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Alaska State Legislature

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SENATOR
ARLISS STURGULEWSKI

Senate

MEMORANDUM

May 14, 1991

TO: Senator Steve Frank, Chairman
Senate Community and Regional Affairs Committee

FROM: Senator Arliss Sturgulewski
Senate District F 

RE: Hearing Request for SB 287 "An Act relating to the office of
municipal clerk."

I respectfully request an early hearing on SB 287 which is a companion bill to Representative Cheri Davis' HB 128 in the House.

I have enclosed a sponsor statement on SB 287 as well as a packet of information that was provided for HB 128. If you have any questions regarding this legislation, please contact me or Betty Hargrave on my staff.

Thank you.

Alaska State Legislature

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SENATOR
ARLISS STURGULEWSKI

While in Juneau
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Senate

Sponsor Statement on:

SB 287 "An Act relating to the office of municipal clerk."

I have been contacted by a number of persons associated with local government and asked to introduce a companion bill to Representative Cheri Davis' HB 128 in the House. With the sponsor's approval, I have introduced companion SB 287 in the Senate.

This bill updates Sec. 29.20.380 which lists the duties of the municipal clerk. Enclosed is a letter of support for this legislation from Ketchikan Gateway Borough Clerk Georgianna Zimmerle with attachments showing the changes the section in Title 29 referring to the municipal clerk has gone through since 1970. Ms. Zimmerle states in her April 29, 1991 letter to me that the Alaska Association of Municipal Clerks (AAMC) and the Alaska Municipal League support this legislation. She also states that the bill's only opposition has come from the Ketchikan Gateway Borough and explains their position.

Enclosures

P.O. Box 7022
Ketchikan, AK 99901
April 29, 1991

The Honorable Arliss Sturgulewski
Alaska Senate
P.O. Box V
Juneau, AK 99811

REQUEST TO SPONSOR SENATE BILL RELATING TO THE OFFICE OF
MUNICIPAL CLERK

As one of this State's Senators who promotes excellent rapport with local government officials and who sustains open communication and mutual respect with the municipal clerks of Alaska, it would be a great honor to have you sponsor a companion bill to CSHB 128. I would like to add my voice to those urging your consideration of this request.

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. You have received a copy of the Alaska Association of Municipal Clerk's (AAMC) position paper on the bill which is somewhat long and complex; however, I hope you recognize that as a clerk's "positive" trait to be thorough and resplendent with detail.

You will see the 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 in support of the legislation.

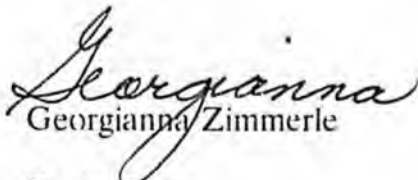
You should be made aware of the fact that the majority of the Ketchikan Gateway Borough Assembly and Manager David Crow are opposed to CSHB 128. Testimony offered by Assemblymember Cheryle Tallman is the only opposition the bill has received thus far. On the other hand, several of Ketchikan's prominent citizens and former elected officials have given positive support to the bill. The most notable perhaps 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 CSHB 128 for your review.

The Honorable Arliss Sturgulewski
April 29, 1991 - Page 2

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 government to function more effectively."¹ 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 wonderful!


Georgianna Zimmerle

Enclosures

c The Honorable Cheri Davis

¹Section 1, ch. 74, SLA 1985

HOUSE COMMITTEE REPORT

(7) Date Referred: February 8, 1991 FURTHER REFERRALS: Judiciary

Date of Committee Action: 4-10-91

The COMMUNITY AND REGIONAL AFFAIRS 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:
be replaced with CS HB 128 the same title
 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 DCRA

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not	No Rec	Amend
		Pass		
<i>Neil Phillips</i>				
<i>Richard J. Foster</i> FOSTER				
<i>Barry M. Baker</i> BAKER				
<i>Cheri Dawes</i>				
<i>J. P. ...</i> MARRIC				

CS FOR HOUSE BILL NO. 128 ()
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES C.DAVIS, Ellis, Taylor, Koponen, Navarre, Hudson, B.Davis, Davidson, Kubina

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the office of municipal clerk."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 29.20.380(a) is repealed and reenacted to read:

4 (a) The municipal clerk shall

5 (1) attend meetings of the governing body and its boards and committees as
6 required and keep the journal;

7 (2) have custody of the official municipal seal;

8 (3) assure that notice and other requirements for public meetings are complied
9 with and assure that public records are available for public inspection as required by law;

10 (4) manage municipal records and develop retention schedules and procedures for
11 inventory, storage, and destruction of records as necessary;

12 (5) maintain an indexed file of all permanent municipal records, provide for
13 codification of ordinances, and authenticate or certify records as necessary;

14 (6) prepare agendas and agenda packets as required by the governing body;

- 1 (7) administer all municipal elections;
- 2 (8) assure that the municipality complies with 42 U.S.C. 1971-1974 (Voting
- 3 Rights Act of 1965, as amended);
- 4 (9) take oaths, affirmations, and acknowledgements as necessary;
- 5 (10) act as the parliamentary advisor to the governing body;
- 6 (11) perform other duties required by law or by the governing body.

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 24 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 1464.

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 24
OCTOBER 1984

§ 29.23.370

ALASKA STATUTES

§ 29.23.390

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

for municipality, 66 ALR 119; 30 ALR2d 944.

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

Attorney's authority to compromise suit

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

March 15, 1991

**ALASKA ASSOCIATION OF MUNICIPAL CLERKS
POLICY STATEMENT IN SUPPORT OF 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 should be little doubt that clerks have

SUPPORT HB 128
March 15, 1991
Page 2

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 HB128. First, it requires a governing body to appoint a municipal clerk and removes previous ability to "provide otherwise by ordinances;" however, AS29.20.380 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 clerk's 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 balances system to the governing body. We have all heard the nightmares experiences 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 29.20.380(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 safekeeping 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.

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 the 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

SUPPORT HB 128

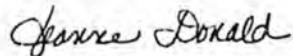
March 15, 1991

Page 5

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 actions 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.

Respectfully submitted,



Jeanne Donald, CMC
President, AAMC