vote in the munici-
6 pality, the director of elections shall declare that the municipality
7 is dissolved effective on the date of certification.

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9 *deleted*
10 *Sec. 2. .*
11 *Succession*
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2.13.

(11)

HB 65

5-0428L ✓
Cook
2/13/87

Original sponsor: Hoffman

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 65 ()
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 dissolution of a municipality."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 29.06.470(a) is amended to read:

9 (a) Except as provided in (b) of this section, voters of a
10 municipality may petition for dissolution when the municipality is
11 free of debt, or, if in debt, each of its creditors is satisfied with
12 a method of repayment and

13 (1) it no longer meets the minimum standards prescribed for
14 incorporation by AS 29.05, or former AS 29.18.030 if it is a third
15 class borough; [OR]

16 (2) the municipality ceases to use each of its mandatory
17 powers; or

18 (3) dissolution is requested by petition on a form provided
19 by the department signed by a majority of the voters of the municipal-
20 ity proposed to be dissolved.

21 * Sec. 2. AS 29.06.510(c) is amended to read:

22 (c) The director of elections shall certify the election re-
23 sults. If dissolution is approved by a majority of the voters of the
24 municipality, the director of elections shall declare that the munic-
25 ipality is dissolved effective on the date of certification.

26 * Sec. 3. AS 29.06.520 is repealed and reenacted to read:

27 Sec. 29.06.520. SUCCESSION. (a) The Local Boundary Commission
28 shall provide for the distribution of assets and liabilities of a
29 municipality upon its dissolution. Assets and liabilities may be

1 distributed to the department or another municipality.

2 (b) In determining how to distribute the assets of a municipali-
3 ty upon its dissolution, the Local Boundary Commission shall consider
4 the manner in which the assets will be best used to continue to pro-
5 vide services to the area of the dissolved municipality. If assets
6 are received by the department under this section, the department
7 shall, to the maximum extent possible, use the assets to provide
8 services to the area of the dissolved municipality. To carry out this
9 subsection, the department may enter into contracts regarding the use
10 of the assets with any person or organization, including a

11 (1) nonprofit corporation; or

12 (2) Native council organized under 25 U.S.C. 476 or
13 traditional village council.

14 (c) A contract may not be executed under (b)(2) of this section
15 unless the council waives immunity from suit for claims arising out of
16 activities relating to the use and management of the assets. A con-
17 tract entered into under (b) of this section must contain provisions
18 holding the contractor accountable for the use and maintenance of the
19 assets, including a provision that the

20 (1) assets be used for a specified public purpose;

21 (2) assets be used to provide services to residents without
22 regard to race, color, creed, religion, or national origin; and

23 (3) contractor is liable for claims arising out of the use
24 or management of the assets.
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10 1/28/87
HB 65

JAN 28 1987

5-0428B
Cook
1/28/87

Original sponsor: Hoffman

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 65 ()
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 dissolution of a municipality."

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

8 * Section 1. AS 29.06.470(a) is amended to read:

9 (a) Except as provided in (b) of this section, voters of a
10 municipality may petition for dissolution when the municipality is
11 free of debt, or, if in debt, each of its creditors is satisfied with
12 a method of repayment and

13 (1) it no longer meets the minimum standards prescribed for
14 incorporation by AS 29.05, or former AS 29.18.030 if it is a third
15 class borough; [OR]

16 (2) the municipality ceases to use each of its mandatory
17 powers; or

18 (3) dissolution is approved in an advisory election held on
19 the question by the municipality proposed to be dissolved.

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Standard being
50% + 1
of registered
voters.

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21 *Legal language exists in Statute
22 regarding contracting authority for distribution
23 (disposition) of asset.*

24 *If sec. 2 is omitted existing statutes will
25 apply.*

26 *Not giving any legislative direction to DCEA staff.*
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