

H B

1 2 8



# City and Borough of Sitka

304 LAKE STREET . SITKA, ALASKA . 99835

February 24, 1992


Representative Dave Donley, Chairman  
House Judiciary Committee  
P.O. Box V  
Juneau, AK 99811

Dear Representative Donley:

I am writing this letter to express my support for HB 128 relating to the office of Municipal Clerk. I feel that this legislation is extremely important because, in many of the communities of this State, the Clerk is the principal professional employee of the city or borough. It is important to codify the position and powers which are already, in many cases, exercised by the Clerk in those communities.

I also feel it is very important because, as an organization, the Alaska Association of Municipal Clerks have been working steadily to improve the professionalism of that office and this is another matter contributing to their efforts to improve the status of the Municipal Clerk

Very truly yours,

  
Theron J. Cole, Municipal Attorney  
City and Borough of Sitka



# City and Borough of Sitka

304 LAKE STREET . SITKA, ALASKA . 99835

February 21, 1992

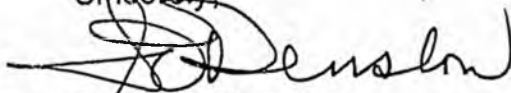
Representative Dave Donley, Chairman  
House Judiciary Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Donley:

The Alaska Municipal League, of which Sitka is a member, continues to support the intent and purpose of CS for HB No. 128 (CRA).

I wish to add my personal support for this much needed legislation.

Sincerely,



Stuart O. Denslow  
Administrator



# City and Borough of Sitka

304 LAKE STREET . SITKA, ALASKA . 99835

February 20, 1992

Representative Dave Donley, Chairman  
House Judiciary Committee  
P.O. Box V  
Juneau, AK 99811

Dear Representative Donley:

In November, 1992, during the annual meeting of the Alaska Association of Municipal Clerks, the membership as a whole voted to confirm our support of CS for HB No. 128 (CRA). A list of the membership is attached.

It should be noted that the 1992 Alaska Municipal League Policy Statement continues to support the intent of CS for HB No. 128 (CRA).

If you have any questions prior to the hearing on Monday, February 24, 1992, I would be more than happy to receive your phone call at 747-3294.

Sincerely,

*Melinda L. Jenkins*

Melinda L. Jenkins, President  
Alaska Association of Municipal Clerks

cc: Todd Clevenger  
Georgianna Zimmerle

ALASKA ASSOCIATION OF MUNICIPAL CLERKS

Aleutians East Borough  
P.O. Box 349  
Sand Point, Alaska 99611  
Lynn Ramsey, Clerk/Admin. Asst.

Second Class Borough  
383-2699  
FAX 383-3496

Municipality of Anchorage  
P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Lejane Ferguson, Clerk

Unified Home Rule  
343-4311  
FAX 343-4780

Bristol Bay Borough  
P.O. Box 189  
Naknek, Alaska 99633  
Betty J. Bonin, Clerk/Financial Assistant

Second Class Borough  
246-4224  
FAX 246-6633

Denali Borough  
P.O. Box 480  
Healy, Alaska 99743  
Kristina M. Graham, Clerk/Treasurer

683-1330  
683-1340

Fairbanks North Star Borough  
P.O. Box 71267  
Fairbanks, Alaska 99707  
Mona Lisa Drexler, CMC, Clerk  
Martha J. Harrell, CMC/AE, Deputy Clerk, AAMC Secretary

Second Class Borough  
452-4761  
FAX 452-3819

Haines Borough  
P.O. Box 1209  
Haines, Alaska 99827  
~~Sharan Van Winkle, Clerk/Treasurer~~

Third Class Borough  
766-2711  
FAX 766-2716

City & Borough of Juneau  
155 South Seward Street  
Juneau, Alaska 99801  
Patty Ann Polley, Clerk, AAMC Immediate Past President

Unified Home Rule  
586-5278  
FAX 586-5299

Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, Alaska 99669  
Gaye J. Vaughan, CMC/AE, Clerk  
Teresa Hudson, Deputy Clerk

Second Class Borough  
262-4441  
FAX 262-1892

<p>Ketchikan Gateway Borough            344 Front Street            Ketchikan, Alaska 99901            Georgianna C. Zimmerle, CMC/AAE, Clerk            Susan L. Bethel, Deputy Clerk</p>	<p>Second Class Borough            228-6605            FAX 225-7282</p>
<p>Kodiak Island Borough            710 Mill Bay Road            Kodiak, Alaska 99615-6340            Donna F. Smith, Clerk            Judy Neilsen, Deputy Clerk</p>	<p>Second Class Borough            486-5736            FAX 486-2886</p>
<p>Lake &amp; Peninsula Borough            P.O. Box 495            King Salmon, Alaska 99613            Mary Anne Wilson, Clerk</p>	<p>Home Rule Borough            246-3421            FAX 246-6602</p>
<p>Matanuska-Susitna Borough            P.O. Box 1608            Palmer, Alaska 99645            Linda Ann Dahl, CMC, Clerk            Kristie L. Van Gorder, Deputy Clerk</p>	<p>Second Class Borough            745-9685            FAX 745-0886</p>
<p>Northwest Arctic Borough            P.O. Box 1110            Kotzebue, Alaska 99752            Paulette Lambert, Clerk</p>	<p>First Class Borough            442-2500            FAX 442-2930</p>
<p>North Slope Borough            P.O. Box 69            Barrow, Alaska            Evelyn J. Donoyan, Clerk</p>	<p>Home Rule            852-2611            852-0229</p>
<p>City &amp; Borough of Sitka            304 Lake Street, Room 111            Sitka, Alaska 99835            Melinda L. Jenkins, Clerk, AAMC Vice President</p>	<p>Unified Home Rule            747-3294            FAX 747-7403</p>
<p>City of Akutan            General Delivery            Akutan, Alaska 99553            Zenia Borenin, Clerk            Ruth E. Kudrin, Deputy Clerk</p>	<p>Second Class City            698-2228            FAX 698-2202</p>

City of Atkasuk  
General Delivery  
Atkasuk, Alaska 99791  
Harold L. Ivanoff, Administrator/Clerk

Second Class City  
633-6811  
FAX 633-6812

City of Barrow  
P.O. Box 629  
Barrow, Alaska 99723  
~~Ronald D. Brewer, Clerk~~

First Class City  
852-5211  
FAX 852-5871

City of Bethel  
P.O. Box 388  
Bethel, Alaska 99559  
Anna L. McGowan, Clerk

Second Class City  
543-2047  
FAX 543-4171

City of Craig  
P.O. Box 23  
Craig, Alaska 99921  
Helen Gray, CMC, Clerk

First Class City  
826-3275  
FAX 826-3278

City of Delta Junction  
P.O. Box 229  
Delta Junction, Alaska 99737  
Robby Lee Benson, Clerk/Treasurer/Administrative Assistant

Second Class City  
895-4656

City of Dillingham  
P.O. Box 889  
Dillingham, Alaska 99576  
Vivian M. Braswell, CMC, Clerk

First Class City  
842-5211  
FAX 842-5691

City of Eagle  
P.O. Box 1901  
Eagle, Alaska 99738  
Audrey J. Scott, Clerk

Second Class City  
547-2282 (Mondays  
only)

City of Elim  
P.O. Box 39009  
Elim, Alaska 99739  
Luther D. Nagaruk, Clerk

Second Class City  
890-3441  
FAX 890-3091

City of False Pass  
P.O. Box 50  
False Pass, Alaska 99583  
Joan Notti, Clerk

548-2319

City of Galena  
Antoski Hall P.O. Box 149  
Galena, Alaska 99741  
Miss Vaughn D. Dayton, Clerk

First Class City  
656-1769  
FAX 656-1769

City of Grayling  
P.O. Box 89  
Grayling, Alaska 99590  
Marilyn Deacon, Clerk

Second Class City  
453-5148

City of Haines  
P.O. Box 1049  
Haines, Alaska 99827  
Susan V. Johnston, Clerk

First Class City  
766-2231  
FAX 7866-3179

City of Homer  
491 East Pioneer Avenue  
Homer, Alaska 99603  
Mary L. Shannon, Clerk

First Class City  
235-8121  
FAX 235-3140

City of Hydaburg  
P.O. Box 49  
Hydaburg, Alaska 99922  
Margaret O'Neil, Clerk  
Mary A. Morris, Deputy Clerk

First Class City  
285-3761

City of Kaktovik  
P.O. Box 27  
Kaktovik, Alaska 99747  
Mary L. Sopl, Clerk/Treasurer

Second Class City  
640-6313  
FAX 640-6314

City of Kenai  
210 Fidalgo  
Kenai, Alaska 99611  
Carol L. Freas, Clerk  
Diane E. Craig, Deputy Clerk

Home Rule City  
283-7539  
FAX 283-3014

City of Ketchikan  
334 Front Street  
Ketchikan, Alaska 99901  
Karen Miles, CMC/AE, Clerk  
Karen Sund, CMC, Deputy Clerk

Home Rule City  
225-3111, Ext. 322  
FAX 225-5075

City of King Cove  
P.O. Box 37  
King Cove, Alaska 99612  
Cynthia Samuelson, CMC, Clerk/Treasurer  
Frankie C. Mack, Deputy Clerk

First Class City  
497-2340  
FAX 497-2386

City of Kivalina  
P.O. Box 50079  
Kivalina, Alaska 99750  
Myra Adams, Clerk

Second Class City  
645-2137  
FAX 645-2175

City of Kodiak  
P.O. Box 1397  
Kodiak, Alaska 99615  
Marcella H. Dalke, CMC/AAE, Clerk  
~~C. Marie Stevenson, Deputy Clerk~~

Home Rule City  
486-8636  
FAX 486-8600

City of Kotzebue  
P.O. Box 46  
Kotzebue, Alaska 99752  
Helen P. Baker, Clerk

Second Class City  
442-3401  
FAX 422-3742

City of Koyuk  
P.O. Box 29  
Koyuk, Alaska 99753  
Nancy Nassuk, Clerk

Second Class City  
963-3441  
FAX 963-3442

City of Mekoryuk  
P.O. Box 29  
Mekoryuk, Alaska 99630  
D. Janet Hendrickson, Clerk

Second Class City  
827-8314  
FAX 827-8626

City of Nenana  
P.O. Box 70  
Nenana, Alaska 99760  
Karen Harvey, Clerk/Treasurer/Assessor

First Class City  
832-5441  
FAX 832-5503

City of Nome  
P.O. Box 281  
Nome, Alaska 99762  
Linda E. Conley, Clerk/Treasurer, AAMC Treasurer

First Class City  
443-5242  
FAX 443-5349

City of North Pole  
P.O. Box 55109  
North Pole, Alaska 99705  
Shelley Dugan, CMC, Clerk/Treasurer

Home Rule City  
488-2281  
FAX 488-3002

City of Old Harbor  
P.O. Box 109  
Old Harbor, Alaska 99643  
Annie Pestrikoff, CMC, Clerk/Treasurer  
Tillie Christiansen, Deputy Clerk

Second Class City  
286-2204  
FAX 286-2278

City of Pelican  
P.O. Box 757  
Pelican, Alaska 99832  
Carol A. Bean, Clerk/Treasurer

First Class City  
735-2202  
FAX 735-2258

City of Petersburg  
P.O. Box 329  
Petersburg, Alaska 99833  
Patricia L. Curtiss, Clerk  
Frances A. Jones, Deputy Clerk

Home Rule City  
772-4519  
FAX 772-3759

City of Sand Point  
P.O. Box 249  
Sand Point, Alaska 99661  
Debra K. Dushkin, CMC, Clerk/Treasurer  
Gale D. McCarty, Deputy Clerk

First Class City  
383-2696  
FAX 383-2698

City of Savoonga  
P.O. Box 188  
Savoonga, Alaska 99769  
Tuesday M. Toolie, Clerk

Second Class City  
984-6614  
FAX 984-6411

City of Saxman  
Route 2, Box 1  
Saxman via Ketchikan, Alaska 99901  
Nora DeWitt, Clerk/Finance Officer

Second Class City  
225-4166  
FAX 225-4706

City of Selawik  
P.O. Box 49  
Selawik, Alaska 99770  
Myra J. Davis, Clerk

Second Class City  
484-2132  
484-2209

City of Seldovia  
P.O. Box 268  
Seldovia, Alaska 99663  
Roberta R. Hiatt, Clerk/Treasurer

First Class City  
234-7643  
FAX 234-7430

City of Seward  
P.O. Box 167  
Seward, Alaska 99664-0167  
Linda S. Murphy, CMC/AE, Clerk  
Patricia J. Jones, Deputy Clerk

Home Rule City  
224-3331  
FAX 224-3248

<p>City of Soldotna            177 North Birch Street            Soldotna, Alaska 99669            Patricia C. Burdick, CMC, Clerk</p>	<p>First Class City            262-9017            FAX 262-1245</p>
<p>City of St. Mary's            P.O. Box 163            St. Mary's, Alaska 99658            Thelma A. Johnson, Clerk/Treasurer</p>	<p>First Class City            438-2515            FAX 438-2719</p>
<p>City of Thorne Bay            P.O. Box 19110            Thorne Bay, Alaska 99919            Harriet J. Edwards, Clerk/Treasurer</p>	<p>Second Class City            828-3380            FAX 828-3374</p>
<p>City of Togiak            P.O. Box 99            Togiak, Alaska 99678            Marie (Pavian) Paul, Clerk</p>	<p>Second Class City            493-5820            FAX 493-5932</p>
<p>City of Unalaska            P.O. Box 89            Unalaska, Alaska 99685            Shelley Blickenstaff, Clerk</p>	<p>First Class City            581-1251            FAX 581-1417</p>
<p>City of Valdez            P.O. Box 307            Valdez, Alaska 99686            Jeanne D. Donald, CMC, Clerk, AAMC President            Sheri Lynn Buen, Deputy Clerk</p>	<p>Home Rule City            835-4313            FAX 835-2992</p>
<p>City of Wainwright            P.O. Box 9            Wainwright, Alaska 99782            Isabel M. Nashookpuk, Clerk</p>	<p>Second Class City            763-2815</p>
<p>City of Wasilla            290 East Herning Avenue            Wasilla, Alaska 99687            Erling P. Nelson, CMC, Clerk            Marjorie D. Harris, CMC, Deputy Clerk</p>	<p>First Class City            373-9066            FAX 373-0788</p>
<p>City of Wrangell            P.O. Box 531            Wrangell, Alaska 99929            Franette A. Vincent, Clerk</p>	<p>Home Rule            874-2381            FAX 874-3952</p>

\* \* \* \* \*

ASSOCIATE MEMBERS

Hughes, Thorsness, Gantz, Powell & Brundin 263-8251  
William M. Walker, Esq. FAX 263-8320  
509 West 3rd Avenue  
Anchorage, Alaska 99501

Perkins Coie 279-8561  
Attn: JoAnne E. Yerkes, Legal Assistant FAX 276-3108  
1029 West Third Avenue, Suite 300  
Anchorage, Alaska 99501

March 15, 1991

## ALASKA ASSOCIATION OF MUNICIPAL CLERKS POLICY STATEMENT IN SUPPORT HOUSE BILL 128

Since its inception in 1966, the Alaska Association of Municipal Clerks ("AAMC") has actively sought to heighten the professional development of its members. Professional development is a process for planned and continued learning and positive imaging.

The profession of municipal clerk extends to biblical times and beyond, and along with tax collector is the oldest of public officials. The Hebrew translation of town clerk literally means the city or town "reminder." The English Bible called the clerk the "recorder," who was "one who caused to remember" or "called to mind." When the early colonists came to America, they set up forms of local government to which they had been accustomed, and thus, the office of clerk was one of the first established. The office of the clerk has been preserved and may be found in virtually every unit of local government in the world.

The office of clerk provides many different and complex services. The role of the clerk can be and many times is, beyond the scope of the office's legal mandate because of the very nature of the job. Legally mandated responsibilities set the legal framework of the role of the clerk and in so doing allow this office to be a major source of information to all people in and out of government.

The image of the clerk's office bears on the perception that the public sees. In order to create a better image of the clerk's position, AAMC is undertaking a positive approach to sell . . . our skills, our caring, our self-esteem, our attitude and continuing education to create an image that is believable and trusted. Updating the "powers and duties of the municipal clerk" or the "legal mandates" of the clerk's office is one step in the process.

The municipal clerk plays a unique role in the balance of powers in local government. As municipal clerks, we believe the office of clerk is a valid and valuable asset to local government and we would like to convince you of the same.

The governing body/manager form of government as well as the strong mayor form of government is based on a philosophy of separation of powers that establishes separate legislative and administrative branches. The governing body is directly accountable to the citizens for translating needs and expectations into laws and policies. The manager/mayor and staff comprise the administrative branch of local government. The role of the municipal clerk appropriately becomes the link between the legislative and administrative branches. The clerk is responsible for the processes of bringing forth the administration's requests for legislative direction and for recording the governing body's policies and directions. Equally important is the municipal clerk's role in providing public access into the process. In Alaska the positions of both the municipal clerk and the municipal attorney may enjoy a distinctive status in the administrative branch of local government. This approach is taken to guard against abuse by any public official by providing a means of checks and balances. There

SUPPORT HB 128

March 15, 1991

Page 2

should be little doubt that clerks have a significant and critical part in government and their role should be protected and promoted accordingly.

House Bill 128 does two things. Please refer to your copy of HB 128. First, it requires a governing body to appoint a municipal clerk and removes previous ability to "provide otherwise by ordinance:" however, AS 29.20.380 is not a limitation of home rule powers - it does not apply to home rule municipalities.

*This change was not included in the first draft of the proposal presented to AAMC at its November 13, 1990 meeting. The municipal clerks representing thirty-seven (37) municipalities around the State (see attached list) discussed the addition of such a requirement and then voted unanimously to include it in our proposal. Our proposal was to require that every municipality have a clerk. The shifting of the section relating to treasurer or combining of offices was done by Legislative Affairs Agency - we don't know why.*

*It is our understanding that this change causes concern to some of the State's local government officials representing smaller communities and villages.*

*In defense of our position, consider the value of having the chief administrator, the attorney, and the clerk appointed by and directly responsible to the governing body. When each of these people is directly responsible to the governing body, the opportunity for oversight, neglect or misconduct in any of these positions is minimal. This provides a checks and balance system to the governing body. We have all heard the nightmares experienced by some of Alaska's villages and small communities which have had managers and/or administrators leave under less than desirable conditions because they were the sole source of administrative overview for that community.*

*However, this change was not AAMC's original goal with this legislation and we would gladly compromise by going back to the previously existing language in order to preserve the rest.*

Second, House Bill 128 updates the legal mandates of the municipal clerk. Once again, it does not apply to home rule municipalities. Title 29 is used as a guide as well as a legal mandate. The minor word changes from the former language as presented in the paragraphs of Section 3 of the bill are offered to enhance the reader's understanding of the duties and responsibilities and they are not intended to be insidious. The additions proposed are appropriate and are not designed to be anarchist.

Section 29.20.380 (1)

This language is the same as existing AS 29.29.380(2) with the addition of the words "and its boards and committees." This does not add or subtract in any significant way to what already exists.

Section 29.20.380 (2)

Custody of the municipal seal has historically rested with the municipal clerk. The clerk attests deeds and official documents for the municipality and affixes the seal. It is commonly true among the 78 members of AAMC and 7,000 members of IIMC (International Institute of Municipal Clerks) that the clerk has custody of the official municipal seal. This section merely establishes responsibility for the safe-keeping of the corporate seal with the corporate secretary. It does not restrict or hinder its legal use.

Section 29.20.380 (3)

This paragraph is a combination of existing AS 29.20.380(3) and (4). The intent of the language remains the same and yet it encourages a clerk to become well acquainted with public meeting and public information laws. Current language states "arrange publication of notices, . . ." which does not consider that public notice in today's technology expands beyond "publications." Public records are all covered by Alaska's public information law and yet in existing language there is no mention of such records as "magnetic tape or microfiche," for example.

Section 29.20.380 (4)

This is a new section. The records management program in a municipality is vital. Yet, there is often very little interest in developing and maintaining such a tedious program. We view this new language as assigning responsibility rather than usurping authority. Records management is a very common function of the municipal clerks offices around the world.

AS 40.21.070 prescribes for records management for local records and AS 40.21.080 provides for disposal of public records by a political subdivision. These sections leave "the authority" vested in the local governing body. This new section assigns the responsibility for the records management program to the clerk when the municipality has a clerk and it does not, in conflict with Title 40, place the program within the sole discretion of any official.

Title 40 also states that a municipal program will follow, as far as is practical, the program established for the management of state records. Implementation of such a program would generally be enacted by appropriate resolutions and ordinances adopted by the governing body.

SUPPORT HB 128

March 15, 1991

Page 4

Section 29.20.380 (6)

This is new language. Once again preparation of the agenda and back up material packets is commonly done by the clerk's office in a majority of the country's municipalities. Once again it is more of an assignment of responsibility for a typical duty which takes up a good amount of the clerk's time.

Section 29.20.380 (7)

Election administration is a major function of the clerk's office. Municipal clerks spend many hours in training and research to maintain expertise in this field. Of all the "traditional" or common functions of the clerk's office, this one is perhaps the most deeply rooted. Title 29 refers to the municipal clerk in sections dealing with election contest and appeal, and petition requirements under the Elections chapter. Title 15, Elections, directs the municipal clerk to provide voter information from the municipality. It is logical to add this new section.

AAMC suggested the following language for this section: "administer all municipal elections and perform related duties;" The language was changed by Legislative Affairs Agency. AAMC suggested language is short and to the point. "Perform related duties" refers to the many election duties municipal clerk's assume for the State of Alaska such as voter registration, precinct worker training, distributing and accepting absentee ballot requests, etc.

AAMC prefers the original suggested language together with the addition of a new paragraph which was also deleted by Legislative Affairs Agency: "assure that the municipality complies with Section 5 of the Federal Voting Rights Act;"

The State of Alaska and all of its local governments are required to preclear all changes effecting voting before enforcing those changes. It may appear on the surface that such a consideration could be covered under the proposed language "assure that federal and state election laws are complied with," and that may be true. The act, however, also covers changes that have the potential to affect voting and/or the election process such as annexations, detachments, incorporation, dissolutions, and procedural changes.

The State Division of Elections approached AAMC several years ago to conduct training on compliance with this act and to encourage all municipalities to comply. Not only does a municipality face serious and expensive legal action for non-compliance, but also the State cannot "bail out" until it and all its local governments have complied with the requirements of the Voting Rights Act for 10 years.

SUPPORT HB 128  
March 15, 1991  
Page 5

AAMC supports inclusion of this new paragraph. It will serve as a cross reference and reminder to municipalities about something that is already required. It assigns responsibility to make sure it gets done.

Section 29.20.380 (8)

This is a cross reference of AS 09.63.010 which gives the authority.

Section 29.20.380 (9)

This is a new section. First, use of the terminology "parliamentary advisor" is by design. Municipal clerks are trained in rudimentary rules of procedure merely through contact with many, many public meetings. As part of our professional development process, we would like to encourage municipal clerks to become skilled in parliamentary rules and practice. We do not see it as unreasonable to require a clerk to acquire enough skill to offer assistance and advice to any member of the local governing body, including the mayor or presiding officer, who wants to know how to proceed in a formal meeting.

The intent was not to restrict the presiding officer or mayor in selection of a parliamentarian. We do not feel it does. By encouraging the development of this skill in the clerk's office, the mayor or presiding officer may have a registered Parliamentarian to call on at some future date.

Section 29.30.380 (10)

This is the same as current AS 29.20.380(6). If the change is made to Section 1 and 2 as noted above, add "or prescribed by the chief administrator or" by the governing body.

The role of the professional clerk has been and is now characterized by at least four descriptive words: ambiguity. . . conflict. . . strain. . . neglect. Despite this, surveys have shown that clerks are even tempered, unflappable, healthy individuals who manage to keep from taking either themselves or others too seriously. Our goal is obviously to enhance the importance of the clerk's position. Our dedication is to serve the best interests of all people whatever that may require. Our process is to clarify the legal mandates which give us our goals to achieve. We urge your support of House Bill 128.

Respectfully submitted,  
Jeanne Donald, CMC  
President, AAMC

ATTACHMENT  
CLERKS IN ATTENDANCE:

AAMC MINUTES ANNUAL MEETING  
NOVEMBER 13, 1990

Beans	Thelma		Clerk	City of Mary's
Bonin	Betty	J.	Clerk	Bristol Bay Borough
Braswell	Vivan		Clerk	City of Dillingham
Brower	Ronald	D.	Clerk	City of Barrow
Burdick	Patricia	C.	Clerk	Soldotna
Conley	Linda	E.	Clerk	City of Nome
Curtiss	Patty		Clerk	City of Petersburg
Dahl	Linda		Clerk	Matanuska-Susitna Borough
Dalke	Marcella		Clerk	Kodiak
Deacon	Marilyn		Clerk	City of Grayling
Donald	Jeanne		Clerk	City of Valdez
Drexler	Mona Lisa		Clerk	Fairbank North Star Borough
Dushkin	Debra	K.	Clerk	Sand Point
Freas	Carol	L.	Clerk	City of Kenai
Gray	Helen		Clerk	Craig
Harrell	Martha		Deputy	Fairbanks North Star Borough
Harris	Majorie	D.	Clerk	City of Wasilla
Hill	Trudy		Clerk	Whittier, CA
Jenkins	Melinda		Clerk	Sitka
Johnson	Sophie	M.	Clerk	Northwest Artic Borough
Karasti	Alice	L.	Clerk	City of Ekwok
Maillelle	Martha		Clerk	Grayling
Miles	Karen		Clerk	City of Ketchikan
Murphy	Linda		Clerk	Seward
Painter	Eleanor		Treasurer	Grayling
Paul	Marie		Clerk	City of Togiak
Plant	Lynda		Clerk	Cordova
Polley	Patty Ann		Clerk	City & Borough of Juneau
Samuelson	Frankie		Clerk	City of King Cove
Shannon	Mary	L.	Clerk	City of Homer
Smith	Donna	F.	Clerk	Kodiak Island Borough
Stevenson	Marie		Clerk	Kodiak
Sumey	Janet		Clerk	Kenai Peninsula Borough
Ushijima	Jean		Clerk	Beverly Hills, CA
VanGorder	Kristie		Deputy	Matanuska-Susitna Borough
Vaughan	Gaye		Clerk	Kodiak Island Borough
Vincent	Franette		Clerk	Wrangell
Wildes	Diane		Clerk	Aleutians East Borough
Zimmerle	Georgianna		Clerk	Ketchikan Gateway Borough

A total of 39 AAMC Clerks were present.

# OLD BOROUGH TITLE 7

## SEPTEMBER 1970

§ 07.20.050

ALASKA STATUTES

§ 07.20.070

**Sec. 07.20.050. Qualifications.** A person is eligible to be a member of the assembly if he is a qualified voter of the borough. Additional residency requirements not to exceed three years may be prescribed by ordinance for members of the assembly elected from the area outside first class cities. If a member of the assembly ceases to be a qualified voter of the borough, he shall immediately forfeit his office. If a member elected from the area outside first class cities becomes a resident of a first class city or becomes a resident of a borough election section in the area outside first class cities other than the section from which he was elected, he shall immediately forfeit his office, except that the assembly may by general ordinance provide otherwise, but in no event may a member serve beyond the next general election. (§ 4.05 ch 146 SLA 1961; am § 1 ch 70 SLA 1967)

**Effect of amendment.** — The 1967 amendment added the second sentence, inserted "of the assembly" near the beginning of the third sentence, and deleted "he may continue to serve only until the next regular election," formerly appearing at the end of the last sentence, adding in lieu thereof all of the language beginning "or becomes a resident."

**Sec. 07.20.060. Organization.** (a) The assembly shall elect from among its members a presiding officer and a deputy presiding officer, each of whom shall serve at its pleasure. The presiding officer shall preside at assembly meetings. If at any meeting the presiding officer is not present or is unable to act, the deputy presiding officer shall preside.

(b) The assembly shall elect a clerk or appoint the chairman or another administrative officer to serve as the clerk. Under the supervision of the assembly, the clerk shall

(1) give due notice of the time and place of assembly meetings, to assembly members and to the public;

(2) keep the journal of the assembly proceedings;

(3) procure for the assembly any required publication of notices, ordinances, resolutions, and so forth;

(4) maintain and make available for public inspection an indexed file containing copies of the borough code, every adopted ordinance, resolution, rule, regulation, and code of regulations;

(5) perform the duties assigned him by any of the provisions of this title; and

(6) perform such other duties as the assembly may prescribe. (§ 4.06 ch 146 SLA 1961)

**Sec. 07.20.070. Procedure.** (a) The assembly shall meet regularly at least once every three months at the times and places prescribed by the assembly. Special meetings may be held on the call of the borough chairman, the presiding officer, or of one-fourth or more members, and whenever practicable, upon no less than 24 hours' effective notice to each member.

# TITLE 29 OCTOBER 1972

§ 29.23.360

MUNICIPAL GOVERNMENT

§ 29.23.380

municipal corporations owning or operating waterworks, 10 ALR 1432; 18 ALR 946.

Constitutionality of statute or ordinance for protection of water supply, 72 ALR 673.

Power of municipal corporation to sell equipment to consumers as adjunct to utility service furnished, 108 ALR 1454.

62 C.J.S. Municipal Corporations § 699.

## Article 7. Other Officers and Employees.

### Section

360. Appointment of officers  
370. Municipal attorney  
380. Municipal clerk  
390. Municipal treasurer  
395. Intent of §§ 397-401

### Section

397. Commission  
399. Interns  
401. Appointment to municipal boards and commissions

**Sec. 29.23.360. Appointment of officers.** The municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator or by the assembly or council, as determined by ordinance. Officers serve at the pleasure of the appointing authority, subject to ordinance. Appointments by the chief administrator are subject to confirmation by the governing body. (§ 2 ch 118 SLA 1972)

**Sec. 29.23.370. Municipal attorney.** The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. He represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed. (§ 2 ch 118 SLA 1972)

ALR and C.J.S. references. — Attorney's authority to compromise suit for municipality, 66 ALR 119; 30 ALR2d 944.

Attorney's compensation for services in matters involving municipalities, 143 ALR 829; 56 ALR2d 13.

62 C.J.S. Municipal Corporations § 695.

**Sec. 29.23.380. Municipal clerk.** (a) The municipal clerk shall

- (1) give notice of the time and place of meetings to the assembly or the council and to the public;
- (2) attend meetings and keep the journal;
- (3) arrange publication of notices, ordinances, and resolutions;
- (4) maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules, regulations, and codes;
- (5) attest deeds and other documents;
- (6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The assembly or council may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give his bond to the municipality for the

§ 29.23.390

ALASKA STATUTES

§ 29.23.397

faithful performance of his duties as clerk-treasurer. (§ 2 ch 118 SLA 1972)

No liability for unintentional error in performing discretionary duty. — When a public officer is charged with duties which call for an exercise of his judgment and discretion, he is not liable for an erroneous per-

of willful, wrong, malice, or corruption. *Churchhill v. McKay*, 17 Alaska 633, 163 F. Supp. 339 (D. Alaska 1958).

C.J.S. reference.—62 C.J.S. Municipal Corporations § 699.

TITLE 29  
OCTOBER 1984

§ 29.23.370

ALASKA STATUTES

§ 29.23.390

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 231 to 336.

**Sec. 29.23.370. Municipal attorney.** The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. The municipal attorney represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed. (§ 2 ch 118 SLA 1972)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 282.

62 C.J.S., Municipal Corporations, § 695.

Attorney's authority to compromise suit

for municipality, 66 ALR 119; 30 ALR2d 944.

Attorney's compensation for services in matters involving municipalities, 143 ALR 829; 56 ALR2d 13.

**Sec. 29.23.380. Municipal clerk.** (a) The municipal clerk shall

- (1) give notice of the time and place of meetings to the assembly or the council and to the public;

- (2) attend meetings and keep the journal;

- (3) arrange publication of notices, ordinances, and resolutions;

- (4) maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules, regulations, and codes;

- (5) attest deeds and other documents;

- (6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The assembly or council may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give a bond to the municipality for the faithful performance of the duties as clerk-treasurer. (§ 2 ch 118 SLA 1972)

NOTES TO DECISIONS

No liability for unintentional error in performing discretionary duty. — When a public officer was charged with duties which called for an exercise of his judgment and discretion, he was not liable for an erroneous performance under a

former, similar provision, unless he had been guilty of willful, wrong, malice, or corruption. *Churchhill v. McKay*, 17 Alaska 633, 163 F. Supp. 339 (D. Alaska 1958).

Collateral references. — 62 C.J.S., Municipal Corporations, § 699.

**Sec. 29.23.390. Municipal treasurer.** (a) The treasurer is the custodian of all municipal funds. The treasurer shall keep an itemized

# TITLE 29

## SEPTEMBER 1986

§ 29.20.380

MUNICIPAL GOVERNMENT

§ 29.20.390

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 282. 62 C.J.S., Municipal Corporations, § 695. Attorney's authority to compromise suit for municipality. 66 ALR 119; 30 ALR2d 944. Attorney's compensation for services in matters involving municipalities. 143 ALR 829; 56 ALR2d 13.

**Sec. 29.20.380. Municipal clerk.** (a) The municipal clerk shall

- (1) give notice of the time and place of meetings of the governing body to the governing body and to the public;
- (2) attend meetings of the governing body and keep the journal;
- (3) arrange publication of notices, ordinances, and resolutions;
- (4) maintain and make available for public inspection an indexed file containing municipal ordinances, resolutions, rules, regulations, and codes;
- (5) attest deeds and other documents;
- (6) perform other duties specified in this title or prescribed by the chief administrator or by the governing body.

(b) The governing body may combine the office of clerk with that of treasurer. If the offices are combined, the clerk-treasurer shall, as required of the treasurer, give bond to the municipality for the faithful performance of the duties as clerk-treasurer. (§ 7 ch 74 SLA 1985)

### NOTES TO DECISIONS

No liability for unintentional error in performing discretionary duty. — When a public officer was charged with duties which called for an exercise of his judgment and discretion, he was not liable for an erroneous performance under a former, similar provision, unless he had been guilty of willful wrong, malice, or corruption. *Churchhill v. McKay*, 17 Alaska 633, 163 F. Supp. 339 (D. Alaska 1958).

Collateral references. — 62 C.J.S., Municipal Corporations, § 699.

**Sec. 29.20.390. Municipal treasurer.** (a) Except as provided in AS 14.14.060, the treasurer is the custodian of all municipal funds. The treasurer shall keep an itemized account of money received and disbursed. The treasurer shall pay money on vouchers drawn against appropriations.

(b) The treasurer shall give bond to the municipality in a sum that the governing body directs. (§ 7 ch 74 SLA 1985)

Collateral references. — 62 C.J.S., Municipal Corporations, §§ 697, 1880.

April 3, 1991

The Honorable Cheri Davis  
House of Representatives  
P.O. Box V  
Juneau, AK 99811

Dear Representative Davis:

**SUPPORT OF HOUSE BILL 128 RELATING TO THE OFFICES OF MUNICIPAL  
CLERK AND CLERK-TREASURER**

It has come to my attention that House Bill 128 introduced by you with support from several of your colleagues is perhaps being questioned as a responsible bill.

I wish to add my unequivocal support to the concept of HB 128. Having served as Ketchikan Gateway Borough Mayor (1975 - 1984), I know for certain clerks are the backbone of every municipal government. It is they who bring continuity to municipal governments wherein a portion of its board of directors change at each annual election.

In a strong management form of government such as we have in the Ketchikan Gateway Borough, clerks preserve the continuity as managers change. During my tenure as mayor, the Ketchikan Gateway Borough had four managers. Only one of those really knew, understood, and could hit the ground running in relation to Title 29. The rest who were "manager capable" by job experience had to start from "left of scratch" to become knowledgeable about Title 29. It was the clerk who held municipality together.

I urge passage of House Bill 128.

Sincerely,



Carroll G. Fader  
Formerly KGB Mayor 1975-1984

cc Co-sponsors of HB 128

March 20, 1991

Greetings:

My name is C. Thomas Beck and I would like to speak in favor of House Bill 128. I served on the Thorne Bay City Council for three years and of that time about half was spent as mayor. The first five years of Thorne Bay's history was spent for the most part in a turmoil having to deal with a constant turnover in administrators.

The city clerk provided stability and continuity for our City during those difficult times. This would not have been so if the local governments' "Bible"--Title 29, hadn't been in place to give guidance and a general job description. We also spent many hours on the telephone talking to Community and Regional Affairs and they were very helpful. For small communities and those who are trying to keep their legal costs down these sorts of guidelines are essential.

With the passage of House Bill 128 a firm but flexible job description will be in place to assure city business is completed with a continuity necessary to keep a city moving in the right direction. As a former elected official I can see the real benefit of this legislation to new and small municipalities and urge your support of House Bill 128.

Thank you very much for taking time to listen to a former elected official who has experienced much.

C. Thomas Beck  
Former Mayor

PRESTON  
THORGRIMSON  
SHIDLER  
GATES & ELLIS

ATTORNEYS AT LAW

FOR YOUR INFORMATION

3-18-91

SUITE 400  
420 L STREET  
ANCHORAGE, AK 99501-1937  
TELEPHONE: (907) 276-1969  
FACSIMILE: (907) 276-1365

Received

FEB 19 1991

AML

February 15, 1991

Scott Burgess, Executive Director  
Alaska Municipal League  
217 Second Street, Suite 200  
Juneau, AK 99801

Re: HB 128 (Appointment and Duties of Clerk and  
Clerk/Treasurer)

Dear Scott:

The following comments are my own as adviser to the AML Legislative Committee. They do not reflect the position of the firm nor are they made on behalf of any client of the firm.

The subject bill has three major effects. First, it provides that the municipal clerk is appointed only by the governing body and does not even permit the governing body to authorize appointment of the clerk by the chief administrative officer. Currently, the municipal clerk is appointed by the chief administrator and confirmed by the governing body unless provided otherwise by ordinance. This permits the governing body to take control of the appointment of the municipal clerk if it so desires. Considering the League policy that local government should be free to decide how it wants to order its affairs, this bill would constitute a clear incursion on that flexibility. Under current law, if the governing body wants to take control of the appointment of the clerk it may do so. This legislation is not needed to give the governing body the authority to appoint the clerk.

The second effect is to add a subsection (b) to AS 29.20.360 authorizing the governing body to combine the offices of clerk and clerk/treasurer and providing for the appointment of the clerk-treasurer only by the governing body. The comments in the preceding paragraph apply here as well. Additionally, the authority to combine the office of clerk and treasurer already exists in AS 29.20.380(b). The effect of sections 2 and 3 of the bill is to move this specific authority to combine the offices from sections 380 to section 360. Thus, unless the municipalities want to restrict their options as to who is to act as appointing authority for the clerk or clerk-treasurer, sections 1 and 2 of this bill appear to be unnecessary.

Section 3 adds to, deletes and rearranges the statement of various duties of the clerk. By adding specific duties to the clerk, once again, the legislature would be restricting the options of the municipality. For example, under proposed section 29.20.380(1) a new duty is added requiring the clerk to attend meetings of all boards and committees of the governing body as required (presumably by the governing body). This appears superfluous as the statute already requires that the clerk perform other duties as required by law or the governing body. New subsection (4) appears to place, within the sole discretion of the clerk, the authority to develop retention schedules and procedures for the inventory, storage and destruction of records. Query whether this implies that neither the administration nor the assembly has any control over records retention and management. Subparagraph (6) is superfluous as it is covered by the requirement that the clerk perform other duties as required by the governing body. If it is felt that subparagraph (7) is required, perhaps something should be added to indicate that the clerk is also required to ensure that all local ordinance requirements are complied with, however, the phrase requiring assurance that various laws are complied with appears superfluous. Subparagraph (9) again takes away flexibility of the governing body as it permits only the clerk to be the parliamentary advisor. I presume that by "parliamentary advisor" it is meant "parliamentarian." Traditionally, the parliamentarian is the advisor to the presiding officer, and not to the body as a whole. I know that the practice in a lot of communities permit members of the body to make direct inquiry of the parliamentarian, but this is not in accordance with Roberts Rules. As the parliamentarian is the advisor to the presiding officer, the presiding officer should be permitted to select his or her own parliamentarian. Further, not all clerks come to the job with either the background or knowledge necessary to act as a parliamentarian. There may be another member of staff or member of the governing body that is much better equipped to act parliamentarian. Why shouldn't the governing body or the presiding officer have the flexibility of determining who will act, from time to time, as the parliamentarian? The addition of subparagraph (8) regarding to oaths and affirmations clearly expands the authority of the clerk without infringing on the flexibility of the municipality and is probably a good addition. One of the other changes that will occur is the elimination of the authority of the chief administrator to prescribe duties for the clerk (compare the existing subparagraph (6) with its counterpart (10) in the bill). The clerk is responsible for the maintenance of all the official records of the municipality. The bulk of these records are actually generated by the administration. Thus, there may be situations where the chief administrator should be giving directions to the clerk. This would be particularly so if the clerk is appointed by the chief administrator. Again, as with the question of where the appointing authority should lie, the

Scott Burgess  
February 15, 1991  
Page 3

legislature should leave to each municipality the ability and the authority to determine what will work best for its municipality.

Sincerely,

PRESTON THORGRIMSON  
SHIDLER GATES & ELLIS

By:



Gerald Lee Sharp

\99991-00.155\LSB.016



RECEIVED MAR 1 1991

MAYOR AND CITY COUNCIL  
POST OFFICE BOX 1397, KODIAK, ALASKA 99615

TELEPHONE (907) 486-8635  
FAX (907) 486-8600

February 26, 1991

Honorable Cliff Davidson  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

RE: House Bill 128

Dear Representative <sup>Cliff</sup> Davidson:

As discussed, I urge you to cosponsor Cheri Davis' bill relating to the offices of municipal clerk and clerk-treasurer. I know you understand the importance of the Clerk's position to the municipalities around the State.

I also urge you and Representative Davis to either offer a sponsor substitute or to support an amendment which would specify compliance with Section 5 of the Federal Voting Rights Act. The Voting Rights Act requires more than administering municipal elections in such a manner that all "federal and state election laws are complied with" but encompasses other local actions such as boundary changes. Many of the Clerks in smaller municipalities may not even be aware of the Act and its requirements. I feel it would be helpful to include a specific reference in AS 29.20.380.

Thank you for your consideration.

Sincerely,

CITY OF KODIAK

MARCELLA H. DALKE, CMC/AE  
City Clerk

MHD/ms

P.O. Box 188  
Barrow, Alaska 99723  
March 1, 1991

Honorable Eileen P. MacLean  
Alaska State Legislature  
Box V  
Juneau, Alaska 99811

Dear Representative MacLean:

I am writing in reference to HB 128, a Title 29 bill that would transfer the appointment of the municipal clerk from the mayor of a municipality to the governing body of said municipality.

While I do like the concept of this bill and the spelling out the duties of the municipal clerk, there are some questions that I have should this bill be passed and made into law. I would like to expound upon my experience regarding this matter.

The Alaska Municipal League supports this bill and did specifically include it into their 1991 policy statement (1991 PS, VII B 2). However, I as a Barrow City Councilman, introduced an ordinance (see enclosed Ordinance 91-01) to reflect the AML policy statement. The mayor, Donald Long, was opposed to this because he said that it would hinder the normal course of city business where if he needed something with the official seal of the city affixed to it, he would have to wait until the council gave approval for it at their next regular meeting, or call a special meeting for the simple task of getting approval for a document that may not need council approval (i.e. proclamations, licenses, deeds, etc.). There were also other considerations such as evaluating employee performance, discipline and the immediate supervisor of the city clerk.

These matters were expressed by the mayor at a workshop of the council on February 6, 1991 and was reiterated during the public hearing of regular council meeting the following evening. Because I had very little argument on behalf of the ordinance, the ordinance failed to pass the council upon voting on it.

While HB 128 is now in the Community and Regional Affairs committee and will enter the Judiciary committee at a later date, I feel that more work needs to be done to improve this bill and make it more applicable for small municipalities where the mayor is the chief administrator for the municipality, otherwise those municipalities will suffer the same scenarios as was brought up before the Barrow City Council.

I hope that you may pass this information on the Community and Regional Affairs chairman and the Judiciary chairman so that a committee substitute may be introduced.

If you have any questions regarding this matter, or would like more information, please do not hesitate to contact me at 852-7181.

Sincerely,

Michael D. McDermott, Councilmember  
City of Barrow

MDMc:ss  
Enclosure

cc: Hon. Jerry Mackie, Chairman; House Committee on Community and  
Regional Affairs  
Hon. Dave Donley, Chairman; House Judiciary Committee  
Scott Burgess, Executive Director; Alaska Municipal League  
Hon. Don Long, Mayor; City of Barrow  
Hon. Johnny Leavitt, Councilmember  
Hon. Miranda Rexford, Councilmember  
Hon. Rosabelle Rexford, Councilmember  
Hon. William F. Brown, Councilmember  
Hon. Lucy Brown, Councilmember

ORDINANCE 91-01

AN ORDINANCE AMENDING SECTIONS 2.20.020 AND 2.20.030 OF THE BARROW CODE OF ORDINANCES, RELATING TO THE APPOINTMENT OF THE CITY CLERK BY THE CITY COUNCIL.

Section I. CLASSIFICATION. This ordinance is of a general and permanent nature and shall become apart of the City of Barrow Code of Ordinances.

Section II. EFFECTIVE DATE. This Ordinance shall become effective upon adoption by the City Council.

Section III. AMENDMENTS. Section 2.20.020 and 2.20.030 of the Barrow Code of Ordinances is amended as follows: (material to be added is typed in boldface and material to be deleted is typed in [brackets].)

2.20.020 Appointment. A. The [city clerk,] finance director and city attorney are appointed by the mayor acting as the chief administrative officer of the city. [Officers] The finance director and the city attorney serve at the pleasure of the mayor, subject to ordinance. Appointments by the mayor are subject to confirmation by the city council.

B. The city clerk is appointed by the city council acting as the legislative body for the city. The city clerk shall serve at the pleasure of the city council, subject to ordinance. Appointments by the city council shall require a two-thirds majority vote.

2.20.030 City Clerk. There shall be a city clerk, who shall be an officer of the city appointed by the [mayor] city council subject to [council approval] two-thirds majority vote of council to serve for an indefinite term. The city clerk shall serve as the clerical officer of the council. He shall maintain the journal of the proceedings of the council, and shall enroll in a book or books kept for that purpose all ordinances and resolutions passed by it. He shall be the custodian of such documents and records as may be provided by law or ordinance, shall keep a correct record of city boundaries and changes therein, and shall have such powers and duties relating to elections as this chapter and council may prescribe. He shall have such other powers, duties and functions as may be prescribed by applicable law or by ordinance.

Introduced: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

March 14, 1991

Post-It™ brand fax transmittal memo 7871		# of pages ▶
To	PATTY ANN P.	
From	GEORGIANNA	
Co.	Co.	
Dept.	Phone #	
Fax #	586-5299	Fax #

1-  
2-  
3-  
4-

**DRAFT****SUPPORT HOUSE BILL 128**

Since its inception in 1966, the Alaska Association of Municipal Clerks ("AAMC") has actively sought to heighten the professional development of its members. Professional development is a process for planned and continued learning and positive imaging.

The profession of municipal clerk extends to biblical times and beyond, and along with tax collector is the oldest of public officials. The Hebrew translation of town clerk literally means the city or town "reminder." The English Bible called the clerk the "recorder," who was "one who caused to remember" or "called to mind." When the early colonists came to America, they set up forms of local government to which they had been accustomed, and thus, the office of clerk was one of the first established. The office of the clerk has been preserved and may be found in virtually every unit of local government in the world.

The office of clerk provides many different and complex services. The role of the clerk can be and many times is, beyond the scope of the office's legal mandate because of the very nature of the job. Legally mandated responsibilities set the legal framework of the role of the clerk and in so doing allow this office to be a major source of information to all people in and out of government.

The image of the clerk's office bears on the perception that the public sees. In order to create a better image of the clerk's position, AAMC is undertaking a positive approach to sell... our skills, our caring, our self-esteem, our attitude and continuing education to create an image that is believable and trusted. Updating the "powers and duties of the municipal clerk" or the "legal mandates" of the clerk's office is one step in the process.

The municipal clerk plays a unique role in the balance of powers in local government. As municipal clerks, we believe the office of clerk is a valid and valuable asset to local government and we would like to convince you of the same.

The governing body/manager form of government as well as the strong mayor form of government is based on a philosophy of separation of powers that establishes separate legislative and administrative branches. The governing body is directly accountable to the citizens for translating needs and expectations into laws and policies. The manager/mayor and staff comprise the administrative branch of local government. The role of the municipal

**DRAFT****SUPPORT HB 128**

March 14, 1991

Page 2

clerk appropriately becomes the link between the legislative and administrative branches. The clerk is responsible for the processes for bringing forth the administration's requests for legislative direction and for recording the governing body's policies and directions. Equally important is the municipal clerk's role in providing public access into the process. In Alaska the positions of both the municipal clerk and the municipal attorney may enjoy a distinctive status in the administrative branch of local government. This approach is taken to guard against abuse by any public official by providing a means of checks and balances. There should be little doubt that clerks have a significant and critical part in government and their role should be protected and promoted accordingly.

House Bill 128 does two things. First, it requires a governing body to appoint a municipal clerk and removes previous ability to "provide otherwise by ordinance;" however, AS 29.20.380 is not a limitation of home rule powers - it does not apply to home rule municipalities.

*This change was not included in the first draft of the proposal presented to AAMC at its November 13, 1990 meeting. The municipal clerks representing thirty-nine (39) municipalities around the State (See attached list) discussed the addition of such a requirement and then voted unanimously to include it in our proposal. Our proposal was to require that every municipality have a clerk. The shifting of the section relating to treasurer or combining of offices was done by Legislative Affairs Agency - we don't know why.*

*It is our understanding that this change causes concern to some of the State's local government officials representing smaller communities and villages. In defense of our position, consider the many villages who have had managers and/or administrators leave under less than desirable conditions because they were the sole source of administrative overview for that community. This change was not AAMC's original goal with this legislation and we would gladly compromise by going back to the previously existing language in order to preserve the rest.*

Second, House Bill 128 updates the legal mandates of the municipal clerk. Once again, it does not apply to home rule municipalities. Title 29 is used as a guide as well as a legal mandate. The minor word changes from the former language as presented in the paragraphs of Section 3 of the bill are offered to enhance the reader's understanding of the duties and responsibilities and they are not intended to be insidious. The additions proposed are appropriate and are not designed to be anarchist.

**Section 29.20.380 (1)**

This language is the same as existing AS 29.29.380(2) with the addition of the words "and its boards and committees." This does not add or subtract in any significant way to what already exists.

SUPPORT HB 128  
March 14, 1991  
Page 3

**DRAFT**

Section 29.20.380 (2)

Custody of the municipal seal has historically rested with the municipal clerk. The clerk attests deeds and official documents for the municipality and affixes the seal. It is commonly true among the 78 members of AAMC and 7,000 members of IIMC (International Institute of Municipal Clerks) that the clerk has custody of the official municipal seal. This section merely establishes responsibility for the corporate seal. It does not restrict or hinder its legal use.

Section 29.20.380 (3)

This paragraph is a combination of existing 29.20.380(3) and (4). The intent of the language remains the same and yet encourages a clerk to become well acquainted with public meeting and public information laws. Current language states "arrange publication of notices, . . ." which does not consider that public notice in today's technology expands beyond "publications." Public records are all covered by Alaska's public information law and yet in existing language there is no mention of such records as "magnetic tape or microfiche," for example.

Section 29.20.380 (4)

This is a new section. The records management program in a municipality is vital. Yet, there is often very little interest in developing and maintaining such a tedious program. We view this new language as assigning responsibility rather than usurping authority. Records management is a very common function of the municipal clerks offices around the world.

AS 40.21.070 prescribes for records management for local records and AS 40.21.080 provides for disposal of public records by a political subdivision. These sections leave the authority vested in the local governing body. This new section assigns the responsibility for the records management program to the clerk when the municipality has a clerk and it does not, in conflict with Title 40, place the program within the sole discretion of any official.

Title 40 also states that such a program will follow, as far as is practical, the program established for the management of state records. Implementation of such a program would generally be enacted by appropriate resolutions and ordinances adopted by the governing body.

Section 29.20.380 (6)

This is new language. Once again preparation of the agenda and back up material packets is commonly done by the clerk's office in a majority of the country's municipalities. Once again it is more of an assignment of responsibility for a typical duty which takes up a good amount of the clerk's time.

**DRAFT**

SUPPORT HB 128  
March 14, 1991  
Page 4

Section 29.20.380 (7)

Election administration is a major function of the clerk's office. Municipal clerks spend many hours in training and research to maintain expertise in this field. Of all the "traditional" or common functions of the clerk's office, this one is perhaps the most deeply rooted. Title 29 refers to the municipal clerk in sections dealing with election contest and appeal, and petition requirements under the Elections chapter. Title 15, Elections, directs the municipal clerk to provide voter information from the municipality. It is logical to add this new section.

AAMC suggested the following language for this section: "administer all municipal elections and perform related duties;" The language was changed by Legislative Affairs Agency. AAMC suggested language is short and to the point. "Perform related duties" refers to the many election duties we assume for the State of Alaska such as voter registration, precinct worker training, distributing and accepting absentee ballot requests, etc.

AAMC prefers the original suggested language together with the addition of a new paragraph which was also deleted by Legislative Affairs Agency: "assure that the municipality complies with Section 5 of the Federal Voting Rights Act,"

The State of Alaska and all of its local governments are required to preclear all changes effecting voting before enforcing those changes. It may appear on the surface that such a consideration could be covered under the proposed language "assure that federal and state election laws are complied with," and that may be true. The act, however, also covers changes that have the potential to affect voting and/or the election process such as annexations, detachments, incorporation, dissolutions, and procedural changes.

The State Division of Elections approached AAMC several years ago to conduct training on compliance with this act and to encourage all municipalities to comply. Not only does a municipality face serious and expensive legal action for non-compliance, but also the State cannot "bail out" until it and all its local governments have complied with the requirements of the Voting Rights Act for 10 years.

AAMC supports inclusion of this new paragraph. It will serve as a cross reference and reminder to municipalities about something that is already required. It assigns responsibility to make sure it gets done.

Section 29.20.380 (8)

This is a cross reference of AS 09.63.010 which gives the authority.

Section 29.20.380 (9)

SUPPORT HB 128  
March 14, 1991  
Page 5

**DRAFT**

This is a new section. First, use of the terminology "parliamentary advisor" is by design. Municipal clerks are trained in rudimentary rules of procedure merely through contact with many, many public meetings. As part of our professional development process, we would like to encourage municipal clerks to become skilled in parliamentary rules and practice. We do not see it as unreasonable to require a clerk to acquire enough skill to offer assistance and advice to any member of the local governing body, including the mayor or presiding officer, who wants to know how to proceed in a formal meeting.

The intent was not to restrict the presiding officer or mayor in selection of a parliamentarian. We do not feel it does. By encouraging the development of this skill in the clerk's office, the mayor or presiding officer may have a registered Parliamentarian to call on at some future date.

Section 29.30.380 (10)

This is the same as current AS 29.20.380(6). If the change is made to Section 1 and 2 as noted above, add "or prescribed by the chief administrator or" by the governing body.

The role of the professional clerk has been and is now characterized by at least four descriptive words: ambiguity. . . conflict. . . strain. . . neglect. Despite this, surveys have shown that clerks appear to be even tempered, unflappable, healthy individuals who manage to keep from taking either themselves or others too seriously. Our goal is obviously to enhance the importance of the clerk's position. Our dedication is to serve the best interests of all people whatever that may require. Our process is to clarify the legal mandates which give us our goals to achieve. We urge your support of House Bill 128.

March 20, 1991

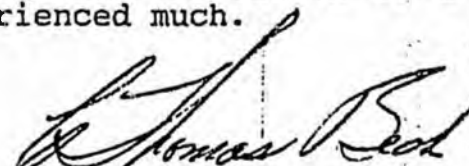
Greetings:

My name is C. Thomas Beck and I would like to speak in favor of House Bill 128. I served on the Thorne Bay City Council for three years and of that time about half was spent as mayor. The first five years of Thorne Bay's history was spent for the most part in a turmoil having to deal with a constant turnover in administrators.

The city clerk provided stability and continuity for our City during those difficult times. This would not have been so if the local governments' "Bible"--Title 29, hadn't been in place to give guidance and a general job description. We also spent many hours on the telephone talking to Community and Regional Affairs and they were very helpful. For small communities and those who are trying to keep their legal costs down these sorts of guidelines are essential.

With the passage of House Bill 128 a firm but flexible job description will be in place to assure city business is completed with a continuity necessary to keep a city moving in the right direction. As a former elected official I can see the real benefit of this legislation to new and small municipalities and urge your support of House Bill 128.

Thank you very much for taking time to listen to a former elected official who has experienced much.



C. Thomas Beck  
Former Mayor

# ALASKA ASSOCIATION OF MUNICIPAL CLERKS

May 2, 1991

Representative Jerry Mackie  
P. O. Box V  
Juneau, AK 99811

RE: CS HB 128, Relating to the Office of the Municipal Clerk

I am requesting your support for CS HB 128 relating to the duties of Municipal Clerks. Enclosed is a copy of the position paper of the Alaska Association of Municipal Clerks.

The Clerk's office is often the first office that the public has contact with and it is from that initial contact that the public's perception of local government is established. Because the Clerk's duties are so varied and complex, AAMC is seeking some standardization of those duties. We are not seeking to limit the authority of the governing body nor the administration.

Conceivably, when a new administration comes into office, functions and duties of departments could be shifted from one office to another. The duties of the Finance Office would never be shifted to the Planning Department. Why then should the traditional duties of the Clerk be shifted elsewhere?

State statutes, municipal codes, and common sense dictate the functions of the various departments of municipal government. The subdivision of land would not be handled by the Parks Department, nor would the Librarian be in charge of swimming pools. AAMC feels the duties of the Clerk should also be standardized and not left to the whim of the current administrator.

The list of duties of the Clerk has not been revised in twenty years. We are merely requesting language which brings in line the actual functions and duties of the Clerks of Alaska.

I, personally, would like to see the bill passed in its original form and with the application also to home rule municipalities. I feel strongly that the position of Clerk should be mandated in each municipality in the state and that unless otherwise provided by ordinance, the Clerk should be appointed by the governing body.

---

President: Jeanne Donald, CMC, City of Valdez  
Vice President: Melinda Jenkins, City & Borough of Sitka

Secretary: Martha Harrell, CMC/AE, FNSB  
Treasurer: Linda Conley, City of Nome

May 2, 1991  
Page 2

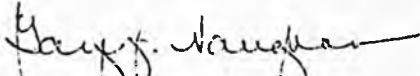
This allows for checks and balances. A governing body should have its own staff, even if it is only one person, rather than always directing things through the administrator. The legislature has its own staff, entirely separate from administration.

AAMC, however, does support the bill in its current language.

Again, I urge your support for CS HB 128. Thank you for your consideration.

Sincerely,

ALASKA ASSOCIATION OF MUNICIPAL CLERKS

  
Gaye J. Vaughan, CMC/AAE  
Chairman, Legislative Committee

RECEIVED MAY 13 1991

P.O. Box 7022  
Ketchikan, AK 99901  
May 10, 1991

The Honorable Dave Donley  
House of Representatives  
P.O. Box V  
Juneau, AK 99811

**SUPPORT CSHB 128 RELATING TO THE OFFICE OF MUNICIPAL CLERK**

This bill is now before you in the House Judiciary Committee. I urge you to support Committee Substitute for House Bill 128.

You will see the CRA Committee Substitute (proposed and supported by AAMC) has done away with a "mandatory" appointment of municipal clerk which was in the original bill. It is supported in the 1991 Alaska Municipal League Policy Statement, and Executive Director Scott Burgess has testified to the CRA Committee in support of the legislation.

You are probably aware of the fact that a majority of the Ketchikan Gateway Borough Assembly and Manager David Crow are opposed to CSHB 128. Testimony offered by Assemblymember Cheryle Tallman is the only opposition the bill has received thus far. On the other hand, several of Ketchikan's prominent citizens, former and current elected officials have given positive support to the bill. One of the most notable of these people is former Mayor Carroll G. Fader who was the Ketchikan Gateway Borough Mayor from 1975-1984. I have enclosed a copy of his letter in support of HB 128 for your review.

You undoubtedly possess the necessary knowledge and understanding of local governments to logically consider the ins and outs of the legislation proposed by CSHB 128. A copy of the Alaska Association of Municipal Clerk's (AAMC) position paper on the Bill is enclosed for your information if you wish to examine the details of each section as described from our perspective.

The major objection to the bill seems to be that it tends to infringe upon local government's ability to prescribe the duties of the municipal clerk. This is true. Title 29 does likewise with the duties of the chief administrator. General law municipalities have legislative powers conferred by law. The legislative purpose or intent of Title 29 is "to permit local

The Honorable Dave Donley  
May 10, 1991 - Page 2

government to function more effectively."<sup>1</sup> When the time comes for a municipality to function more independently, Title 29 prescribes the means for it to become a home rule municipality which has all legislative powers not prohibited by law or charter. Most general law municipalities consider Title 29 a guide and resource rather than a detriment. (See testimony of C. Thomas Beck, former Mayor of Thorne Bay)

A "laundry list" of municipal clerk's duties has existed in Statute for many years. Enclosed are copies of pages from the Alaska Statutes over the years describing those duties. You can see this section has not changed much in thirty years. It is apparent that these statutes have existed for these many years without problem or concern. I almost prefer the language in the old Title 7, Boroughs, which mandates the appointment of a "person" to serve as a clerk. These duties must be carried out by someone regardless of the title.

Municipal clerks in both general law and home rule municipalities are supporting this legislation. Even though it is not applicable to home rule municipalities, it will become a base line for consideration in future municipal charters, job descriptions and the like. Your support in this pursuit would be much appreciated!

  
Georgianna Zimmerle

Enclosures

---

<sup>1</sup>Section 1, ch. 74, SLA 1985



# Alaska State Legislature

Please enter into the record my testimony to the House CRA  
 committee name  
 committee on HB 128, dated 2/08/91  
 bill/subject

I'm Clerk of the Kodiak Island Borough and I'm chairman of the AAMC Legislative Committee and chair of AML's Legislative Comm on Education, Elections and Local Govt. Powers. I have been a municipal clerk in Alaska for over 12 years.

This bill was introduced at the request of the AAMC and I'd like to thank Rep. Chris Davis and the co-sponsors for introducing it.

AAMC will support a substitute bill which will delete sections 1 and 2 and amend section 3.

AAMC feels that the duties listed below in the clerk's office. In most municipalities they are currently being done by the clerk.

Again, we support a substitution and urge "Do Pass".

Thank you.

Signed: Larry Vaughan  
 Testifier  
Kodiak Island Borough / Alaska Assn. of Municipal  
 Representing (Optional) Clerks  
710 Mill Bay Rd. Kodiak  
 Address  
486-5736  
 Phone No.

March 19, 1991

Honorable Jerry Mackie  
Chair Community & Regional Affairs Committee  
House of Representatives  
P. O. Box V  
Juneau, Alaska 99811

RE: Support of House Bill 128

Dear Representative Mackie:

My name is Susan Bethel. I live at 718 Deermount, Ketchikan, Alaska. I have approximately 5 and 1/2 years experience as a municipal clerk in the State of Alaska. I am writing in favor of HB 128, relating to the offices of municipal clerk and clerk-treasurer, and would like to explain why.

I was the City Clerk for the City of Thorne Bay for approximately four years. This was a new 2nd class city with an administrator. Not a manager or a strong mayor form of government. The only direction I had was Alaska Statute Title 29. During the time I worked there, there were 8 administrators. One lasted 11 months. So you can see the government wasn't stable. Many times I was alone, a new clerk, with no training.

I have now worked as the Deputy Borough Clerk for the Ketchikan Gateway Borough for a year and a half. I feel these changes are needed to maintain ethics and competence in local government. There may not always be an ethical and competent manager/mayor in a municipality. Normally in municipalities the Clerk has no experience. This outline of duties needs to be written down and easily assessable.

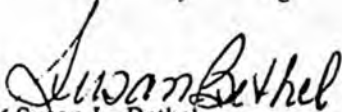
If it hadn't been for the Department of Community and Regional Affairs staff, the Alaska Association of Municipal Clerk's, AML and the other clerks in Southeast Alaska I would have been completely lost. As it was I called for advice in all areas of government for the municipality. I've been able to learn from experienced clerks and have become aware of the "Municipal" laws of the State.

Checks and balances are needed in government. If it is left to only the "manager or Mayor" to run the day to day operations in the municipality there is a great chance of malfeasants. You would never write a check in a municipality with only one signature. There has to be checks and balances in government.

We are public servants and we handle the "peoples" business in local government. We have to be honest and prepared to help the people we work for and represent in all areas of our position. I think you know what I mean being a representative in the State House. As a Clerk we don't play favorites.

Please pass HB128 to help insure local government has guidelines for duties of the Municipal Clerk, for the assemblies, councils, mayors and administrators in our State. If we have one "higher power" be it a Mayor/Manager or Administrator, to run the municipalities we are not a democratic government we are becoming a dictatorship.

Local ordinances are not enough. They are easily changed. We may not always have ethical competent people in charge. We need the checks and balances to insure government is fair and equitable in our municipalities and the history of our great state is recorded properly.

  
Susan L. Bethel  
718 Deermount  
Ketchikan, Alaska 99901

312 Front Street  
Ketchikan, AK 99901  
March 15, 1991


The Honorable Jerry Mackie  
House of Representatives  
P.O. Box V  
Juneau, Ak 99801

Dear Jerry:

Representative Davis' bill relating to municipal clerks, HB 128, has my support as a former Assemblyman of the Ketchikan Gateway Borough. As you and I both know, I have a long-standing involvement in local, state and federal government both as an interested Alaskan and member of the business community. I personally know all four municipal clerks in Ketchikan and have a lot of respect for the jobs that they do.

A long time ago I too was one of the many people who didn't realize the many hats and capabilities of the municipal clerk. Most of all, the safeguard of the checks and balance system is important to the taxpayers. I support having the manager, attorney, and clerk responsible to the Assembly.

Sincerely,



James B. Elkins

9. **Plumbing and Electrical Codes:** To eliminate the conflict between state and local plumbing and electrical codes, the League supports an amendment to the state statutes to place sole authority for enforcement with municipalities that have adopted such codes. The League supports the expeditious updating of state safety codes and an amendment to the statutes governing these codes that would allow municipalities adopting these codes to provide for a transition period regarding licensing and certification requirements for plumbers and electricians working within their boundaries. The League supports the adoption of the national plumbing codes as the standards for Alaska.

10. **Municipal Authorities and Public Corporations:** The League opposes any effort by the Legislature to restrict the method of establishment, form, powers, or other features of municipal port or other authorities. The League supports legislation that would clarify the ability of municipalities to form public corporations, authorities, and similar public entities through which they may exercise a power.

## B. MUNICIPAL OFFICERS AND EMPLOYEES

1. **Powers and Duties of the Municipal Clerk:** The League supports legislation that would update and clarify the powers and duties of the municipal clerk.

Title 29 provides a checklist of municipal clerk responsibilities which has not been updated in 18 years. Amendments proposed by the Alaska Association of Municipal Clerks delineate functions and duties which are and have been exercised by municipal clerks across the State for many years.

2. **Appointment of the Municipal Clerk:** The League supports legislation that would require a governing body to appoint a municipal clerk.

Both the governing body/manager form of government and the strong mayor form of government are based on a philosophy of separation of powers that establishes separate legislative and administrative branches. The governing body is directly accountable to the citizens for translating needs and expectations into laws and policies. The manager/mayor and staff comprise the administrative branch of local government. The role of the municipal clerk appropriately becomes the link between the legislative and administrative branches. The clerk is responsible for developing, administering, and protecting the processes for bringing forth the administration's requests for legislative direction and for recording the governing body's policies and directions. Equally important is the municipal clerk's role in providing public access into the process. This approach is taken to guard against abuse by any public official by providing a means of checks and balances.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CS HB 128

Revision Date: \_\_\_\_\_ Department Affected: Community & Regional Affairs  
 Title: Office of Municipal Clerk/ BRU: State Assessor  
Clerk-Treasurer Component: \_\_\_\_\_

Sponsor: Rep. C. Davis  
 Requestor: House C&RA COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
 Division: Administrative Services Date: 4/10/91  
 Approved by Commission: Edgar Blatchford  
 Agency: Community & Regional Affairs Date: 4/10/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 128

Revision Date: \_\_\_\_\_ Department Affected: DCRA

Title: Office of Municipal Clerk/ BRU: State Assessor  
Clerk-Treasurer Component: \_\_\_\_\_

Sponsor: Rep. C. Davis

Requestor: House CRA COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Ronald Henderson Phone: 465-4708

Division: Administrative Services Date: 3/26/91

Approved by Commissioner: Er. Beck

Agency: Community & Regional Affairs Date: 3-26-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



# Alaska State Legislature

Please enter into the record my testimony to the House Community & Regional Affairs  
committee name

committee on HB 128 (CSHB 128), dated April 4, 1991  
bill/subject

CSHB 128 is in conflict with existing Title 29 (AS 29.20.400(a))  
which states:

"The governing body may establish municipal departments  
and distribute functions among them."

The current Title 29 already allows the local legislative body  
to assign to the clerk those duties listed in CSHB 128. The  
bill is an unnecessary restriction on local government authority  
and autonomy.

Signed: David M. Crow  
Testifier

Ketchikan Gateway Borough  
Representing (Optional)

344 Front St, Ketchikan AK 99901  
Address

228-6625  
Phone No.

## Position Statement - CS for HB 128

### Introduction

This position statement is made with all due respect to the Alaska State Legislature and to the Alaska Association of Municipal Clerks (AAMC). None of the points contained herein should be construed to question the motives or integrity of either of these groups.

### Description

House Bill 128, as originally introduced, would have mandated that the clerk in all non-home rule municipalities be hired by the local legislative body and would have provided for the combining of the clerk with the treasurer. Title 29 now gives the local legislative bodies the right to delegate the hiring of this position to the mayor or to the manager, depending on the locality's form of government. The original bill also mandated certain duties to be performed by the clerk and seemed to require all municipalities to hire a clerk. Currently, Title 29 contains a short and broad definition of the general duties of the position.

A substitute for HB 128 was introduced on April 4th. This bill deletes the hiring requirements for the clerk and the language regarding the combining of that office with that of the treasurer. However, it retains all of the mandated duties of the original bill, plus adding an additional duty for the clerk to perform.

### Background

The AAMC developed and presented to the Alaska Municipal League a "policy statement" regarding the hiring and the duties of clerks. This statement was incorporated into the 59 page "Alaska Municipal League Policy Statement 1991" adopted by the AML at its Annual Meeting last November in Anchorage. The clerks then subsequently drafted what was to become HB 128. As indicated, the bill has since been amended and reintroduced as CSHB 128. It should be noted, however, that while the AML "supports legislation that would update and clarify the powers and duties of the municipal clerk", it has not endorsed the specific list of duties contained in CSHB 128.

### The "Philosophy" of CSHB 128

While the revised bill drops the requirement that the clerk be hired by the local governing body, it still involves the state legislature in what should be strictly a local government's decision: what duties a particular employee shall perform on behalf of the local government. It could thereby set an inadvisable precedent. If the legislature decides to determine job duties for the clerk, why not for the planning director, or the

finance director, or the superintendent of schools? A local governing body is in a much better position than the legislature to determine what a particular local government official's job duties should and should not be.

Even though some principles in support of the bill are contained in the AML's Policy Statement, they run against the AML's more fundamental position on the State of Alaska's relationship with local government: Home rule, and maximum flexibility and independence for local governments. Page 45 of the Policy Statement, for example, provides as one of AML's basic policies that of "Local Autonomy":

"The League supports legislation that would promote more effective and independent local government in all organized boroughs and cities and opposes any legislation that unduly restricts local government operations. [Underlining added.]

The underlying philosophy of CSHB 128 seems to be that the legislature is more qualified than local governments in determining what duties the municipal clerk should perform. Furthermore, the clerk is being singled out for this special legislation. No other position in local government is given this "privilege" in Title 29 of having the state mandate such a specific list of duties, except perhaps the manager in a manager form of government. (While Title 29 does delineate duties of the manager, it should be remembered that the manager plan must be approved by the local government's voters.) Even in its amended form, this is not merely an "updating" or a minor "housekeeping" bill. It goes against the basic principles of Title 29 and could, in fact, "break the mold" of this carefully crafted state law, which skillfully delineates the role separation of local and state governments.

The AAMC's stated reason for advocating this legislation is to improve the professionalism and image of clerks in Alaska. This is certainly a worthwhile and well intentioned goal. However, the appropriateness of trying to achieve this goal through requiring a clerk's employer to assign certain job duties by state mandate is, at best, questionable.

Usually, there are two basic reason why uniformity in local government practices or procedures is required by the state. Either there is strong evidence of abuse at the local level or there are pervading arguments of a need for state wide uniformity. Neither of these two conditions exist, at least to the degree that would necessitate mandating this rather lengthy and detailed list of duties for the municipal clerk. Each municipality has its own unique needs and its own policies regarding its organization and the proper role of each of its employees. The stature of a local

position, its professionalism, and even its place within the local organization should not be determined by state mandate.

The contents of this bill also seem to indicate a lack of trust and confidence by the clerks in local government and in the local government process. All of the issues addressed in the bill can easily be dealt with at the local level. It could be interpreted that the clerks wish to "bypass" the very government they state they are supporting and to force local governments, through state legislation, to assign certain duties that should rightly be determined by each local governing body, based upon its on unique needs and resources.

#### A Reply to "Position Statement" by Clerks on this Bill

On March 15, the AAMC issued a "Policy Statement in Support of House Bill 128". This Statement addresses the "image" of the clerk's office. "In order to create a better image of the clerk's position, AAMC is undertaking a positive approach to sell...our skills, our caring, our self-esteem, our attitude and continuing education to create an image that is believable and trusted. Updating the 'powers and duties of the municipal clerk' or the 'legal mandates' of the clerk's office is one step in that process".

While the improving of a position's "image" may be a worthwhile goal, mandating the duties of the position through state law is not the proper way to do it. Is the prestige of the position and its positive image only achievable if local governments are forced to assign certain duties to the clerk? Professionalism in the performance of duties at the local level is the more proper way to improve the "image" of a position. If the "image" of the clerks is not satisfactory to the AAMC, then it should address the real reasons for this less than satisfactory image, rather than trying to overcome it through a legislative mandate. Why are no other municipal officers demanding this type of legislation to improve their own professional "image"? Why are the clerks the only identifiable group that sees the "need" for this type of legislation? Title 29 is not the place to improve the "image" of a municipal official's position.

Great exception is also taken to the statement that "The municipal clerk plays a unique role in the balance of powers in local government". It could be said that "balance of powers" at the local level is actually another term for inefficiency. The local government is directly responsible to its constituents and is directly accessible by the voters of the community. "Balance of powers" is an irrelevant concept for the relatively small local governments in Alaska. It is also historically been proven to

often lead to inefficiency and conflict, rather than to better and more responsive local government. The real "balance of power" at the local level is the balance between local authority and state and federal authority. CSHB 128 could be a precedent in starting to "unbalance" the roles of the state and local governments so carefully structured under the present Title 29.

The statement, "The governing body/manager form of government ...is based on a philosophy of separation of powers that establishes separate legislative and administrative branches" is simply not true, and demonstrates a fundamental misunderstanding of the manager form of government. That form has never been based on a "balance of powers" concept. In fact, its fundamental concepts are just the opposite of "balance of powers". They involve unity of power, accountability, cooperation, and teamwork. It was established for efficiency and effectiveness rather than for a brokerage of power. All power in the manager form of government is assigned to the legislative body. (Ironically, CSHB 128 would take away some of that power--specifically the power to determine the job duties of a particular employee.) There is no separation of powers. The manager is directly accountable to the governing body. A separation of powers weakens the elected legislative body and anticipates conflict, rather than cooperation and teamwork.

The manager form was modeled after the structure of most private corporations: The stockholders (voters) elect a board of directors (council or assembly) which, in turn, hires a chief administrative officer (manager) to administer the company (government) on its behalf. The manager works at the pleasure of the council or assembly, and exercises power only at the behest of the duly elected body.

The manager plan for local government evolved out of the old commission form, popular in the early part of this century, in which each department head was elected and served as a member of the council (commission). That form, which was based upon "separation of powers", soon proved so inefficient and unwieldy that the "structure of choice" rapidly changed to the manager form of government. The "heart and soul" of the manager plan is efficient and responsive management by and accountability of an appointed professional administrator, serving at the pleasure of the elected body.

The AAMC statement that "The role of the municipal clerk appropriately becomes the link between the legislative and administrative branches" thereby becomes irrelevant, especially in a manager form of government. If the manager works at the pleasure of the council or assembly and is directly accountable to that body, with no "separation of powers", why is there a need for a "link" between the manager and the legislative body?

The AAMC states that "In Alaska the positions of both the municipal clerk and the municipal attorney may enjoy a distinctive status in the administrative branch of local government." The key word here is "may". CSHB 128 would change that, at least for the clerks, to "shall". Again, that should be a local decision, not one mandated by the state legislature. And, if mandated for the clerks, why not for the attorneys or any other "administrative" position?

AAMC states that the bill is not a limitation of home rule powers because it does not apply to home rule municipalities. This statement avoids the issue of its interference with the "home rule" powers of non-home rule municipalities. It is also an implicit admission that it does in fact interfere with local government control and authority in non-home rule municipalities. It can also be argued that the bill is discriminatory against non-home rule power municipalities, by forcing them to assign duties to a municipal officer without requiring the same of home rule governments. If there is an overriding need for this legislation (because of abuse or a need for uniformity) why shouldn't it apply to home rule municipalities as well?

The AAMC policy statement also contends that "House Bill 128 updates the legal mandates of the municipal clerk....The minor word changes from the former language as presented in...the bill are offered to enhance the reader's understanding of the duties and responsibilities and they are not intended to be insidious."

The proposed legislation, as indicated, is more than merely an "update", and the new list of duties goes far beyond "minor word changes" to the existing Title 29. It lists ten specific duties of the clerk, whereas the current provision lists only five more general assignments. (Actually, within the new list are six additional duties not mentioned in the current Title 29 or elsewhere in state law.) It thereby greatly expands the list of legally mandated duties for the clerk above and beyond the general duties now assigned. Some of the specific duties actually could conflict with Sec. 29.20.500 of Title 29. Paragraph (2) of this Section provides that the Manager shall "supervise the enforcement of municipal law and carry out the directives of the governing body."

The specific list of duties assigned to the clerk also reduces the flexibility of the local government to organize itself as it sees fit and to provide for organizational development. Rather than an update, in many respects CSHB 128 is a regression away from the flexibility and meticulously crafted document that became a complete Title 29 update in 1986. This update should not be tinkered with in such a piecemeal basis.

Legally mandating such a list of duties also detracts from the accountability of the clerk. If all of the clerk's duties are mandated by state law, then the clerk is less accountable to legislative body (or mayor/manager) responsible for the hiring and supervising of this position. Accountability would be reduced to merely assuring the clerk satisfactorily carries out authorities and duties mandated by state law.

#### Specific Comments on the Mandated Duties

1) CSHB 128 wording: "attend meetings of the governing body and its boards and committees as required and keep the journal".

Present wording: "attend meetings of the governing body and keep the journal".

Comment: This new requirement, mandating that the clerk attend all meetings of all boards and committees as required (required by the governing body?), is actually superfluous. Title 29 already requires the clerk to perform other duties as required. In addition, there are some real practical and logistical problems in having the clerk attend all such meetings. Does this requirement, for example, include meetings of the planning commission? All service area boards?

2) CSHB 128 wording: "have custody of the municipal seal".

Present wording: none.

Comment: This is a new mandate. No specific objections are raised for this new requirement, other than the fact that who has custody of the municipal seal should be a local question.

3) CSHB 128 wording: "assure that notice and other requirements for public meetings are complied with and assure that public records are available for public inspection as required by law".

Present wording: "give notice of the time and place of meetings of the governing body to the governing body and to the public"; and "arrange publication of notices, ordinances, and resolutions".

Comment: "Assure that public records are available" might create real logistical problems. Does this mean all public records, including those of other municipal departments? Does this provision give the clerk a state mandated authority to "inspect" these other departments to make sure that their records are "available for public inspection?"

4) CSHB 128 wording: "manage municipal records and develop retention schedules and procedures for inventory, storage, and destruction of records as necessary".

Present wording: none.

Comment: This seems to require that sole authority be placed with the clerk to develop retention schedules and procedures for

the inventory, storage and destruction of records. Does this mean there is no authority by the council (assembly), the manager, the mayor, or any department head over their own records? There is also a potential conflict with 29.20.500(5), which mandates that the manager (under the manager plan) "exercise custody over all real and personal property of the municipality". Could such "personal property" include records? What about the records of the real and personal property?

5) CSHB 128 wording: "maintain an indexed file of all permanent municipal records, provide for codification of ordinances, and authenticate or certify records as necessary."

Present wording: "maintain and make available for public inspection an indexed file containing municipal ordinances, resolutions, rules, regulations, and codes" and "attest deeds and other documents"

Comment: No particular objection, since this is basically a restatement of what is already in Title 29.

6) CSHB 128 wording: "prepare agendas and agenda packets as required by the governing body".

Present wording: none.

Comment: This is a major new power that would be given to the clerk, potentially taking authority away from the legislative body, the mayor, and/or the manager, all of whom in a number of municipalities have a role in preparing the agenda and agenda packets. This could create very serious role conflicts. Again, is it really the state's concern who is responsible for these duties at the local level?

7) CSHB 128 wording: "administer all municipal elections".

Present wording: none.

Comment: This would be a completely new, major authority. While the clerks do administer the elections in many local governments, is there a real need to impose this requirement on all municipalities employing clerks? The clerk is not necessarily, in all cases, the most qualified municipal official to administer local elections. Perhaps the municipal attorney, for example, might be more qualified in certain instances.

8) CSHB 128 wording: "assure that the municipality complies with 42 U.S.C. 1971-1974 (Voting Rights Act of 1965, as amended)".

Present wording: none.

Comment: All municipalities have to comply with this federal law. Is it really advisable to make the clerk responsible for this? Compliance with such a comprehensive piece of federal legislation in many cases should be the responsibility of the municipal attorney.

9) CSHB 128 wording: "take oaths, affirmations, and acknowledgements as necessary".

Present wording: none.

Comment: There is probably no particular problem with this provision. Apparently AS 09.63.010 already gives the clerk this authority.

10) CSHB 128 wording: "act as parliamentary advisor to the governing body".

Present wording: none.

Comment: This takes away the flexibility of local government in its ability to designate the person most qualified to act as "parliamentary advisor" (parliamentarian?). Usually, such a person advises the presiding officer, not the body as a whole. In addition, do all clerks have the background and expertise necessary to act as the parliamentarian? In many municipalities, the attorney quite logically and satisfactorily fulfills this role.

11) CSHB 128 wording: "perform other duties required by law or the governing body".

Present wording: "perform other duties specified in this title or prescribed by the chief administrator or by the governing body."

Comment: The proposed wording takes away the authority of the chief administrator (mayor or manager) to assign duties, even in those municipalities where the clerk is appointed by the administrator.

It should also be noted that this rather long and detailed list of duties would greatly eliminate the authority of the manager, administrator, mayor, or even the elected governing body to prescribe duties for the clerk. Such a list also reduces flexibility of hiring, particularly in smaller communities. What if a local government can only hire a part time clerk? Would this part time employee still be responsible for all of the mandated duties?

### Summary and Conclusions

Title 29 underwent a complete revision several years ago. At that time, all of the major concerns expressed by municipalities with that state law were addressed, and the new Title 29 seems to be working quite well. As noted earlier, Title 29 is a carefully crafted and integrated document that should not be tinkered with in a piecemeal fashion. This is particularly so given the fact that no real problem with these existing provisions have been identified by the clerks. "If it's not broke, why fix it?" Everything in CSHB 128 can be directly addressed at the local level. Any "job duty" problems perceived by the clerks should be addressed directly with their own employers. The clerks have stated that "our goal is

obviously to enhance the importance of the clerk's position." CSHB 128 is therefore "special interest" legislation that may be of some benefit to the Clerks themselves, but which provides no demonstrated significant benefit to local government.

--Submitted by the Ketchikan Gateway Borough  
April 9, 1991

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 12, 1991

FURTHER REFERRALS:

Date of Committee Action: 3-2-92

The JUDICIARY Committee considered:

HB 128

HOUSE BILL NO. 128

OFFICE OF MUNICIPAL CLK & CLK/TREASURER

"An Act relating to the offices of municipal clerk and clerk-treasurer."

RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note C & RA

zero fiscal note(s) CLM & RA

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>James Donley</i>	X				
<i>J. Ellis</i>	X				
<i>Robin Pat Powell</i>	✓				
<i>Mike Miller</i>	✓				
<i>W. Greenberg</i>	-				

*James Donley*  
 CHAIRMAN'S SIGNATURE

**FISCAL NOTE**

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. CS HB 128

Revision Date: 1/15/92  
 Title: "...relating to the office of municipal clerk."  
 Sponsor: Rep. C.Davis, et al  
 Requestor: House Judiciary

Department Affected: Community and Regional Affairs  
 BRU: Local Government Assistance  
 Component: Statewide Assistance  
 COMPONENT SERIAL NO. 

0	6	7	6
---	---	---	---

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>						
<b>REVENUE FUND SOURCE:</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson Phone: 465-4708  
 Division: Administrative Services Division Date: 1/15/92  
 Approved by Commissioner: [Signature] Date: 1/15/92  
 Agency: Department of Community and Regional Affairs



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

**BILL ANALYSIS**

DEPARTMENT DCRA	DIVISION MRAD	BILL NUMBER HB 128	SPONSOR Reps C.Davis, Ellis etc
SHORT TITLE OF BILL Offices of municipal clerk and clerk-treasurer.			
DEPARTMENT POSITION None.			
PREPARED BY Mike Worley	DATE 3/26/91	COMMISSIONER'S SIGNATURE <i>Edgar Blatchford</i> Edgar Blatchford	DATE 3/26/91

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

ANALYSIS OF BILL/PROGRAM EFFECTS

Does not affect this department.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.