

**HB**

**471**



Official Business

# Alaska State Legislature

State Capitol

Juneau, Alaska 99801-1182

## SPONSOR STATEMENT HOUSE BILL 471

The intent of House Bill 471 is to increase the number of board of commissioners on a regional native housing authority to more than five members, if so desired by the authority.

Congress, in 1996, passed a new Indian housing act, the Native American Housing Assistance and Self Determination Act of 1996, which converts Indian housing funding to block grants which are available to federally recognized Alaska Native villages and their truly designated housing entities. However, many village councils wish to continue using the umbrella housing authority model created by state law which authorizes a regional housing authority to operate the program for its members. In order to provide fairer representation, especially for those housing authorities that cover large parts of the state, the regional housing authorities have requested a change in statute. This will provide for the more fair regional representation they desire.

The limit of five board members was adopted under HUD rules that are no longer applicable to Indian housing.

# Alaska House of Representatives



Majority Whip

## STATEMENT OF SUPPORT

AMENDMENT NO. \_\_\_\_\_

TO

HB 471

BY REPRESENTATIVE RICHARD FOSTER

### HISTORICAL BACKGROUND

Newtok Corporation, a Native Village Corporation established under the land claims settlement act is in the process of discussing a possible land exchange with the U.S. Fish and Wildlife Service. This land exchange would allow the village to relocate to a more suitable and stable area. The land where the village currently sits is threatened by erosion from the Ninglick River.

### Problem

In the course of working on the land exchange for the corporation their attorney, Glenn Price, discovered that the Newtok Corporation had been involuntarily dissolved, on October 4, 1991, for failure to file its biannual report and, that the Corporation has not been reinstated since that date.

### Secondary Issue

In the Meantime, a third party has incorporated using the name "Newtok, Corporation." The problem was discussed with Michael Monagle at the Division of Banking, Securities and Corporations, and he is amenable to the corporation reinstating under the name "Newtok Native Corporation." The name change would have to be implemented by way of an amendment to the corporation's Articles of Incorporation. The proposed language allows such an amendment, by Board action, in conjunction with the reinstatement.

## Analysis of the Amendment

### Lines 7 through 12

This section of the amendment extends the window for reinstatement, under AS 10.06.633(e), for a Native village corporation that has been involuntarily dissolved by the commissioner to December 31, 1998.

### Lines 12 through 15

This section assures that the reinstated corporation retains the corporation's assets and that all actions taken by the board, during the period of dissolution, are valid and legally binding.

### Lines 16 through 21

This section allows the corporation's board of directors to accomplish the necessary name change without the approval of two thirds of the membership. This is done for two reasons. First, it is nearly impossible to get two thirds of the membership to a board meeting since many members no longer live in the community and, second, time is critical in that the corporation needs to move ahead with the land exchange process.

# ASSOCIATION OF ALASKA HOUSING AUTHORITIES

300 Boniface Parkway • Anchorage, AK 99504

Phone (907) 338-3970 • Fax (907) 338-4904

c-mail: aaha@alaska.net Home Page: <http://www.alaska.net/~aaha>

April 7, 1998

Representative Ivan Ivan, Chairman  
Community and Regional Affairs Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

*Alaska Housing  
Finance Corporation*

*Alutian  
Housing Authority*

*Association of Village  
Council Presidents Regional  
Housing Authority*

*Bristol Bay  
Housing Authority*

*Briny Strait Regional  
Housing Authority*

*Bristol Bay  
Housing Authority*

*Cook Inlet  
Housing Authority*

*Copper River Basin  
Regional Housing Authority*

*Interior Regional  
Housing Authority*

*Kodiak Island  
Housing Authority*

*Matlakalla  
Housing Authority*

*North Pacific Rim  
Housing Authority*

*Northwest Inupiat  
Housing Authority*

*Tapiagmulla  
Nunavut (FNHA)*

*Tongva Haida Regional  
Housing Authority*

Re: HB 471 - Regional Housing Authorities

Dear Representative Ivan,

Alaska's Regional Housing Authorities have taken the opportunity afforded by the committee to review the proposed legislation and to consult with many of their governing boards and the Regional Non-Profits and Associations which appoint their Boards. We have polled the Housing Authorities to be able to advise your committee of the outcome of these consultations - some of which are ongoing. The results of the poll:

Of the fourteen housing authorities

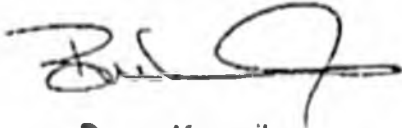
In favor or in favor of with a limited number of Board members. (Cap at 7, 9, or 11)	7
No Position Yet	4
Opposed	1
No Response to Poll	2

Five of the Housing Authorities in favor of the bill recommend adding language which puts a cap on the number of commissioners which could be appointed. The recommended cap ranged from 7 to 9 to 11 persons. The amended language in AS 18.55.996 (d) could read

appoint not fewer than five and not more than nine persons to serve as the board of commissioners of the authority

We appreciate the opportunity to provide this information and the efforts of your committee on behalf of Alaska's Regional Housing Authorities. If I can be of any assistance or if you require additional information, please contact me.

Sincerely,



Bruce Kovarik  
Executive Director

pc: Reps. Dyson, Ogan, Ryan, Sanders, Joule & Kookesh  
Executive Directors, Regional Housing Authorities  
Chron

**Bristol Bay Housing Authority**

P.O. Box 50 Dillingham, Alaska 99576 Phone (907) 842-5956 FAX (907) 842-2784

March 31, 1998

Rep. Ivan Ivan  
Room 418  
House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Ivan:

REF: HB471/SB 343 Relating to Boards of Commissioners of RHA's

I am aware that you have requested feedback from the Regional Housing Authorities as soon as possible on the above issue. BBHA has a regular Board of Commissioners meeting scheduled on April 10th, at which time this issue will be discussed. I will relay the wishes of the Board to you at that time.

I can, however, tell you that based upon a regional NAHASDA meeting that was held in Dillingham last November, representatives from the Village Councils of Bristol Bay indicated their interest in having a "Full Board" comprised of one representative from each village that would meet no less than annually to discuss housing issues. The existing Board of Commissioners would act as an Executive Committee. This would function much like the other regional non-profits in Bristol Bay - the Bristol Bay Area Health Corporation and the Bristol Bay Native Association.

I don't believe anyone anticipates a fully functional 32 member Board of Commissioners meeting on a monthly basis. Aside from the costs involved, a monthly Board meeting of that size would be cumbersome and impractical. The language of each bill should allow for a Full Board with limited meetings and an Executive Committee which would function much as does the existing Board of Commissioners.

Please call me for any additional information you may require.

Sincerely,

  
Dave McClure  
Executive Director

CC: Senator Jerry Mackie, Chairman, Community & Regional Affairs Committee  
Representative Carl Moses  
Senator Lyman Hoffman  
BBHA Board of Commissioners - William Tennyson, Luki Akelkok, Joe Clark  
Boris Kosbruk, Mark Angasan  
Donald Nielsen, President, Bristol Bay Native Association Board of Directors  
Terry Hoeflerle, Chief Operating Officer, BBNA  
Bruce Kovarik, Exec. Dir., Association of Alaska Housing Authorities



The Association of  
Village Council Presidents  
Regional Housing Authority

Box 767  
Bethel, Alaska 99559

*March 25, 1998*

VIA FACSIMILE & U.S. MAIL

Representative Ivan M. Ivan, Chairman  
Community and Regional Affairs Committee  
State Capital  
Juneau, Alaska 99801-1182

Re: HB 471/ SB 343, Regional Native Housing Authority Board of Commissioners

Dear Representative Ivan:

Thank you for your support of HB471. I have discussed this issue with our Board of Commissioners and they fully support the concept of providing our Regional Non-profit organizations the latitude to determine the most appropriate form of representation they deem necessary for their particular region(s). This is in particular respect to the number of board members and their areas of representation.

As you know, the AVCP RHA as established by State statute, is the largest Native Housing Authority in Alaska and representing 56 villages is 5 Commissioners. As you also know, at the AVCP, Inc. Convention last fall the delegation passed a resolution to encourage the Alaska State Legislature to amend AS 18.55.996(d) whereby the 13 Regional Non-Profit Organizations that appoint their Housing Authority Commissioners could determine what the most appropriate number of board members and their areas of representation should be.

We believe if more of our villages feel their voices are being heard in a way that addresses their local housing needs then they will all be better served. This would also help address the intent of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), passed by Congress. As its title asserts, local village governments want more meaningful input in how their housing programs are developed, operated, and managed.

Adoption of HB471 and SB343 would be a step in the right direction where the State and our villages can cooperate in a meaningful way that not only benefits everyone, but also fosters a better working relationship between the two. We also understand and support the proposed language in these bills which is permissive and does not require any policy or administrative changes but leaves such decisions up to the discretion of each respective body.

Representative Ivan M. Ivan  
March 25, 1998  
Page 2

If we can offer further support for this issue please don't hesitate to contact us.

Very truly yours,  
AVCP RHA



Don Fancher  
Executive Director

cc: AVCP RHA Board of Commissioners  
Association of Alaska Housing Authorities  
Myron Naneng, President/AVCP, Inc.

# AVCP

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS  
P.O. BOX 219 • BETHEL, ALASKA 99559 • PHONE 543-3521

THIRTY-THIRD ANNUAL CONVENTION  
ST. MARY'S, ALASKA \*\*\*OCTOBER 7-9, 1997

## RESOLUTION 97-10-31

**TITLE: INCREASE IN SIZE OF AVCP HOUSING'S BOARD OF COMMISSIONERS**

WHEREAS, the Association of Village Council Presidents, Inc. (AVCP) is the recognized tribal organization and non-profit Alaska Native regional corporation for its fifty-six member indigenous Native villages within Western Alaska and supports the endeavors of its member villages; and

WHEREAS, for over twenty (20) years the villages of the Yukon Kuskokwim Delta have been represented by the public housing corporation known as AVCP Regional Housing Authority, which in accordance with State law has as its governing board five Commissioners appointed by AVCP; and

WHEREAS, in 1996, Congress passed a new Indian Housing act, known as the *Native American Housing Assistance and Self-Determination Act of 1996* (NAHASDA), which converts Indian Housing funding to block grants, which are available only to federally recognized Alaska Native villages and their Tribally designated Housing Entities; and

WHEREAS, in NAHASDA, Congress for the first time has established a clear self-determination policy for Indian Housing and has granted recognized villages in Alaska direct power to administer and direct their local housing projects; and

WHEREAS, many village councils wish to continue using the "umbrella" housing authority model created by State law, which authorizes AVCP Regional Housing Authority to operate a regional housing program covering fifty-six villages; and

WHEREAS, each village must individually make the decision to appoint the regional housing authority as its designated housing entity, or to withdraw from the regional housing authority; and

WHEREAS, in order to provide fair representation for up to fifty-six villages, the housing authority's board must be larger than 5 Commissioners, because no Commissioner can effectively represent over 10 villages; and

WHEREAS, the State law limiting the Board of Commissioners of an Alaska regional housing authority to five members, arose from HUD rules that are no longer applicable to Indian Housing; and

WHEREAS, other regional organizations within the Yukon Kuskokwim Delta have board memberships on which each Board member represents as few as two villages, and this approach has been very effective in administering limited resources across the Delta; and

WHEREAS, several villages may withdraw from AVCP Regional Housing Authority due to the belief that the Housing Authority's Board of Commissioners cannot fairly represent them, due to its limited membership; and

WHEREAS, Members of AVCP seek to:

- 1) Follow the Self-Determination mandate of Congress, established and required by NAHASDA;
- 2) Provide strong direction and management in administration of local housing programs;
- 3) Retain the benefits of the state-created regional-wide housing authority;
- 4) Continue to receive economies of scale that are currently achieved through region-wide housing programs, as originally designed by the Alaska Legislature in 1971;
- 5) Minimize the disruption that could occur if villages withdraw from the AVCP Regional Housing Authority;

NOW THEREFORE BE IT RESOLVED THAT AVCP supports and encourages the amendment of Alaska Statutes restricting the size of Regional Housing Authorities Boards of Commissioners, and by such amendment authorize the Native Associations designated in Alaska Statute 18.55.996 to increase the size of their respective housing governing boards, in the discretion of such Native Associations, to a board size which will permit fair and equal representation of constituent villages, in a manner which is consistent with NAHASDA; and

BE IT FURTHER RESOLVED THAT the Board and Staff of AVCP Regional Housing Authority are authorized to support and encourage such an amendment; and

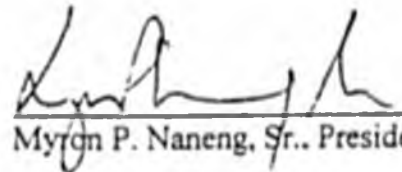
BE IT FURTHER RESOLVED THAT the AVCP Full Board of Directors retains the right to appoint all the AVCP Regional Housing Authority commissioners; and

BE IT FURTHER RESOLVED THAT this Resolution may be presented to the Alaska Legislature any other interested persons to show AVCP's full support of the above-described amendment.

ADOPTED by the Association of Village Council Presidents, Inc. during the Thirty-Third Annual Convention at St. Mary's, Alaska, this 9th day of October 1997 with a duly constituted quorum of delegates.

CERTIFIED:

  
\_\_\_\_\_  
David O. David, Chairman

  
\_\_\_\_\_  
Myron P. Naneng, Sr., President

Sec. 18.55.996. Creation of authorities.

(a) The following associations are given the authority specified in (b) of this section:

- (1) Arctic Slope Native Association (Barrow and Point Hope);
- (2) Bering Straits Association (Seward Peninsula, Unalakleet, St. Lawrence Island);
- (3) Northwest Alaska Native Association (Kotzebue);
- (4) Association of Village Council Presidents (southwest coast of Alaska including all villages in the Bethel area and all villages on the Lower Yukon River and Lower Kuskokwim River);
- (5) Tanana Chiefs Conference (Koyukuk, the middle and upper Yukon River villages and the upper Kuskokwim and Tanana River villages);
- (6) Cook Inlet Tribal Council (Kenai, Tyonek, Eklutna and Seldovia);
- (7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);
- (8) Aleut League (Aleutian Islands, Pribilof Islands and that part of the Alaska Peninsula that is in the Aleut League);
- (9) North Pacific Rim Native Corp. (Cordova, Tatitlek, Port Graham, English Bay, Valdez, Seward, Eyak and Chenega);
- (10) Tlingit-Haida Central Council or Alaska Native Brotherhood (Southeastern Alaska);
- (11) Kodiak Area Native Association (all villages on and around Kodiak Island);
- (12) Copper River Native Association (Copper Center, Glennallen, Chitina and Mentasta);
- (13) Alaska Federation of Natives, Inc.;
- (14) Sitka Community Association (Baranof and Japonski Island);
- (15) Metlakatla Indian Community (Metlakatla).

(b) There is created with respect to each of the associations named in (a) of this section a public body corporate and politic to function in the operating area of the individual associations to be known as the regional housing authority of the associations possessing all powers, rights, and functions now or subsequently specified under AS 18.55.100 - 18.55.290, except those specified with respect to the construction and acquisition of public buildings for lease to the state or any authority that is inconsistent with AS 18.55.995. A regional housing authority may enter into agreements with local government, other political subdivisions of the state, the state or the federal government for the exercise of a function or power relating to construction, operation, and maintenance of public facilities or public utilities. Upon execution of an agreement and for the period of the agreement the regional housing authority shall have the same powers and functions relating to the subject matter of the agreement as those that may legally be exercised by the governmental unit with whom the agreement is made including the authority to separately or together with the other unit borrow money and issue notes, bonds, or other evidence of indebtedness to finance a project within the scope of the agreement subject to the express limitations, if any, contained in the agreement. All obligations or liabilities of the regional housing authority shall remain their own and are not obligations or liabilities of the state.

(c) A housing authority created by this section may not transact business or exercise powers granted to it until the governing body of the named association has, by proper resolution, declared that there is a need for the authority to function, gives it the authority to function and has named its commissioners as provided under (d) of this section.

(d) The governing body of the association in question shall, after determining that it

wishes to have a regional native housing authority, appoint five persons to serve as the board of commissioners of the authority. The term of office of each member is for three years except that, of the commissioners first appointed, one shall serve for a term of one year and two shall serve for a term of two years. Vacancies shall be filled by the governing body of the association in question.

(e) Questions arising as to jurisdiction and boundary disputes as a result of the jurisdictional lines set out by (a) of this section shall be resolved by the governing board of the Alaska Federation of Natives.

(f) The authority shall have the power to acquire, construct, operate, and maintain group homes, multipurpose community centers, child care centers, and other community facilities.

(g) If an activity associated with the planning, financing, construction, or operation of a project by a regional housing authority established in this section and authorized under AS 18.55.100 - 18.55.290 conflicts with an activity of the Alaska Housing Finance Corporation, the governing body of the municipality in which the project is located shall resolve the conflict.

(h) Before a contract for the construction, alteration, or repair of a housing unit constructed under a federal or state funded housing program is awarded, the regional housing authority shall require the contractors to comply with the bond provisions specified in AS 36.25.010 (a) and (b).

(i) A housing authority created under this section shall have its financial records audited annually by an independent certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the housing authority and shall have access to these records at any time.

#### History -

(Sec. 1 ch 123 SLA 1971; am Sec. 3, 6 ch 151 SLA 1975; am Sec. 1 ch 274 SLA 1976; am Sec. 1 ch 12 SLA 1977; Sec. 6 ch 86 SLA 1981; am Sec. 1 ch 107 SLA 1983; am Sec. 1 ch 128 SLA 1984; am Sec. 1 ch 100 SLA 1985; am Sec. 1 ch 51 SLA 1986; am Sec. 75, 76 ch 4 FSSLA 1992)  
Amendment Notes -

The 1992 amendment, effective July 1, 1992, in subsection (b), rewrote the first sentence and, in the second and third sentences, inserted "regional housing"; and, in subsection (g), inserted "and authorized under AS 18.55.100 - 18.55.290" and substituted "Alaska Housing Finance Corporation" for "Alaska State Housing Authority."

#### AG Opinions -

Regional housing authorities created under this section are neither political subdivisions of the state nor state agencies. June 8, 1982 Op. Att'y Gen.

While various specified Native associations are given authority to establish regional housing authorities under this section, and may receive donations of land from municipalities, the programs administered by those associations must be racially neutral. May 6, 1981 Op. Att'y Gen.

It seems clear that the Department of Community and Regional Affairs is not charged with enforcing the audit requirement of subsection (i); and it is not clear who, if anyone, is so charged. August 2, 1982 Op. Att'y Gen.

The Department of Community and Regional Affairs can, under AS 18.55.998, condition its grants to the regional authorities on the authorities' compliance with subsection (i). August 2, 1982 Op. Att'y Gen.

It is quite clear that the annual audits of regional housing authorities mandated by subsection (i) cannot be funded by the Department of Community and Regional Affairs with the

housing supplemental development fund moneys; and it must be concluded that department fund should not be used for post-project cost certification. August 2, 1982 Op. Att'y Gen.

The Pacific Rim Housing Authority appropriately may be considered a political subdivision of the state or other "related public entity" for purposes of Subpart F (15 CFR Sec. 930.90) for the limited purpose of its receipt of federal grants for housing projects; and, thus, Pacific Rim is subject to the coastal management consistency review required by Subpart F for federal assistance programs to the extent that grants are used to fund housing and related programs which affect the coastal zone. April 30, 1981 Op. Att'y Gen.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE IVAN

TO: CSHB 471 (CRA), Draft 0-LS1686\F

1 Page 2, Line 9, following "five ":

2 Add "and not more than nine"

0-LS1686F

. Bannister

4/6/98

## CS FOR HOUSE BILL NO. 471(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the boards of commissioners of regional Native housing  
2 authorities; relating to the reinstatement of Native corporations; and providing for  
3 an effective date."

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

5 \* Section 1. AS 10.06.960(k) is amended to read:

6 (k) Notwithstanding (i) of this section and AS 10.06.633(e), a corporation that  
7 is organized as a Native village corporation under the act, that has been involuntarily  
8 dissolved by the commissioner under AS 10.06.633, and that has failed to apply for  
9 reinstatement during the period established under AS 10.06.633(e) may be reinstated  
10 under AS 10.06.633(e) on or before December 31, 1998 [WITHIN ONE YEAR  
11 AFTER AUGUST 7, 1996]. The reinstated corporation and its shareholders have all  
12 of the rights, privileges, liabilities, and obligations that would have applied to them if  
13 the corporation had not been dissolved, and all corporate and shareholder actions taken  
14 during the period of dissolution are considered to be as valid as if dissolution had not

1 occurred. If a corporation elects to reinstate under this subsection and if the  
2 corporation's previously used corporate name is no longer available for use by the  
3 corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an amendment to the  
4 articles of incorporation changing the previously used corporate name may be  
5 adopted by action of the corporation's board of directors alone.

6 \* Sec. 2. AS 18.55.996(d) is amended to read:

7 (d) The governing body of the association in question shall, after determining  
8 that it wishes to have a regional native housing authority, appoint not fewer than five  
9 persons to serve as the board of commissioners of the authority. The term of office  
10 of each member is for three years except that, of the commissioners first appointed,  
11 one shall serve for a term of one year and two shall serve for a term of two years.  
12 Vacancies shall be filled by the governing body of the association in question. The  
13 board of commissioners may designate from among its members a committee to  
14 whom the board may delegate board duties.

15 \* Sec. 3. Section 1 of this Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE IVAN

TO: HB 471

1 Page 1, line 1, following "authorities":

2 Insert "; relating to the reinstatement of Native corporations; and providing for  
3 an effective date"

4 Page 1, following line 3:

5 Insert a new bill section to read:

6 **\*\* Section 1.** AS 10.06.960(k) is amended to read:

7 (k) Notwithstanding (i) of this section and AS 10.06.633(e), a corporation that  
8 is organized as a Native village corporation under the act, that has been involuntarily  
9 dissolved by the commissioner under AS 10.06.633, and that has failed to apply for  
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11 under AS 10.06.633(e) on or before December 31, 1998 [WITHIN ONE YEAR  
12 AFTER AUGUST 7, 1996]. The reinstated corporation and its shareholders have all  
13 of the rights, privileges, liabilities, and obligations that would have applied to them  
14 if the corporation had not been dissolved, and all corporate and shareholder actions  
15 taken during the period of dissolution are considered to be as valid as if dissolution  
16 had not occurred. If a corporation elects to reinstate under this subsection and  
17 if the corporation's previously used corporate name is no longer available for use  
18 by the corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an  
19 amendment to the articles of incorporation changing the previously used  
20 corporate name may be adopted by action of the corporation's board of directors  
21 alone."

22 Page 1, line 4:

23 Delete **\*\* Section 1.**

1           Insert "\* Sec. 2."

2   Page 1, following line 10:

3           Insert a new bill section to read:

4           "\* Sec. 3. Section 1 of this Act takes effect immediately under AS 01.10.070(c)."