

SB

50

SENATE AMENDMENT

BY: \_\_\_\_\_

TO: \_\_\_\_\_ CS for SENATE BILL NO. 50 (C+RA)

SECTION 4 TO: \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

Sec 29.06.510(a) Election 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

SENATE AMENDMENT

BY: \_\_\_\_\_

TO: \_\_\_\_\_ SENATE BILL NO. \_\_\_\_\_

TO: \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

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.

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE.  
THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)

CSSB 50 (C&RA)

LEGISLATIVE INTENT

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;
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 COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/12/87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: JUDICIARY  
FINANCE

\*\*FISCAL NOTE(S) ATTACHED yes \*\*  
IN ACCORDANCE WITH AS 24.08/035  
(see below)

1/19/87

DATE TURNED INTO OFFICE

3/11/87

Mr. President:

COMMUNITY & REGIONAL AFFAIRS Committee considered SB 50

relating to dissolution of a municipality,

and recommended:

replace with

CS SB 50 (C+RA)

same title  
 new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

[Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS

Rick Halford DO NOT PASS  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Arline Sturgulewski  
Chairman signature and recommendation

Committee Backup Attached

Do Pass

NO. 114

ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: <sup>CS</sup> SB 50 (C+RA) M&A

Bill Version: CS SB 0050 (M&A)  
Publish Date: 02/22/87 5-11-87

Revision Date: \_\_\_\_\_  
Title: "An Act relating to dissolution  
of a municipality."  
Sponsor: Senator Binkley  
Requestor: Senate 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 & STRUCTU						
GRANTS, CLAIMS						
MISCELLANEOI						
TOTAL OPEK,	-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 :

[Empty box for analysis]

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

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

Approved by Commissioner: [Signature]  
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

Senator Johne Binkley

MAR 16 1987

Alaska State Senate

P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee  
Co-Chairman

M E M O R A N D U M

*Butt*

March 12, 1987

TO: SENATOR JAY KERTTULA, CHAIRMAN  
Senate Judiciary Committee

FROM: SENATOR JOHNE BINKLEY *Johne*

Subj: CSSB 50: "An Act relating to the dissolution of a municipality."

Residents and local elected officials of several small cities in Alaska have expressed an interest or desire in dissolving their municipal government. State laws provide standards and procedures for dissolution. However, existing regulations do not specifically address voluntary dissolution of active municipalities.

Existing regulations only pertain to dissolution of a community which effectively ceases to function as a governmental entity. State statutes require that, in order to dissolve, a municipal government must be free of debt and must cease to exercise its mandatory powers or it must be determined to no longer meet the standards of incorporation. Administrative regulations require that all three standards must be met in order for a municipal government to dissolve.

In 1984, residents of the City of Akiachak initiated a petition for the dissolution of their city. The matter was brought before the Alaska Local Boundary Commission twice (once upon reconsideration) in 1985. The Commission denied the petition principally because it found that Akiachak failed to meet two of the standards of dissolution of a municipality: (1) the community did not fall below the minimum standards for incorporation; and (2) the city must cease for two or more consecutive years to exercise virtually any of its municipal powers. The Commission determined that the City of Akiachak continued to function in certain respects (e.g., administration of grants). Akiachak has appealed the Commission's decision to the State Superior Court.

Senator Jay Kerttula  
March 12, 1987  
Page 2

Section 1 of this bill amends the standards by which the Local Boundary Commission is petitioned by requiring a petition signed by a number of voters of the municipality greater than 50 percent of the number of votes cast in the previous general election in that community.

Section 2 of this bill provides provides that the Local Boundary Commission determines whether the municipality meets the standards for dissolution and the dissolution is "in the best interest of the state."

Section 3 of this bill establishes standards for the election process for dissolution by requiring approval by a number of voters greater than 50 percent of the number of people registered to vote in that municipality.

The assets of the dissolved municipality are to be distributed either to another municipality or to the state. If the assets are are to remain within the community, the state would enter into contracts regarding the use of the assets with any person or organization, including a nonprofit corporation formed under the laws of the state or a Native council (IRA or traditional) formed under 25 U.S.C. 476. The contracting entity would be required, under existing state regulations, to waive sovereign immunity (if applicable) and be accountable for the use and maintenance of the assets, with a provision in the contract that: (1) the assets be used for a specified purpose; (2) the assets be used to provide services to residents without regard to race, color, creed, religion, or national origin; and (3) the contracting entity is liable for claims arising out of the use or management of the assets.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
TIM KELLY, Vice Chairman  
RICK HALFORD  
MIKE SZYMANSKI  
FRED ZHAROFF



P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4989

## Senate Community and Regional Affairs Committee

TO: Senate C&RA Members                      March 10, 1987

FROM: Senate C&RA Staff *[Handwritten Signature]*

RE: CSSB 50 (C&RA) - Dissolution of a municipality

At the last hearing on this bill a number of concerns were raised. This CS addresses those concerns.

An attempt has been made to have the process mirror the incorporation process. Citizens wishing to dissolve a municipality could file a petition with the Local Boundary Commission (LBC).

✓ If the the petition was signed by a number of voters of the municipality greater than 50 percent of the votes cast within the municipality at the last general election and if the LBC determined that the dissolution was in the state's best interest, it would accept the petition.

If the LBC accepted the petition, the director of elections would then conduct an election on the question and if dissolution was approved by a majority of the registered voters in the municipality, the dissolution would take effect.

The section of the original bill that dealt with succession has been deleted. Existing law would remain and assets could be handled through existing contracting procedures as suggested by the Department of Law.

Existing law is attached.

**Sec. 29.06.460. Petition.** (a) Voters of a municipality may file a dissolution petition with the department in the form prescribed by the department. The petition must be signed by a number of voters equal to at least 25 percent of the number of votes cast in the last regular election in that municipality.

(b) The petition must include

- (1) the name of the municipality;
- (2) maps, documents, and other information showing that the municipality meets the standards for dissolution. (§ 5 ch 74 SLA 1985)

**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 and

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

(2) the municipality ceases to use each of its mandatory powers.

(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. (§ 5 ch 74 SLA 1985)

**Sec. 29.06.480. Review.** (a) The department shall review a dissolution petition for content and signatures, and shall return a deficient petition for correction or completion.

(b) If the petition contains the required information and signatures, the department shall investigate the proposal. (§ 5 ch 74 SLA 1985)

**Sec. 29.06.490. Report and hearing.** (a) The department shall report its findings to the Local Boundary Commission with its recommendation regarding the dissolution of a municipality.

(b) The Local Boundary Commission shall hold at least one public hearing in the municipality proposed to be dissolved. (§ 5 ch 74 SLA 1985)

**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.

### Section

10 — 50. [Repealed]

*Secs. 29.08.010 — 29.08.045. Classification of municipalities. [Repealed, § 88 ch 74 SLA 1985, effective January 1, 1986.]*

*Sec. 29.08.050. Transition. [Repealed, § 44 ch 21 SLA 1985, effective May 10, 1985.]*

## Chapter 10. Home Rule Municipalities.

### Article

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

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

# 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

Original sponsor: Binkley

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 municipi-  
6        pality, the director of elections shall declare that the municipality  
7        is dissolved effective on the date of certification.  
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