

HB

163

HOUSE COMMITTEE REPORT

(11)

Date referred: 3/23/87

FURTHER REFERRALS:

DATE: 4/3/87

The Finance Committee has considered HB 163

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

RECOMMENDS:

- replace with CS HB 163 (Fin) 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:

ADAMS Robert Adams

BOURCHOT Bob Burchot

LARSON Ronald Larson

GOLL John Goll

SWACK-HAMMER Chuck Swack-Hammer

BOYER Mark Boyer

RIEGER Steve Rieger

WALLIS F. Wallis

BROWN Tony Brown

SIGNING OTHER RECOMMENDATIONS:

FRANK Frank no rec.

DAVIS Davis

Robert Adams
Chairman's signature

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

Bill Version SHB 163 (FIN)
Publish Date: HOUSE 3/23/87

REQUEST: _____

Revision Date: _____
Title: Advisory Elections on Certain Annexation Proposals
Sponsor: Goll
Requestor: House C&RA Committee

Agency Affected: Office of the Governor
BRU: Division of Elections
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. Kestlin, CPA 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.

STATE OF ALASKA 1987 LEGISLATIVE SESSION No. 2
FISCAL NOTE

Bill Version CSHB 163 (fin)
Publish Date: HOUSE 3/23/87

REQUEST: _____

Revision Date: _____
Title: "An Act relating to advisory elections on certain annexation..."
Sponsor: Representative Goll
Requestor: House C & RA Committee

Agency Affected: Community & Regional Affs
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						
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REVENUE						
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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: Ward O. 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

Original sponsor: Goll

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 163 (Finance)

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 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 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)

DRAFT

5-0759B
Cook
3/18/87

Original sponsor: Goll

Change - typographical error noted on p. 2: deleted typ reference to wrong section of constitution.

1 IN THE HOUSE

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

5 A BILL

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10 ities.

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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.

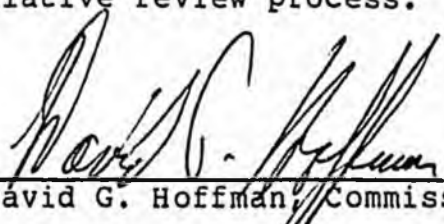
② HB 163 2/8

STEVE COWPER, GOVERNOR

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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

4) -E 103

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)



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.

1 IN THE HOUSE

BY GOLL

2

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
annexation proposals."

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