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HB 253

"AN ACT MAKING A SPECIAL APPROPRIATION FOR PAYMENT AS A GRANT TO THE CITY OF FAIRBANKS FOR REPLACEMENT OF TECHITE SEWER PIPE; AND PROVIDING FOR AN EFFECTIVE DATE." - BOYER

HOUSE BILL 253 WOULD APPROPRIATE 2 MILLION DOLLARS TO THE CITY OF FAIRBANKS FOR THE REPAIR OF A TECHITE SEWER PIPE. THE PIPE RUNS PARALLEL TO THE PEGER ROAD FROM AIRPORT ROAD TO VAN HORN ROAD. THE DEPARTMENT OF TRANSPORTATION HAS PLANS TO WIDEN THIS ROAD, WHICH IS A MAJOR TRAFFIC LANE INTO THE CITY, BUT FEARS TO DO SO BEFORE THE PIPE CAN BE REPAIRED. HOWEVER, THE CITY OF FAIRBANKS DOES NOT CURRENTLY HAVE SUFFICIENT FUNDS TO DO SO.

HERE TO SPEAK ON ITS BEHALF IS THE SPONSOR REPRESENTATIVE MARK BOYER

THERE IS NO FISCAL NOTE BECAUSE IT IS AN APPROPRIATION BILL.

I DOUBT THAT THIS BILL WILL PASS DUE TO THE FISCAL IMPACT. HOWEVER, THE SPONSOR HAS ASKED THAT IT BE SCHEDULED AND IT WOULD NOT HURT US TO PASS IT OUT AS A NO REC. WE HAVE FOUR BILLS ON THE SCHEDULE NOW. I TOLD MARK'S STAFF THAT HIS WOULD BE UP LAST AND THAT WE WOULD TRY TO GET IT THROUGH, BUT WOULD OTHERWISE BRING IT BACK ON THE THURSDAY.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON CSSB 207

April 11, 1989

CSSB 207 authorizes a municipality to create a lien on real property to secure payment for services provided by a municipally-owned utility. The bill further provides that the lien may be enforced in the same manner as a property tax lien.

The public policy issue of what authority should be given to governmental entities, such as municipalities, to collect money from its citizens is appropriately resolved by the Legislature. The Commission would point out, however, that CSSB 207 provides municipalities, in their role as utilities, with significantly greater recourse against consumer/citizens than is generally allowed public utilities by regulatory commissions, courts, and legislatures.

The Commission has adopted specific rules and regulations regarding the billing and collection practices of electric and telephone public utilities, and those rules and regulations are applicable to those municipally-owned utilities which are subject to economic regulation by the Commission. CSSB 207 creates the potential that the billing and collection practices adopted by municipalities for certain utilities will conflict with the regulations established by the Commission.

The problem raised by the City of Nenana which resulted in this legislation was limited to collection of charges for water and sewer service. The Commission notes that payment and collection of rates for sewer and water service has traditionally been handled somewhat differently than for other utilities. For example, landlords generally remain responsible for water and sewer service, while tenants generally obtain and pay for other utility services. In addition, it may not be practical to use discontinuance of service as a means to secure against loss for non-payment. Thus, the Commission believes that it might be preferable if any legislation on this subject were limited to the problem raised by the City of Nenana involving water and sewer service.

(b) A utility shall inform customers applying for levelized billing as to how the levelized billing estimate was developed; how levelized billing will impact a customer's monthly utility bill; and that the utility may adjust the customer's monthly levelized bill under (c) of this section.

(c) A utility shall adjust a customer's levelized billing annually, or more frequently if the utility's estimate of the customer's usage or cost varies significantly from the customer's actual usage or cost. The utility or the customer may initiate the adjustment for causes including weather and rate changes.

(d) In the case of an overcollection determined at the time of the annual adjustment required by (c) of this section, a termination of service, or a termination of the levelized billing plan, a utility shall immediately refund or credit the excess payment to the customer account, as appropriate.

(e) A utility may not refuse enrollment in levelized billing to a customer whose current bill at the time of enrollment is past due or delinquent if the customer enters into a deferred payment agreement, as described in 3 AAC 52.445. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.291

3 AAC 52.445. DEFERRED PAYMENT AGREEMENTS. (a) For a residential customer who demonstrates that economic hardship prevents payment in full of a delinquent bill, a utility may not refuse to restore or continue service unless the customer refuses to agree to or comply with a deferred payment plan meeting the requirements of this section.

(b) A deferred payment agreement between a utility and a residential customer must provide that service will continue if the customer meets all of the following conditions:

(1) the customer agrees to pay one-third, or less at the option of the utility, of the outstanding bill at the time the parties enter into the deferred payment agreement;

(2) the customer agrees to pay all future bills for utility service in accordance with the effective billing and collection tariffs of the utility; and

(3) the customer agrees to pay the remaining outstanding balance in installments over a period not to exceed 12 months.

(c) The duration of a deferred payment agreement must be at least three months unless the customer agrees to a shorter period.

(d) A utility may include provisions for deferred payment agreements with non-residential customers in its tariff, or may negotiate them by special contract

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(e) In determining a reasonable deferred payment schedule, a utility and customer shall consider the following conditions, a list of which must be presented to the customer:

- (1) size of the delinquent account;
- (2) customer's ability to pay;
- (3) customer's payment history;
- (4) length of time the debt has been outstanding;
- (5) circumstances that resulted in the outstanding debt; and
- (6) any other relevant factors related to the circumstances of the customer.

(f) A deferred payment agreement must be in writing and must be signed by the customer and an authorized utility representative. A deferred payment agreement may include a finance charge as specified in the utility's effective tariff, but the charge may not exceed that allowed by AS 45.45.010(a).

(g) A utility shall offer comparable terms and conditions to customers with similar payment problems.

(h) If a customer fails to fulfill the terms of a deferred payment agreement, the utility may disconnect service under 3 AAC 52.450(d). The utility may offer a subsequent deferred payment agreement before disconnecting the customer's service. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.291

3 AAC 52.450. DISCONNECTION OF SERVICE. (a) A utility may disconnect service to a customer without advance written notice under the following conditions:

(1) an immediate hazard exists which threatens the safety or health of the customer or the general population or the utility's personnel or facilities;

(2) the utility has evidence of meter tampering or fraud by the customer; or

(3) a customer has failed to comply with the curtailment procedures imposed by a utility during emergency supply shortages.

(b) A utility may commence disconnection procedures in accordance with the notice requirements of (c) of this section for any of the following reasons:

(1) failure of the customer to pay for utility service within 55 days after initial rendering of the bill unless the customer has entered into a deferred payment agreement;

(2) failure of the customer to meet or maintain the utility's deposit requirements;

(3) knowing and continued failure of the customer to provide the utility with reasonable access to its meter, equipment, or property;

(4) customer breach of a special contract between the utility and customer for utility service; or

(5) necessity of the utility to comply with an order or regulation of any governmental agency with proper jurisdiction.

(c) The following notice requirements apply to service disconnections permissible under (b) of this section:

(1) Except as provided in (2) of this subsection and in (d) of this section, a utility shall, at least 15 days before the scheduled date of disconnection, mail or deliver to the customer a written notice of its intent to disconnect service. A copy of the termination notice must be simultaneously forwarded to any third party designated by the customer on a service application. The notice must contain, at a minimum, the following information:

(A) the name and address of the customer whose service is to be disconnected and the service address, if different;

(B) the date on or after which service will be disconnected unless the customer takes appropriate action;

(C) an explanation of the reason for the proposed disconnection, including, if appropriate, a statement of the amount of the delinquent bill which the customer has failed to pay in accordance with the payment policy of the utility;

(D) if disconnection is premised on payment delinquency,

(i) a statement advising the customer to contact the utility for information regarding deferred payment and other procedures that the utility may offer to avoid disconnection of the customer's service; and

(ii) a list of any governmental or social assistance agencies, of which the utility is aware, that may offer energy assistance to qualified needy customers;

(E) a specific request that if a customer's residence is occupied by a person seriously ill, elderly, handicapped, or dependent on life support systems, the customer should notify the utility immediately of that circumstance for consideration in avoiding disconnection;

(F) a statement advising the customer that the utility's stated reason for the termination of service may be disputed and potentially resolved by contacting the utility at a specific address or telephone number;

(G) a statement that the utility retains the right to terminate service, after allowing a customer who disputes a bill the opportunity for a meeting, if the utility continues to find that the reason for the disconnection is just;

(H) the telephone number and address of the commission and a statement that the customer may file a complaint with the commission under 3 AAC 48.120 or 3 AAC 48.130 if not satisfied

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with the utility's response or resolution of a contested bill or tariff provision; and

(1) the amount of the utility's tariffed charges for disconnection and reconnection of service.

(2) If a utility has been informed that a residence is occupied by a person seriously ill, elderly, handicapped, or dependent on life support systems, the utility shall provide the notice required by (1) of this subsection at least 30 days before the scheduled date of disconnection. In any case in which a utility is notified after issuance of a termination notice that a customer's residence is occupied by a person seriously ill, elderly, handicapped, or dependent on life support systems, the utility shall extend the disconnection date by 15 days and notify the customer of the extension.

(3) Not less than three working days prior to disconnection, the utility shall attempt personal contact with the customer either by telephone or by visit of an authorized utility representative to the premises. If by telephone, the utility shall attempt to make contact no less than three times at various periods in the day. A utility shall keep records of all attempted and completed telephone contacts, showing at least the time, the person making the attempt, and the outcome. If by visit to the premises, the utility's authorized representative shall hand-deliver a "Shut-Off Notice" to the customer or, if no personal contact is possible, leave the notice in a prominent place. The "Shut-Off Notice" or completed telephone call must provide the customer with the following information:

(A) the name and address of the customer and the service address, if different;

(B) a concise statement of the reasons for the impending disconnection of service;

(C) the date on or after which service will be disconnected;

(D) the business office telephone number, after-business-hours telephone number if applicable, and the address of the utility where the customer may pay the delinquent bill, enter into a deferred payment agreement, or file a bill dispute complaint; and

(E) the amount of the charges for disconnection and reconnection of service.

(4) If a utility knows that a landlord/tenant relationship exists, the following additional provisions apply:

(A) For individually metered premises where the landlord is the customer and the notice period provided for in (1) — (3) of this subsection has expired, the utility shall notify the tenant in writing of the option of subscribing for service in the tenant's own name. However, the utility may not attempt to recover from the tenant or condition service to the tenant on the payment of any outstanding bills or other charges due from the outstanding account of the landlord. If, however, the tenant has a previously

outstanding balance at the same service address, the utility may condition service to that tenant on terms acceptable to the utility for repayment of the outstanding balance plus a deposit in compliance with the utility's tariff. If the tenant declines to subscribe for individual service, or arrange for payment of the delinquency if applicable, within 10 days after written notice by the utility is mailed or delivered to the tenant, the utility may disconnect service without further notice.

(B) For master-metered premises where the landlord is the customer and the notice period provided for in (1) — (3) of this subsection has expired, the utility shall give individual notice of the pending disconnection to each tenant served through the master meter at least 14 days before disconnection.

(C) If the tenant is the customer and the notice period provided for in (1) — (3) of this subsection has expired, the utility shall notify the landlord in writing of the option of subscribing for the service provided at the tenant's premises. However, the utility may not attempt to recover from the landlord or condition service to the landlord on the payment of any outstanding bills or other charges due from the outstanding account of the tenant. If, however, the landlord has a previously outstanding balance at the same service address, the utility may condition service to that landlord on terms acceptable to the utility for repayment of the outstanding balance plus a deposit in compliance with the utility's tariff. If the landlord declines to subscribe for service, or arrange for payment of the delinquency if applicable, within 10 days after written notice by the utility is mailed to the landlord, then the utility may disconnect service without further notice.

(d) At least three working days before disconnection, a utility shall give written or telephone notice of disconnection, in accordance with (C)(3) of this section to a customer who has failed to comply with a deferred payment agreement.

(e) Within 10 days after the date specified on a "Shut-Off Notice", a utility may, without further notice, disconnect service to a customer between the daily business hours of 8:00 a.m. on Monday to 5:00 p.m. on Thursday. Service may not be disconnected on a Friday or a day preceding a holiday.

(f) A utility may not disconnect service to a customer for any of the following reasons:

(1) delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises;

(2) failure of the customer to pay for services or equipment not regulated by the commission;

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(3) nonpayment of a bill related to another class of service at a different service location;

(4) the customer disputes the amount due on the delinquent account, complies with the utility's tariffed rules on customer bill disputes, and the dispute remains under investigation by the utility or by the commission; however, a customer shall pay any undisputed amount, and the utility may proceed to disconnect service in accordance with this section for failure to pay any undisputed amounts; or

(5) the customer is unable to pay the full delinquent amount due, qualifies under the utility's tariffed eligibility requirements for deferred payment agreements, and is in compliance with a signed, or is in the process of timely negotiating a, deferred payment agreement.

(g) A utility may remove any or all of its property installed on a customer's premises upon disconnection of service.

(h) A utility shall restore service within three working days after correction of the conditions that resulted in the disconnection. Correction includes execution of a deferred payment agreement. If service restored during a period other than regular working hours at the customer's request, the utility may impose an after-hours charge for reconnection.

(i) Each utility shall maintain a record of each disconnection of service, including the reason for the disconnection. This record must be maintained for two years and must be available for commission inspection. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.291

3 AAC 52.455. LINE EXTENSIONS AND SERVICE CONNECTIONS. (a) A utility's tariff for line extensions and service connections, or, if appropriate, special contracts under 3 AAC 48.390, must include the following:

(1) the amount of the costs, maximum footage, or equipment allowance for a line extension and a service connection, to be provided by the utility at no charge; the utility may specify different allowances for different customer classes;

(2) a requirement, subject to the provisions of (3) and (4) of this subsection and to (c) and (d) of this section, that a customer requesting a line extension or service connection must pay all costs which exceed the amount for which the utility is responsible under (a)(1) of this section;

(3) a statement that the customer is not responsible for the cost of system upgrade that is incidentally the result of the customer's

CSSB 173 C&RA "AN ACT RELATING TO MUNICIPAL PETITIONS AND ELECTIONS, AND TO APPOINTMENT TO FILL CERTAIN MUNICIPAL OFFICES." - ADAMS

COMMITTEE SUBSTITUTE FOR SB 173 C&RA WOULD CLARIFY PROCEDURES RELATING TO MUNICIPAL PETITIONS AND ELECTIONS WHICH WERE MISSED WHEN TITLE 29 WAS REVISED. THIS IS ONE OF THE ALASKA MUNICIPAL LEAGUE'S LEGISLATIVE PRIORITIES AND HAS THE SUPPORT OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS.

THERE IS A ZERO FISCAL NOTE FROM THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.

WE WILL BE ON TELECONFERENCE FOR THIS BILL.

HERE TO SPEAK ON BEHALF OF THE LEGISLATION IS MARTHA STEWART, LEGISLATIVE AIDE, TO SENATOR AL ADAMS.

TELECONFERENCE:

GAYE VAUGHAN, ALASKA ASSOCIATION OF MUNICIPAL CLERKS.

ALSO TO TESTIFY:

SCOTT BURGESS, ALASKA MUNICIPAL LEAGUE

WE DO NOT HAVE TO MOVE TO ADOPT CSSB 173 C&RA FOR PURPOSES OF DISCUSSION. THIS IS BECAUSE IT IS THE VERSION ALREADY ADOPTED BY A BODY (THE SENATE) AND REFERRED TO US. HOWEVER, WE DO HAVE TO INCLUDE THE ENTIRE TITLE COMMITTEE SUBSTITUTE FOR SB 173 C&RA WHEN EVER IT IS REFERRED TO OR TO MOVE IT OUT OF COMMITTEE.



Alaska State Legislature

House of Representatives
Community & Regional Affairs

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IN CSSB 173 C&RA
- ITEM 8: STATUTES
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FISCAL NOTE #1

REQUEST:

Revision Date: _____
Title: "An Act..municipal petitions and elections..certain municipal offices."
Sponsor: Senator Adams
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
Division: Municipal & Regional Assistance Date: 3/7/89
Approved by Commissioner: David G. Bell Date: 3-7-89
Agency: Community & Regional Affairs

Distribution (by preparer):

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

forthcoming
will

FISCAL NOTE

#2

REQUEST:

Revision Date: _____
Title: An act relating to municipal
petitions & elections
Sponsor: Adams
Requestor: Adams

Agency Affected: Office of the Governor
BRU: Elections
Components: I - Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth Phone: 465-4611
Division: Division of Elections Date: _____
Approved by Commissioner: [Signature] Date: 3/1/89
Agency: Division of Elections

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

Alaska State Legislature

Al Adams
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Anchorage, Alaska 99503
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Official Business

April 7, 1989

TO: Representative MacLean, Chairman
House Community & Regional Affairs Committee

FROM: Senator Al Adams *APA*

RE: SB 173

Thank you for scheduling SB 173, "An Act relating to municipal petitions and elections, and to appointments to fill certain municipal offices."

This bill clarifies procedures relating to municipal petitions and elections and was developed in response to concerns brought to my attention by the Alaska Municipal League.

In general, SB 173 clarifies petition procedures, requires a prime sponsor to be designated on petitions, establishes a 30 day registration requirement for voting in municipal elections, permits a municipality by ordinance to require a person whose registration has been cancelled to reregister in order to vote in municipal elections, provides special initiative or referendum requirements for ordinances or resolutions that affect only part of the municipality, and prohibits appointment of a recalled official to fill the vacancy created by the recall.

Attached is a sectional analysis and fiscal note for CSSB 173 (C & RA).

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

#4
POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

April 5, 1989

SUBJECT: Sectional summary of CSSB 173 (C&RA)
TO: Representative Eileen MacLean
FROM: Tamara Brandt Cook *ABC*
Director
Division of Legal Services

Sec. 1. Makes municipal initiative and referendum petition requirements applicable to local option petitions (regarding regulation or prohibitions on the use and possession of alcoholic beverages).

Sec. 2. Requires a unification petition to comply with requirements for a municipal initiative and referendum petition. The clerk submits the completed petition to the assembly with a report of the number of valid signatures determined by the clerk to be on it.

Sec. 3. Requires a petition calling for election of a charter commission to be prepared under requirements applicable to an initiative and referendum petition. The completed petition is submitted by the clerk to the governing body with a report of the number of valid signatures on it.

Sec. 4. Requires a petition for adoption of a manager plan to meet the requirements applicable to an initiative and referendum petition. If the clerk certifies that the petition is sufficient, it is submitted to the governing body.

Sec. 5. Reworded slightly, but no substantive change.

Sec. 6. Repeal of a manager plan requires the same procedures as adoption. The repeal is effective within 60 days after certification of the election approving repeal.

Sec. 7. Permits a person to vote in a municipal election only if the person is registered to vote in state elections

at a residence address within the municipality at least 30 days before the municipal election.

Sec. 8. Permits a municipality to require that a person be registered to vote in state elections at the address in the municipality claimed as the residence.

Sec. 9. Permits a municipality by ordinance to require a person whose registration has been cancelled to re-register before voting in municipal elections.

Sec. 10 Requires the name and address of a prime sponsor to be included on an initiative or referendum application. Correspondence relating to the petition is sent to that prime sponsor.

Sec. 11. Copies of the petition are provided to sponsors at the clerk's office, although, special circumstances are listed under which a copy will be mailed.

Sec. 12. Adds a cross reference to an exception added in the next section.

Sec. 13. Provides special initiative or referendum requirements for ordinances or resolutions that affect only part of a municipality.

Sec. 14. The clerk need only notify the prime sponsor of an insufficient petition.

Sec. 15. A recall petition must identify a prime sponsor.

Sec. 16. Copies of a recall petition are to be made available to sponsors at the clerk's office. A copy will be mailed only in special circumstances.

Sec. 17. The clerk is required to inform only the prime sponsor of the number of signatures needed on a recall petition.

Sec. 18. The clerk is required to inform the prime sponsor if the petition is insufficient.

Sec. 19. Minor rewording.

Representative Eileen MacLean
Page 3
April 5, 1989

Sec. 20. A person who is recalled may not be appointed to the same office to fill that vacancy until a successor is elected.

Sec. 21. Deletes definition of voter and substitutes a cross-reference to the statute that sets out voter qualifications.


TBC:gc
WKG9/011

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1125

217 SECOND ST., SUITE 200
JUNEAU ALASKA 99801

TO: Representative Eileen MacLean, Chair
Members of the House Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: April 10, 1989

SUBJECT: CSSB 173 (C&RA) - Municipal Petitions and Elections

The Alaska Municipal League supports CSSB 173 (C&RA). In November 1988, the AML Board identified amendments to the statutes governing municipal elections to correct inconsistencies in those statutes and, where appropriate, to allow for greater local control, efficiency and fairness as a top priority of the League for the 1989 legislative session. CSSB 173 (C&RA) addresses several of the individual issues outlined in the League's Municipal Platform.

Sections 1, 2, 3 4, 5, and 6 clarify the petition process for elections on local liquor option under Title 4, and unification, charter commission formation, and the manager plan adoption or repeal under Title 29. The language in most cases adopts the existing petition process under Title 29 (AS 29.26.100 -.190) with some amendments.

A process for initiative and referendum petitions is established in AS 29.26.100-.190. The statutes governing adoption or deletion of the manager plan (AS 29.20.460), alteration of forms of government (AS 29.06), and the local liquor option (AS 4.11.502) currently contain vague references to "by petition" but do not specify that the procedures governing such petitions should be those in AS 29.26.100-.190.

Sections 7 and 8 of CSSB 173 (C&RA) amend the voter qualification criteria for municipal elections under Title 29. Municipal elections are carried out under Title 29, whereas state elections are governed by Title 15. Sections 7 and 8 clarify that an individual is required to be registered within the State of Alaska and the precinct, district, service area, or municipality in which they reside not less than thirty (30) days immediately preceding the date of the municipal election.

Most municipalities have addressed this requirement by incorporating state law into local ordinances; however, the requirements should be clarified. Votes should be registered within the area, precinct, or municipality in which they seek to vote. A person must be a resident and registered in the new area 30 days prior to voting in a local election. Thirty-day residency and registration requirements are standard conditions placed on an elector's entitlement to vote and are based upon substantial public policy reasons such as ensuring that electors are informed about the candidates and issues

of the election, ensuring that an elector in the area has a stake in the election, administrative convenience, and elimination of fraud in elections. Section 9 would allow a municipality the option of passing an ordinance requiring a resident to register to vote in the municipal election if he/she has not registered in the municipality or voted for two years, or have his/her name purged from the eligible voter list. Under Title 15, a voter whose registration has been canceled for non-activity, may still vote in an election as long as they have been registered at sometime during the two previous general elections. This approach works well for state elections because of the Division of Elections immediate access to past records of canceled voters. However, for some municipalities without such easy access (e.g other than Anchorage, Fairbanks and Juneau) this is a burden. The bill would allow each municipality the discretion to determine the procedure regarding purged voters for its elections, while not interfering with the procedures utilized by the State.

Sections 10 - 12 and 14 - 18 address the initiative, referendum and recall petition by amending Title 29 to a) require the municipal clerk to notify the designated contact who submits an application for an initiative, referendum, or recall petition of the sufficiency of the application and the availability of the petition and b) require the clerk to provide petitions only to persons who request a petition in person, or in writing if located in a multi-community municipality, from the clerk's office.

The Title 29 revision of 1986 provided an entirely new format for initiative, referendum, and recall petitions. This format has been tested, and it is time for some revisions to "tighten up" some portions of it. First, it should be clarified that the burden of contacting the sponsors of applications for petitions should be on the designated contact sponsor, not on the clerk. Applications for petitions in larger municipalities may contain hundreds of names of sponsors, many of whom aren't even aware they have been listed.

Second, petitions should be given only to those who agree to circulate the petition and sign for it. This would make the initiative, referendum, and recall process more manageable for the public and the clerk.

Section 19 is a technical clarification of AS 29.26.330, the form of a recall ballot, requiring material be filed at least 20 days before the election.

Section 13 amends AS 29.26.110-.190 to make a distinction for initiative and referendum issues of non-areawide or service area powers. AS 29.26.100-.190, which outlines the standards and process associated with a referendum election, mentions only municipal voters and makes no distinction as to voters inside the city and those outside it. The statutes do not require that petitioners or voters on an initiative or referendum be within the proposed or existing service area. Repeal of a non-areawide or service

AML Testimony on CSSB 173 (C&RA)
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area power would affect residents located outside cities, but under current statutes voters within cities could have a significant, and potentially dominant, role in determining whether residents outside the city receive services.

Section 20 amends Title 29 to prohibit a recalled elected official or a recalled official appointed to an elected office from being appointed to the vacancy created by the recall. If voters recall an elected official or an official appointed to an elected office, the voters have spoken, and their decision should stand. Prohibiting a recalled official from being reappointed also avoids pressure on other elected officials. Basically, allowing a recalled person to be appointed to the vacancy created by his or her recall is contrary to the whole recall process. AS 29.26.320(c) states that a person who resigns (during a recall process) may not be appointed to fill the vacancy. To be consistent, a recalled official should not be appointed to the vacancy created by the recall.

The AML supports CSSB 173 (C&RA) and urges the Committee and the Legislature to pass the bill to bring clarity and fairness to the municipal elections process.

Resolution of the Alaska Municipal League

Resolution No. 89-6

**A RESOLUTION URGING THE AMENDMENT OF MUNICIPAL
ELECTION STATUTES TO CORRECT INCONSISTENCIES
AND ALLOW FOR GREATER LOCAL CONTROL**

WHEREAS, several inconsistencies exist in the state laws governing municipal elections and the election process which are inappropriate, and

WHEREAS, these inconsistencies and incongruities impede the efficient management of the municipal elections process and introduce inequities into the election process, the foundation of our democratic system of government, and

WHEREAS, the limitations on staff and funding for the Alaska Public Offices Commission preclude the commission from adequately enforcing state statutes at the municipal level;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the 16th Alaska Legislature and the Governor to pass legislation amending the statutes governing municipal elections to correct these inadequacies by adopting a package of election revisions proposed by the municipalities themselves through the Alaska Municipal League.

SUGGESTED AMENDMENTS
SENATE BILL 173

The Division of Elections has reviewed the text of this bill and supports its general intent. It is important to note, however, that the Division of Elections is not directly affected by the main text of this bill. However, the Division serves municipalities in the conduct of local elections in a support capacity, specifically in maintaining voter registration rolls, providing voter lists and precinct registers, recording local voter history and determining precinct boundaries and polling sites. We, therefore, work with and lend our support to the Municipal League and local governments on these issues whenever possible. We support the general content of this bill because we agree with local officials that current laws regarding voter qualifications and petition processing do not adequately address the needs of local officials in the administration of these functions.

The Division wishes to focus its comments specifically on the sections regarding voter qualifications. It is our understanding that the purpose of this legislation is to resolve two major issues that, under current law, are unclear.

1. Under current law a voter must be a "resident" of the municipality in which he or she wants to vote for 30 days prior to an election. The law makes no requirement that they also be "registered" in the community. As long as they are registered somewhere to vote in state elections, local officials must count their vote.
2. Under existing provisions there is no clear statement as to the deadline by which a voter qualified in state elections must be registered for local elections.

The provisions of Section 7, are intended to clarify the requirements. Having discussed this issue with the Executive Director of the Alaska Municipal League, members of the League's legislative committee, and legal counsel for the league, the Division would like to recommend a friendly amendment to the bill which we believe more clearly fulfills the intent of the legislation. The text of that amendment is attached.

AMENDMENT #1

Sec. 7. AS 29.26.050(a) is amended to read:

Sec. 29.26.050. VOTER QUALIFICATION. (a) A person may vote in a municipal election only if the person

(1) is [A UNITED STATES CITIZEN WHO IS] qualified to vote in state elections[,] under AS 15.05.010;

(2) has been a resident of the municipality for 30 days immediately preceding the election;

(3) is registered to vote in state elections at a residence address within the municipality at least 30 days before the municipal election in which the voter seeks to vote, and

(4) is not disqualified under art. V of the state constitution.

3/2/89

Date

Sherry Valentine
Sherry Valentine
Deputy Director

Another issue that has been raised by municipal officials relates to the status of votes cast by voters who have been purged. Under Title 15, a voter whose registration has been canceled for non-activity, may still vote in an election as long as they have been registered at sometime during the 2 previous general elections. This approach works well for state elections because of the Division's immediate access to past records of cancelled voters. For some municipalities this a burden and it has been suggested that the provision be deleted. While the Division of Elections would not support such a repeal for state elections we are sensitive to the burden it puts on some municipalities.

Should the Municipal League and municipalities wish to pursue this issue, however, we offer the following suggestion which would allow each municipality the discretion to determine the procedures regarding purged voters which will be utilized for its elections, while not interfering with the procedures utilized by the State.

Add a new subsection to AS 29.26.050 to read:

(d) A municipality by ordinance may require that a person whose registration has been cancelled under AS 15.07.130 must reregister and meet the qualifications under (a) of this section to vote in the municipal election.

Article 2. Initiative and Referendum.

<p>Section 100. Reservation of powers 110. Application for petition 120. Contents of petition 130. Signature requirements 140. Sufficiency of petition</p>	<p>Section 150. Protest 160. New petition 170. Initiative election 180. Referendum election 190. Effect</p>
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Effective date of article. — Section 90, ch. 74, SLA 1985 provides: "This Act takes effect January 1, 1986."

Sec. 29.26.100. Reservation of powers. The powers of initiative and referendum are reserved to the residents of municipalities, except the powers do not extend to matters restricted by art. XI, sec. 7 of the state constitution. (§ 9 ch 74 SLA 1985)

Sec. 29.26.110. Application for petition. (a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the address to which all correspondence relating to the petition may be sent. An application shall be signed by a least 10 voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition, that the matter

- (1) is not restricted by AS 29.26.100;
 - (2) includes only a single subject;
 - (3) relates to a legislative rather than to an administrative matter;
- and
- (4) would be enforceable as a matter of law.

(b) A decision by the clerk on an application for petition is subject to judicial review. (§ 9 ch 74 SLA 1985)

Sec. 29.26.120. Contents of petition. (a) Within two weeks after certification of an application for an initiative or referendum petition, a petition shall be prepared by the municipal clerk. Each copy of the petition shall contain

- (1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
- (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;

- (3) the date on which the petition is issued by the clerk;
 - (4) notice that signatures must be secured within 90 days after the date the petition is issued;
 - (5) spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;
 - (6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
 - (7) space for indicating the total number of signatures on the petition.
- (b) If a petition consists of more than one page, each page shall contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.
- (c) Copies of the petition shall be provided to each sponsor by the clerk. (§ 9 ch 74 SLA 1985)

Sec. 29.26.130. Signature requirements. (a) The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issues the petition. The statement provided under AS 29.26.120(a)(6) shall be signed and dated by the sponsor. Signatures shall be in ink or indelible pencil.

(b) The clerk shall determine the number of signatures required on a petition and inform each sponsor. A petition shall be signed by a number of voters based on the number of votes cast at the last regular election held before the date the petition was issued equal to

- (1) 25 percent of the votes cast if a municipality has fewer than 7,500 persons; or
- (2) 15 percent of the votes cast if a municipality has 7,500 persons or more.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw the signer's signature on written application to the clerk before certification of the petition. (§ 9 ch 74 SLA 1985)

Sec. 29.26.140. Sufficiency of petition. (a) All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the municipal clerk shall

(1) certify on the petition whether it is sufficient; and

(2) if the petition is insufficient, identify the insufficiency and notify the sponsors at the address provided under AS 29.26.110(a) by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected.

(c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after a supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record. (§ 9 ch 74 SLA 1985)

Sec. 29.26.150. Protest. If the municipal clerk certifies an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the governing body. The governing body shall hear and decide the protest. (§ 9 ch 74 SLA 1985)

Sec. 29.26.160. New petition. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient. (§ 9 ch 74 SLA 1985)

Sec. 29.26.170. Initiative election. (a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote the clerk shall submit the matter to the voters at the next regular election occurring no sooner than 45 days after certification of the petition. If no regular election occurs within 75 days after the certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification.

(b) If the governing body adopts substantially the same measure, the petition is void and matter initiated may not be placed before the voters.

(c) The ordinance or resolution initiated shall be published in full in the notice of the election, but may be summarized on the ballot to indicate clearly the proposal submitted.

(d) If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution (§ 9 ch 74 SLA 1985)

Sec. 29.26.180. Referendum election. (a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to the voters at the next election occurring no sooner than 45 days after certification of the petition. If no election occurs within 75 days of certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification.

(b) If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the governing body may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the governing body repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election. (§ 9 ch 74 SLA 1985)

Sec. 29.26.190. Effect. (a) The effect of an ordinance or resolution may not be modified or negated within two years after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed.

(b) If an ordinance or resolution is repealed in a referendum election or by the governing body after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the governing body for a period of two years.

(c) If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified. (§ 9 ch 74 SLA 1985)

CSSB 173 C&RA "AN ACT RELATING TO MUNICIPAL PETITIONS AND ELECTIONS, AND TO APPOINTMENT TO FILL CERTAIN MUNICIPAL OFFICES." - ADAMS

COMMITTEE SUBSTITUTE FOR SB 173 C&RA WOULD CLARIFY PROCEDURES RELATING TO MUNICIPAL PETITIONS AND ELECTIONS WHICH WERE MISSED WHEN TITLE 29 WAS REVISED. THIS IS ONE OF THE ALASKA MUNICIPAL LEAGUE'S LEGISLATIVE PRIORITIES AND HAS THE SUPPORT OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS.

THERE IS A ZERO FISCAL NOTE FROM THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.

WE WILL BE ON TELECONFERENCE FOR THIS BILL.

HERE TO SPEAK ON BEHALF OF THE LEGISLATION IS THE SPONSOR
~~REPRESENTATIVE~~ ^{Senator} AL ADAMS.

TELECONFERENCE:

GAYE VAUGHAN, ALASKA ASSOCIATION OF MUNICIPAL CLERKS.
ALSO TO TESTIFY:
SCOTT BURGESS, ALASKA MUNICIPAL LEAGUE

WE DO NOT HAVE TO MOVE TO ADOPT CSSB 173 C&RA FOR PURPOSES OF DISCUSSION. THIS IS BECAUSE IT IS THE VERSION ALREADY ADOPTED BY A BODY (THE SENATE) AND REFERRED TO US. HOWEVER, WE DO HAVE TO INCLUDE THE ENTIRE TITLE COMMITTEE SUBSTITUTE FOR SB 173 C&RA WHENEVER IT IS REFERRED TO OR TO MOVE IT OUT OF COMMITTEE.