

H

B

65

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 AS 29.06.520 is repealed and reenacted to clarify the distribution process if dissolution is approved.

Sec. 29.06.500. Decision. (a) If the Local Boundary Commission determines that a municipality fails to meet the standards for dissolution, it shall reject the petition. If the commission determines that the municipality meets the standards, it shall accept the petition.

(b) A Local Boundary Commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62). (§ 5 ch 74 SLA 1985)

Sec. 29.06.510. Election. (a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a dissolution petition. Within 30 days after notification, the director of elections shall order an election in the municipality to determine whether the voters desire dissolution. The election must be held at least 30 and not more than 90 days after the election order. A person who is a voter of the municipality may vote in the dissolution election.

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

(c) The director of elections shall certify the election results. If dissolution is approved, the director of elections shall declare that the municipality is dissolved effective on the date of certification. (§ 5 ch 74 SLA 1985)

Sec. 29.06.520. Succession. The government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities. (§ 5 ch 74 SLA 1985)

Sec. 29.06.530. Application. AS 29.06.450 — 29.06.530 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Chapter 08. Classification of Municipalities.

[Repealed, § 44 ch 21 SLA 1985; § 88 ch 74 SLA 1985.]

Chapter 10. Home Rule Municipalities.

Article

- 1. Charters (§§ 29.10.010 — 29.10.100)
- 2. Home Rule Limitations (§ 29.10.200)

Title 28
Motor Vehicles

Title 29
Municipal Government

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 407
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-5668

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL :

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

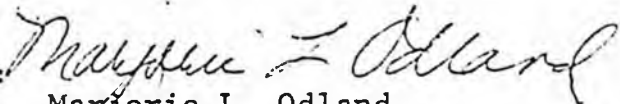
February 2, 1987
Page #2

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: Rob Evans
Acting Legislative Liaison
Office of the Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

February 6, 1987

POSITION PAPER

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

549 E. 36TH AVENUE, SUITE 401
ANCHORAGE, ALASKA 99503
PHONE: (907) 563-1073

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.

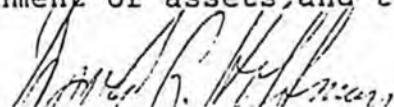
This situation thwarts the will of local residents to determine the type of local organization they will have represent and govern them. The proposed amendment, providing for a local advisory vote as an optional standard for dissolution, creates an objective and easily measured means to determine whether 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

STATE OF ALASKA

STEVE COWPER, GOVERNOR

LOCAL BOUNDARY COMMISSION

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

February 27, 1987

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.

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.

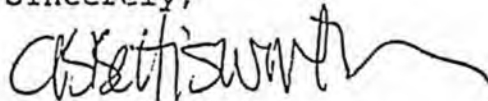
We suggest that situations will arise which will require discretionary application and deliberation of state level concerns. Thus, it seems prudent to include provision of language which would allow the commission to serve this legitimate role. We feel a "best interest" standard does just this.

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,



For

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 John 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

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

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

H. JUD.	4-6-87	1:30p.m.
H. JUD.	3-31-87	1:30p.m.

HOUSE COMMITTEE REPORT

referred, 3/16/87

FURTHER REFERRALS:

DATE: 4-6-87

Judiciary Committee has considered HB 65

Act relating to dissolution of a municipality."

RECOMMENDS:

- replace with CS HB 65 (Judiciary) [] the same title
- attached amendment(s) [] a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

PTS: [] _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact [] same as previous fiscal note published _____
- zero fiscal note [checked="" type="checkbox"/> same as previous zero fiscal note published 3/16/87
- zero with analysis

WILL IT PASS:

Yes

Mr. [Signature]

Mr. [Signature]

SIGNING OTHER RECOMMENDATIONS:

Mr. [Signature] no rec

Mr. [Signature] no rec

Mr. [Signature] no rec

Mr. [Signature] no rec

[Signature]

Chairman's signature

Alaska State Legislature



April 15, 1987

House of Representatives

House Judiciary Committee

LETTER OF INTENT

CSHB 65 (JUD)

P. O. Box 1
State Capitol
Juneau, Alaska 99811
(907) 465-4990

Existing laws apparently do not permit the dissolution of a city government unless that community suffers drastic reductions in its population or economy. The legislature recognizes that there are other circumstances under which the dissolution of a city government may be warranted. Such circumstances include those where:

1. the residents of a community have abandoned their city government;
2. alternative entities exist through which essential services may be delivered in the absence of city government; and
3. dissolution would not be adverse to the interest of the region in which the city is located and the state (e.g., dissolving primarily to avoid a viable tax base, returning education function to the state).

It may be considered to be in the best interest of the state, under the provision of Section 2 of this Act, for any city to be dissolved where such circumstances exist.

Definition of "essential services": Basic municipal services provided for the health, safety, and welfare of the residents, such as police and fire protection services and maintenance of public facilities, e.g., water and waste disposal systems, community buildings, etc.

Representative John Sund
Chairman, House Judiciary Committee

April 3, 1987

SCR 23 cont'd

and do pass. The report was signed by Senator Kerttula, Chairman and concurred in by Senators Josephson, Rodey, Halford and Sturgulewski.

Zero fiscal note published today from the Office of the Governor.

SENATE CONCURRENT RESOLUTION NO. 23 was referred to the Rules Committee.

SJR 35

The Resources Committee is returning SENATE JOINT RESOLUTION NO. 35 (Relating to maintaining timber industry employment, funding of U.S. Forest Service operations, and the allowable timber harvest level in Southeast Alaska and amendment of sections 703 and 705 of the Alaska National Interest Lands Conservation Act). The Resources Committee considered CS FOR SENATE RESOLUTION NO. 7 (RULES) (timber industry in Southeast Alaska) (same resolution) with six do passes to Rules. The report was signed by Senator Coghill, Chairman and Senators Jones, Eliason, Sturgulewski and Zharoff. Senator Duncan signed "no recommendation".

SENATE JOINT RESOLUTION NO. 35 was referred to the Rules Committee.

SB 17

The Transportation Committee considered SENATE BILL NO. 17 (vandalism of official traffic control devices and damages to highways and roads) and a majority of the committee recommended it be replaced with

CS FOR SENATE BILL NO. 17 (TRSP), entitled:
"An Act relating to unlawful possession and vandalism of official traffic control devices, disregard of a highway obstruction, and damages to highways."

and do pass. The report was signed by Senator Jones, Chairman and concurred in by Senators Abood, Fahrenkamp and Kelly.

Two zero fiscal notes published today from: Alaska Court System and Department of Corrections.

April 3, 1987

SB 17 cont'd

SENATE BILL NO. 17 was referred to the Rules Committee.

SB 50

The Judiciary Committee considered SENATE BILL NO. 50 (dissolution of a municipality) and a majority of the committee recommended adoption of the Community and Regional Affairs Committee Substitute and do pass with the following amendment:

Page 2, line 2: insert a new Section 3 to read:

Sec. 3. AS 29.06.510(a) is amended to read:

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a dissolution petition. Within 30 days after notification, the director of elections shall order an election in the municipality to determine whether the voters desire dissolution. The election must be held at least 30 and not more than 90 days after the election order unless such timing would cause the election to be held between May 1 and November 1. If the director of elections receives notification after April 1, but before October 1, the election shall be held within 60 days after November 1. A person who is a voter of the municipality may vote in the dissolution election.

Renumber existing section accordingly.

The report was signed by Senator Kerttula, Chairman and concurred in by Senators Josephson and Sturgulewski.

The committee adopted:

Legislative Intent
CSSB 50 (C&RA)

Existing laws apparently will not permit the dissolution of a city government in a community unless that community suffers drastic reductions in its population and/or economy. The legislature recognizes that there are other circumstances under which the dissolution of a city government may be warranted. Such circumstances include those where:

1. the residents of a community have abandoned their city government;

*Amend #3
Abood*

SB 50 cont'd

2. alternative entities exist through which essential services* may be delivered in the absence of city government; and
3. dissolution would not be adverse to the interests of the community served by the city, the region in which the city is located, and the state, i.e., dissolving primarily to void a viable tax base.

It may be considered to be in the best interest of the state, under the provisions of Section 2 of this Act, for any city to be dissolved where such circumstances exist.

- * Definition of "essential services": Basic municipal services providing for the health, safety, and welfare of the residents, such as police and fire protection services and maintenance of public facilities, i.e., water and sewer systems; washeterias; community buildings, etc.

SENATE BILL NO. 50 was referred to the Finance Committee.

SB 102

The Judiciary Committee considered SENATE BILL NO. 102 (reports of missing persons; and creating a missing persons information clearinghouse) and recommended it be replaced with

CS FOR SENATE BILL NO. 102 (JUD)

and do pass. The report was signed by Senator Kerttula, Chairman and concurred in by Senators Rodey, Josephson, Sturgulewski and Halford.

SENATE BILL NO. 102 was referred to the Finance Committee.

SB 135

The Judiciary Committee considered SENATE BILL NO. 135 (limiting recruitment and employment of teachers who are not residents of the state) and recommended it be replaced with

CS FOR SENATE BILL NO. 135 (JUD), entitled:
"An Act limiting recruitment and employment of school administrators and teachers."

and do pass. The report was signed by Senator Kerttula, Chairman and concurred in by Senators Halford, Rodey, Sturgulewski and Josephson.

SB 135 cont'd

SENATE BILL NO. 135 was referred to the Rules Committee.

SB 183

The Transportation Committee considered SENATE BILL NO. 183 (dams and reservoirs; efd) and a majority of the committee recommended do pass. The report was signed by Senator Jones, Chairman and concurred in by Senators Kelly, Abood and Fahrenkamp.

Two zero fiscal notes published today from: Department of Environmental Conservation and Department of Law. Fiscal note with impact published today from Department of Natural Resources.

Letter of Intent

Madame President:

The Transportation Committee expresses that it is not the intent either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The Transportation Committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

/s/ Lloyd Jones
Senator Lloyd Jones, Chairman
Senate Transportation Committee

SENATE BILL NO. 183 was referred to the Resources Committee.

SB 191

The Resources Committee considered SENATE BILL NO. 191 (amending the definition of big game guiding; and prohibiting compensation of an unlicensed person for guiding) and recommended it be replaced with

CS FOR SENATE BILL NO. 191 (RES), entitled:
"An Act relating to guide licensing fees; amending the definition of big game guiding; prohibiting compensation of an unlicensed person for guiding; and prohibiting a person not licensed as a guide from advertising as or representing to be an outfitter."

3/31/87

HB 65 Hoffman -

Barnes - on Gov Tribed Fed State Task Force

Dissolution - need to look at CoRA
minutes

CoRA -

in support of bill.

not a sovereignty bill

local options bill.

Allow dissolution

Aspects of community →

Would become unincorporated communities
in unorganized borough

3/31/87

LARA

Mandatory powers of 2nd class city

Bert Crist -

Dep Com LARA
started today ?

see on Local Boundary Commission
former mayor of Seabrook
(general reasons for dissolution)

People trying to get control of
~~their~~ lives

(subsistence) other issues :

Local Boundary Commission
support dissolution

County give them

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

*repeal
this section
and propose*

Original sponsor: Hoffman

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 65 (Judiciary)

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:

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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 13.030 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(a) is amended to read:

3 (a) The Local Boundary Commission shall immediately notify the
4 director of elections of its acceptance of a dissolution petition.
5 Within 30 days after notification, the director of elections shall
6 order an election in the municipality to determine whether the voters
7 desire dissolution. The election shall [MUST] be held at least 30 and
8 not more than 90 days after the election order unless this would cause
9 the election to be held between May 1 and November 1. If the director
10 of elections receives notice of the acceptance of a dissolution
11 petition after April 1, but before October 1, the election shall be
12 held within 60 days after November 1. A person who is a voter of the
13 municipality may vote in the dissolution election.

14 * Sec. 4. AS 29.06.510(c) is amended to read:

15 (c) The director of elections shall certify the election re-
16 sults. If dissolution is approved by a number of voters greater than
17 50 percent of the number of people registered to vote in the munici-
18 pality, the director of elections shall declare that the municipality
19 is dissolved effective on the date of certification.
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STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

SUMMARY OF ACTION
FINDINGS OF FACT
STATEMENT OF DECISION

IN THE MATTER OF THE DISSOLUTION)
OF THE CITY OF AKIACHAK,)
ALASKA, A CITY OF THE SECOND)
CLASS:)
_____)

SUMMARY OF PROPOSED ACTION

Sixty-two individuals registered to vote in Akiachak petitioned for dissolution of the community's second class city government, pursuant to Section 29.68.500-580 of the Alaska Statutes.

The City of Akiachak has a recorded population of 451 (according to 1985 state revenue sharing records) and municipal boundaries encompassing approximately 12 square miles.

The Commission conducted a hearing on the petition at the Akiachak Contract School on March 2, 1985. The Commission held a decisional session on the petition in Anchorage on May 18, 1985. Members of the Commission participating in the May 18 decisional session were Chairman Gillian Smythe, Bert Greist, Charles Bettisworth and Josephine Anderson. At the May 18 meeting, the Commission voted to reject the petition for dissolution. On August 2, 1985, the Commission agreed to reconsider its denial of the petition at the request of the petitioners' representative.

Accordingly, the Commission met on November 9, 1985, and again examined whether the petition conformed to the standards for municipal dissolution. Members of the Commission participating in the reconsideration were Chairman Robert Eder, Bert Greist, Charles Bettisworth and Dave Hansor.

FINDINGS OF FACT

Following its deliberations on this matter, the Local Boundary Commission made the following findings of fact:

I. THE PETITIONERS HAVE ADEQUATELY DEMONSTRATED THAT THE CITY IS FREE OF DEBT OR THAT THE CITY HAS SATISFIED EACH OF ITS CREDITORS AS REQUIRED BY SECTION 29.68.520 (1) OF THE ALASKA STATUTES.

In making this determination, the Commission is charged with ascertaining whether the City is free of debt, or if in debt, whether each of its creditors are satisfied with a method of repayment. A city may not be legally dissolved unless it is free of bonded or other indebtedness, or else has a plan to repay its creditors which has been approved by the creditors.

On the basis of information provided to the Commission by representatives of the petitioners for dissolution of the City of Akiachak, the Commission is satisfied that the City of Akiachak's debts have been adequately identified. Good faith efforts had been made to identify and satisfy all known obligations. Obligations (including a debt to the

Community and Regional Affairs had previously recommended in its report to the Local Boundary Commission that a complete financial audit be conducted of the assets and liabilities of the City of Akiachak. However, due to the unavailability of funds, the recommended audit was not undertaken, but the Department informed the Commission that it had received no indication that any outstanding municipal debts remained. It was the conclusion of the Commission that the responsibility for satisfaction of debts had been fulfilled by the petitioners for dissolution of the City of Akiachak.

Therefore, the Commission finds that this standard for dissolution of the City of Akiachak has been met.

II. THE CITY STILL MEETS THE MINIMUM STANDARDS PRESCRIBED FOR INCORPORATION.

In making this determination, the Commission is charged with considering whether the community still has the human and financial resources necessary to provide local services, whether the population of the community is stable enough to support local government, whether there is a demonstrated need for local government and whether the boundaries of the City include all areas necessary to provide municipal services on an efficient scale.

Documents had been submitted to the Department of Community and Regional Affairs indicating that funds had been received and expended by the City of Akiachak for the purpose of providing municipal services during the most recent two year period.

No reference was given nor specific indication made in any testimony provided to the Commission that the community had suffered any significant population decrease or that the population of the community was not stable enough to support local government. Nor was it demonstrated that the community lacked the financial or human resources necessary to support local government. Further, it was determined that there is a continued need for the provision of basic municipal types of local government services in Akiachak.

While it has been amply demonstrated that dissolution of the City of Akiachak and the vesting of all local government powers in the local IRA Council is strongly desired by the petitioners, there are numerous communities in Alaska which enjoy the benefits of both IRA Councils and municipal governments. It has not been adequately demonstrated that the existence of an active IRA Council in the community is necessarily incompatible with the existence of a functioning municipal government in the community. The Commission determined that it has also not been demonstrated that the potential ramifications of municipal dissolution on the provision of basic municipal services to all Akiachak residents, both present and future, were adequately considered by the petitioners.

In summary, the Commission determined that while an argument may be made that the City of Akiachak may have technically failed to fully function as a municipal government in the recent past, the community of Akiachak still clearly meets the minimum standards for municipal incorporation set forth in Section 29.18.011 of the Alaska Statutes.

In its deliberations, the Commission noted that several issues were raised in the course of its consideration of the petition to dissolve the City of Akiachak. The Commission determined that these issues merit review by the Alaska Legislature, and expressed an intent to request

- A. That a need for review of statutes governing dissolution of Alaska municipal governments exists. The goal of the suggested review would be to more clearly identify the circumstances in which a municipal government may be dissolved when dissolution is desired by its residents but when the community continues to conform to the minimum standards for municipal incorporation.
- B. That a summary of the issues, and Commission proceedings, be forwarded to the Governor with the recommendation that the following questions be addressed through administrative and legislative processes:
1. Other than those circumstances provided by statute and regulation, are there other circumstances when dissolution of a municipal government may be termed appropriate?
 2. What, if any, statutory and/or regulatory standards and procedures should be established to dissolve a municipal government when dissolution of the government is desired by residents of a community which otherwise meets the standards for municipal incorporation?
 3. Shall the IRA local tribal council form of government be recognized as a part of the state system of government?
 4. If so, what procedures must be established to implement this recognition?

STATEMENT OF DECISION

The Commission decides as follows:

Chairman Eder, Member Charles Bettisworth and Member Dave Hanson voted to deny the petition after reconsideration. Member Bert Greist voted to accept the petition. Since three negative votes were cast to reject the petition, the petition was rejected.

That the petition for dissolution of the City of Akiachak as a city of the second class fails to satisfy requirements of Section 29.68.520(a)(2) of the Alaska Statutes. Specifically, the community continues to meet the minimum standards for municipal incorporation and the City of Akiachak has not ceased to use each and every one of its mandatory powers.

That the petition for the dissolution of the City of Akiachak is rejected on the basis of the determinations by the Local Boundary Commission stated herein.

APPROVED December 31, 1985.

BY:

Robert O Eder

Robert Eder, Chairman

Dave Hanson

Dave Hanson, Member

Bert Greist

Bert Greist, Member

Charles Bettisworth

Charles Bettisworth, Member

Sec. 29.06.500. Decision. (a) If the Local Boundary Commission determines that a municipality fails to meet the standards for dissolution, it shall reject the petition. If the commission determines that the municipality meets the standards, it shall accept the petition.

(b) A Local Boundary Commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62). (§ 5 ch 74 SLA 1985)

Sec. 29.06.510. Election. (a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a dissolution petition. Within 30 days after notification, the director of elections shall order an election in the municipality to determine whether the voters desire dissolution. The election must be held at least 30 and not more than 90 days after the election order. A person who is a voter of the municipality may vote in the dissolution election.

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

(c) The director of elections shall certify the election results. If dissolution is approved, the director of elections shall declare that the municipality is dissolved effective on the date of certification. (§ 5 ch 74 SLA 1985)

Sec. 29.06.520. Succession. The government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities. (§ 5 ch 74 SLA 1985)

Sec. 29.06.530. Application. AS 29.06.450 — 29.06.530 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Chapter 08. Classification of Municipalities.

[Repealed, § 44 ch 21 SLA 1985; § 88 ch 74 SLA 1985.]

Chapter 10. Home Rule Municipalities.

Article

1. Charters (§§ 29.10.010 — 29.10.100)
2. Home Rule Limitations (§ 29.10.200)

Title 28
Motor Vehicles

Title 29
Municipal Government

April 3, 1987

SCR 23 cont'd

and do pass. The report was signed by Senator Kerttula, Chairman and concurred in by Senators Josephson, Rodey, Halford and Sturgulewski.

Zero fiscal note published today from the Office of the Governor.

SENATE CONCURRENT RESOLUTION NO. 23 was referred to the Rules Committee.

SJR 35

The Resources Committee is returning SENATE JOINT RESOLUTION NO. 35 (Relating to maintaining timber industry employment, funding of U.S. Forest Service operations, and the allowable timber harvest level in Southeast Alaska and amendment of sections 703 and 705 of the Alaska National Interest Lands Conservation Act). The Resources Committee considered CS FOR SENATE RESOLUTION NO. 7 (RULES) (timber industry in Southeast Alaska) (same resolution) with six do passes to Rules. The report was signed by Senator Coghill, Chairman and Senators Jones, Eliason, Sturgulewski and Zharoff. Senator Duncan signed "no recommendation".

SENATE JOINT RESOLUTION NO. 35 was referred to the Rules Committee.

SB 17

The Transportation Committee considered SENATE BILL NO. 17 (vandalism of official traffic control devices and damages to highways and roads) and a majority of the committee recommended it be replaced with

CS FOR SENATE BILL NO. 17 (TRSP), entitled:
"An Act relating to unlawful possession and vandalism of official traffic control devices, disregard of a highway obstruction, and damages to highways."

and do pass. The report was signed by Senator Jones, Chairman and concurred in by Senators Abood, Fahrenkamp and Kelly.

Two zero fiscal notes published today from: Alaska Court System and Department of Corrections.

April 3, 1987

SB 17 cont'd

SENATE BILL NO. 17 was referred to the Rules Committee.

SB 50

The Judiciary Committee considered SENATE BILL NO. 50 (dissolution of a municipality) and a majority of the committee recommended adoption of the Community and Regional Affairs Committee Substitute and do pass with the following amendment:

Page 2, line 2: insert a new Section 3 to read:

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

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a dissolution petition. Within 30 days after notification, the director of elections shall order an election in the municipality to determine whether the voters desire dissolution. The election must be held at least 30 and not more than 90 days after the election order unless such timing would cause the election to be held between May 1 and November 1. If the director of elections receives notification after April 1, but before October 1, the election shall be held within 60 days after November 1. A person who is a voter of the municipality may vote in the dissolution election.

Renumber existing section accordingly.

The report was signed by Senator Kerttula, Chairman and concurred in by Senators Josephson and Sturgulewski.

The committee adopted:

Legislative Intent
CSSB 50 (C&RA)

Existing laws apparently will not permit the dissolution of a city government in a community unless that community suffers drastic reductions in its population and/or economy. The legislature recognizes that there are other circumstances under which the dissolution of a city government may be warranted. Such circumstances include those where:

1. the residents of a community have abandoned their city government;

SB 50 cont'd

2. alternative entities exist through which essential services* may be delivered in the absence of city government; and
3. dissolution would not be adverse to the interests of the community served by the city, the region in which the city is located, and the state, i.e., dissolving primarily to void a viable tax base.

It may be considered to be in the best interest of the state, under the provisions of Section 2 of this Act, for any city to be dissolved where such circumstances exist.

* Definition of "essential services": Basic municipal services providing for the health, safety, and welfare of the residents, such as police and fire protection services and maintenance of public facilities, i.e., water and sewer systems; washeterias; community buildings, etc.

SENATE BILL NO. 50 was referred to the Finance Committee.

SB 102

The Judiciary Committee considered SENATE BILL NO. 102 (reports of missing persons; and creating a missing persons information clearinghouse) and recommended it be replaced with

CS FOR SENATE BILL NO. 102 (JUD)

and do pass. The report was signed by Senator Kerttula, Chairman and concurred in by Senators Rodey, Josephson, Sturgulewski and Halford.

SENATE BILL NO. 102 was referred to the Finance Committee.

SB 135

The Judiciary Committee considered SENATE BILL NO. 135 (limiting recruitment and employment of teachers who are not residents of the state) and recommended it be replaced with

CS FOR SENATE BILL NO. 135 (JUD), entitled:
"An Act limiting recruitment and employment
of school administrators and teachers."

and do pass. The report was signed by Senator Kerttula, Chairman and concurred in by Senators Halford, Rodey, Sturgulewski and Josephson.

SB 135 corc'd

SENATE BILL NO. 135 was referred to the Rules Committee.

SB 183

The Transportation Committee considered SENATE BILL NO. 183 (dams and reservoirs; efd) and a majority of the committee recommended do pass. The report was signed by Senator Jones, Chairman and concurred in by Senators Kelly, Abood and Fahrenkamp.

Two zero fiscal notes published today from: Department of Environmental Conservation and Department of Law. Fiscal note with impact published today from Department of Natural Resources.

Letter of Intent

Madame President:

The Transportation Committee expresses that it is not the intent either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The Transportation Committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

/s/ Lloyd Jones
Senator Lloyd Jones, Chairman
Senate Transportation Committee

SENATE BILL NO. 183 was referred to the Resources Committee.

SB 191

The Resources Committee considered SENATE BILL NO. 191 (amending the definition of big game guiding; and prohibiting compensation of an unlicensed person for guiding) and recommended it be replaced with

CS FOR SENATE BILL NO. 191 (RES), entitled:
"An Act relating to guide licensing fees;
amending the definition of big game guiding;
prohibiting compensation of an unlicensed
person for guiding; and prohibiting a person
not licensed as a guide from advertising as
or representing to be an outfitter."

HOUSE COMMITTEE REPORT

2/16

(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:

- [XX] replace with CSHB65 (C&RA) [XX] the same title
[] attached amendment(s) [] a new title
[XX] 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
[X] zero fiscal note [] same as previous zero fiscal note published
[X] zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Cato
Herrmann
Springer

Collins
Zawacki

Springer Chairman's signature

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)

Prepared by: Douglas B. Griffin Phone: 465-4750
Division: Municipal and Regional Assistance Date: 02/06/87

Approved by Commissioner: David C. Hoffman Date: 2-6-87
Agency: Community and Regional Affairs

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

REQUEST: _____

Bill Version: HB 65

Publish Date: _____

Revision Date: _____

Agency Affected: Department of Law

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

BRU: Legal Services

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						
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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: 465-36

Division: Administrative Services Date: Jan. 29, 1987

Ronald W. Lorensen,

Approved by Commissioner: 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.