

SB

63

SITE: HOMER LIO

COMMITTEE: HCRA

DATE: 5-15-03

SUBJECT OF MEETING:

SB 63

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y OR N**

Mary Griswold	Box 1417, Homer 99603	Self	Y SB63
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

February 12, 2004

HCRA testimony

I thank the House for agreeing to take SB 63 out of SB 183. The version included in SB 183 was incomplete because it did not address property taxation in the event of incorporation and had technical difficulties in that it unnecessarily restricted property assessment and collection of taxes. The tax levy is the important consideration. Tax collection can only occur after the levy. It does not need to be included in this legislation. Property value assessment must be allowed any time as part of boundary change discussions in order to evaluate the cost benefits of the proposed action.

Today, I ask you to support CSSB 63 (STA) with or without the transition language in the title and in sections 1, 2, 4, 6, and 7. The Local Boundary Commission's 2004 Report to the Legislature includes support for this bill without the language granting the LBC explicit powers to determine appropriate transition measures if this language jeopardizes the bill's passage. The important provisions are in Sections 3 and 5.

SB 63 eliminates long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. This committee identified the need to resolve this issue as it debated Homer's annexation proposal in 2002. The Local Boundary Commission has requested legislative resolution for at least the past four years.

AS 29.45.110 establishes January 1 of the assessment year as the date properties shall be valued. The statutes require municipalities to determine the rate of levy before June 15 and to mail tax statements setting out the levy by July 1. These deadlines prevent municipalities from levying taxes in the same year for any annexation or incorporation that becomes effective after July 1. The question remains whether they can disrupt the established schedule to immediately tax properties annexed or incorporated between January 1 and July 1. To complicate the situation, the Local Boundary Commission is given broad powers to place conditions on boundary changes, but there is no clear authority for it to decide property tax jurisdiction. This is a policy issue and is better resolved through legislation than by the LBC on a case by case basis, or by dragging it through the courts.

Clarifying by statute, in cases of incorporation, annexation, and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers. It is the approach the Mat-Su Borough has consistently used in all its annexations, and they have completed more than anyone else.

It is important to note that with many annexations and incorporations, there is a corresponding simultaneous detachment from another governmental unit. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous boundary change. It is also a better approach because municipal governments have flexibility to establish levy dates and payment cycles within the statutory limits and are often on different fiscal and budget preparation cycles which makes pro-rating taxes cumbersome and disruptive.

Taxpayers expect property assessments and tax bills on an orderly schedule. The January 1 assessment date is the effective date for property tax liability. That Alaska statutes allow up to six months to mail the bills is a practical necessity for sufficient time to create an assessment roll, notify property owners, consider adjustments, conduct board of adjustment hearings, develop annual budgets, certify the roll, set an appropriate levy, and prepare the tax bills. This schedule also allows taxpayers time to set aside sufficient funds to pay their bills. It is not fair to surprise them with a big change in the middle of the assessment calendar.

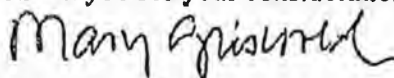
If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Exactly how close the effective date of a boundary change could crowd the tax mailing date is too open a question to leave unresolved until well into the petition analysis. Furthermore, realistic revenue projections are necessary at the beginning of the process for responsible evaluation and transition planning.

Some people have argued that this approach is unduly conservative and punitive, especially for areas undertaking incorporation because they will be required to immediately provide services for which they have no funding. After analyzing the consequences of trying to accommodate special situations, I realized that the conflicts created by more flexible approaches defeat their purpose. Municipalities are not expected to immediately provide the host of services typically associated with government. Anticipated services and delivery timelines should be made clear to everyone early in the consideration to incorporate or annex territory.

It is important to note that municipalities have revenue sources other than property taxes. An area deemed appropriate for incorporation or annexation has demonstrated sufficient economic and human resources to support government. Sales taxes could serve as an initial source of funding for government services while a municipality builds a solid financial foundation. Organized boroughs may loan money to newly incorporated cities similar to a loan made by the Kenai Peninsula Borough to a service area formed in October, 2000, for which the borough did not levy taxes until June, 2001. The state offers significant financial incentives, including a \$600,000 organizational grant, to areas of the unorganized borough willing to incorporate. Such payments would help bridge this revenue gap.

Clear guidelines for municipal taxation authority will promote orderly municipal growth and will reduce the stress and contention associated with boundary changes. Please support CSSB 63 (STA), as amended to remove the transition language if necessary, so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you for your consideration.



Mary Griswold

P.O. Box 1417

Homer, AK 99603

235-3725



CHAPTER 3 POLICY ISSUES AND CONCERNS

To

CSSB 63(STA) "An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas."

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

To ensure that the provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment, Sections 2, 4, and 5 were added. In view of those additions and to maintain existing substantial uniformity in State law regarding all decision-making actions of the Commission, language paralleling the provisions of Sections 2, 4, and 5 were added to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municip-

pal merger, consolidation, and dissolution). Those additions were set out in Sections 1, 6, and 7 of the bill.

On May 5, 2003, CSSB 63(STA) passed the State Senate by a unanimous vote of all members present (18 voted in favor of the bill, one Senator was excused and one Senator was absent). The Local Boundary Commission supported the bill, which is currently before the House of Representatives for review.

In December 2003, Representative Paul Seaton requested that the Commission support the bill without the language relating to transition provisions. He observed that the Commission already has the power to amend petitions and impose transition requirements for boundary changes. He stated that while codifying those powers in statute would create additional clarity, removing the provisions from the bill would not diminish the Commission's ability to effect reasonable boundary changes. He is of the opinion that the transitional language in the bill may jeopardize its passage. Therefore, he requested that the Commission support a change in title of the bill and removal of the language referring to transition provisions and powers of the Commission. He concluded that this compromise could enable passage of a final resolution of the municipal property tax issue.

The Commission concurs with the conclusions and recommendations made by Representative Seaton and encourages amendment and passage of the bill as it relates to municipal property taxation in annexed, detached, and newly incorporated areas; i.e., the provisions in Section 3 and 5 of the bill.

HB 38 "An Act relating to mergers and consolidations of municipalities."

This bill alters existing laws governing merger and consolidation of municipal governments (cities and boroughs). Its provisions are identical to those passed by the Legislature in 2002 as SCS CSHB 296(JUD). That bill was opposed by the DCED and LBC and vetoed by the Governor.

Section 1 of the bill imposes a requirement that signatures on a voter-initiated local option petition for merger or consolidation of municipal governments must be gathered within a 965-day period. Currently, there is no time limit on the gathering of signatures.

Section 2 adds a new subsection to AS 29.06.100 dealing with a local option petition for merger or consolidation of a borough and more than one city within that borough. It requires the petition to propose one of two results if it is approved by voters in the borough area outside the cities proposed to be merged or consolidated but is not approved by voters in each of the cities. The two options are: (1) the entire proposal is defeated, or (2) the proposal is partially approved and the borough is merged or consolidated with the cities in which the proposal has been approved.

Section 3 amends existing law. It requires that a majority of the votes in each of the municipalities proposed to be merged or consolidated through the local option process must favor merger or consolidation in order for it to be approved.

Votes on a proposal to merge or consolidate a borough and one or more cities within that borough must be tabulated as follows:

1. in the borough area outside of each city in that borough proposed to be merged or consolidated, and
2. in each of the cities in the borough proposed to be merged or consolidated.

If one or more municipalities outside of the borough are also included within the proposal, in each of those other municipalities a separate tabulation must be made for that area.

The bill provides that the proposal is defeated if it is not separately approved in the borough outside of the cities in that borough that are proposed to be merged or consolidated. If municipalities outside of the borough are included in the proposal, it is also rejected if not approved in those other municipalities.

If the proposal is not approved in one or more of the cities within the borough that are proposed to be merged or consolidated but is otherwise approved in each of the areas separately tabulated, the proposal is either entirely defeated or partially approved as specified in the petition under the new provision set out in Section 2.

Lastly, Section 3 states that the provisions in the amended law are intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1).

23-LS0489\S
Cook
5/16/03

HOUSE CS FOR CS FOR SENATE BILL NO. 63(CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to municipal property taxation in annexed and detached areas and to**
2 **mergers and consolidations of municipalities; requiring a municipal initiative or**
3 **municipal referendum to be submitted to the voters at the next regular election**
4 **occurring not sooner than 60 days after certification of the initiative or referendum**
5 **petition; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1. AS 29.06 is amended by adding a new section to read:**

8 **Sec. 29.06.055. Property taxes in annexed or detached areas. (a) Unless**
9 **the annexation takes effect on January 1, the municipality may not assess, levy, or**
10 **collect property taxes in an annexed area before January 1 of the year immediately**
11 **following the year in which the annexation takes effect.**

12 **(b) If an area is detached from a municipality, all property taxes that are levied**
13 **by that municipality on property in the detached area based on an assessment that**

1 occurred before the effective date of the detachment remain valid. AS 29.45.290 -
2 29.45.500 apply to the enforcement of those taxes.

3 * Sec. 2. AS 29.06.100(a) is amended to read:

4 (a) Residents of two or more municipalities may file a merger or consolidation
5 petition with the department. The petition must be signed during a period that does
6 not exceed 365 consecutive days by a number of voters of each existing municipality
7 equal to at least 25 percent of the number of votes cast in each municipality's last
8 regular election.

9 * Sec. 3. AS 29.06.100 is amended by adding a new subsection to read:

10 (c) A petition for the merger or consolidation of a borough and more than one
11 city within that borough shall provide that, if the proposal is approved by a majority of
12 the votes in the borough area outside of the cities proposed to be merged or
13 consolidated but is not approved by a majority of the votes in each of the cities,

14 (1) the entire proposal is defeated; or

15 (2) the proposal is partially approved and the borough is merged or
16 consolidated with the cities in which the proposal has been approved.

17 * Sec. 4. AS 29.06.140(a) is amended to read:

18 (a) The Local Boundary Commission shall immediately notify the director of
19 elections of its acceptance of a merger or consolidation petition. Within 30 days after
20 notification, the director of elections shall order an election in the area to be included
21 in the new municipality to determine whether the voters desire merger or
22 consolidation. The election shall be held not less than 30 or more than 90 days after
23 the election order. A voter who is a resident of the area to be included in the proposed
24 municipality may vote. Unless the proposal includes the merger or consolidation
25 of a borough and one or more of the cities within that borough, if a majority of
26 the votes in each of the municipalities proposed to be merged or consolidated
27 favours the merger or consolidation, the proposal is approved. Votes on a
28 proposal that includes the merger or consolidation of a borough and one or more
29 of the cities within that borough shall be separately tabulated as follows: (1) in
30 the borough area outside of each city in that borough proposed to be merged or
31 consolidated; (2) in each of the cities in the borough proposed to be merged or

1 consolidated; and (3) if one or more municipalities outside of the borough are
2 also included within the proposal, in each of those other municipalities. The
3 entire proposal is defeated if it is not separately approved in the borough outside
4 of the cities in that borough that are proposed to be merged or consolidated and,
5 if municipalities outside of the borough are included in the proposal, in those
6 other municipalities. If the proposal is not approved in one or more of the cities
7 within the borough that are proposed to be merged or consolidated but is
8 otherwise approved in each of the areas separately tabulated, the proposal is
9 either entirely defeated or partially approved as provided in the petition under
10 AS 29.06.100(c). This subsection is intended to be consistent with the voting
11 requirements for annexation specified in AS 29.06.040(c)(1).

12 * Sec. 5. AS 29.26.170(a) is amended to read:

13 (a) Unless substantially the same measure is adopted, when a petition seeks an
14 initiative vote, the clerk shall submit the matter to the voters at the next regular
15 election occurring no sooner than 60 [45] days after certification of the petition. [IF
16 NO REGULAR ELECTION OCCURS WITHIN 75 DAYS AFTER THE
17 CERTIFICATION OF A PETITION, THE GOVERNING BODY SHALL HOLD A
18 SPECIAL ELECTION WITHIN 75 DAYS, BUT NOT SOONER THAN 45 DAYS
19 AFTER CERTIFICATION.]

20 * Sec. 6. AS 29.26.170(b) is amended to read:

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

23 * Sec. 7. AS 29.26.180(a) is amended to read:

24 (a) Unless the ordinance or resolution is repealed, when a petition seeks a
25 referendum vote, the clerk shall submit the matter to the voters at the next election
26 occurring no sooner than 60 [45] days after certification of the petition. [IF NO
27 ELECTION OCCURS WITHIN 75 DAYS OF CERTIFICATION OF A PETITION,
28 THE GOVERNING BODY SHALL HOLD A SPECIAL ELECTION WITHIN 75
29 DAYS, BUT NOT SOONER THAN 45 DAYS AFTER CERTIFICATION.]

30 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 APPLICABILITY. The amendments to AS 29.06.100 in secs. 2 and 3 of this Act do
2 not apply to a merger or consolidation petition filed with the Department of Community and
3 Economic Development before the effective date of secs. 2 and 3 of this Act. The amendment
4 to AS 29.06.140(a) in sec. 4 of this Act does not apply to an election held as a result of a
5 petition filed with the Department of Community and Economic Development before the
6 effective date of sec. 4 of this Act, and AS 29.06.140(a) as it read before the effective date of
7 sec. 4 of this Act applies to that election.

8 * **Sec. 9.** Section 1 of this Act takes effect immediately under AS 01.10.070(c).

WORK ORDER REQUEST FORM

W.O. 23-LS1155

KEYWORDS: UNIFORM RULES

ASSIGNED: Cook

REQUEST FOR: Resolution

TAKEN BY: Cook

SUBJECT: Suspend UN RLS: Title Change for SB 63

REQUESTED FOR: HC HCRA

BY: Sue

PHONE: 465-3882

DELIVER TO: Rep. Morgan, Attn:Sue, Cap 408

INSTRUCTIONS:

Title change for SB 63

<p>OBTAIN</p>	<p>SPECIAL DRAFTING INSTRUCTIONS ATTACHED [] AUTHORIZED TO CONFER WITH _____ _____ RETURN _____ _____ TO REQUESTOR APPROVED <input checked="" type="checkbox"/> DIRECTOR, LEGAL SERVICES</p>
<p>REVIEWED _____ IN <u>05/15/03</u> DUE _____ TYPED: DRAFT _____ DATE _____ FINAL _____ DATE _____ PROOFED _____ DELIVERED _____</p>	<p>SPECIAL INSTRUCTIONS to TYPING/PROOFING Request for DRAFT</p>

Sue Stancilitt

SB 63 information

465-2197

The Commission has adopted regulations (3 AAC 110.800) that require transition plans in all proceedings that come before the Commission. While that regulation ostensibly covers matters involving taxation and service areas, absent express authority from the legislature concerning the issues raised above, it has not remedied the ambiguities to the satisfaction of many parties.

transition plans should be subject to amendment by the Commission following a public hearing on the proposal.²⁹

The Commission emphasizes that there are suitable checks and balances on the authority of the Commission. Ac-

tions that come before the Commission are: (1) initiated by all property owners and residents of the affected area, (2) subject to approval by the voters of the affected area, and/or (3) subject to tacit approval by the Legislature.

The Commission offers the following draft language for consideration as a means to implement the proposed change. The draft language offered by the Commission would provide for the enactment of a new section as AS 44.33.830 to read as follows:

AS 44.33.830. Transition Plan. (a) A petition for change involving incorporation, annexation, detachment, merger, consolidation, dissolution, or city reclassification shall include a transition plan. The transition plan shall set out a practical proposal to implement the proposed change through the assumption, transfer, or surrender of relevant powers, duties, assets, and liabilities of affected cities, organized boroughs, and service areas of the unorganized borough. The transition plan may provide for the assessment, levy, and collection of property taxes by a city or organized borough on a prorated basis in the area of change for the remainder of the tax year following the change, notwithstanding AS 29.45.110(a) and AS 29.45.120(a). The transition plan may provide for other measures reasonably necessary to implement the proposed change.

(b) The transition plan shall be prepared in consultation with officials of affected cities, organized boroughs, and service areas of the unorganized borough. If such officials decline reasonable opportunities for consultation, the transition plan may be included in the petition without such consultation.

(c) The local boundary commission may amend the transition plan following a public hearing on the petition.

(d) A transition plan included in a petition approved by the local boundary commission takes effect only after any requisite approval of the petition under AS 29.04, AS 29.05, AS 29.06, or AS 44.33. A transition plan included in a petition that takes effect has the force and effect of law. ■

465-2197
Sue Stancliff

SB 63 HCRA 5/16/03



I just heard that HCRA has concerns about the language addressing incorporation and transition added to the original SB63. I think it is very important to leave this language in the bill. The incorporation language protects taxpayers in newly incorporated areas just like it protects taxpayers in newly annexed areas. Further, if it is not included, it is not clear what the legislature does intend to do about taxation in incorporated areas. The ambiguity would not be removed. Incorporations should be treated the same way as annexations. I helped draft this bill and did not know enough to include incorporations at that time. That is why they were not addressed.

The transition language does not give the LBC any additional power. It merely describes what the LBC can already do.

This bill restricts the LBC's power and is very different from what the LBC proposed to resolve the ambiguity in its last two reports to the legislature. The LBC would have preferred to resolve these issues in the transition plan, where it could oversee the pro-ration or assignment of taxes. See the LBC Report to the Second Session of the Twenty-Second Alaska State Legislature, page 29. I do not think this is a reasonable approach. That's why I worked hard to put SB63 before you. I was relieved, but a little surprised, that the LBC endorsed it unanimously.

As much as I would like to see CSSB 63 passed this year, I hope you will keep it in committee over the interim if you have problems with it as amended. I think the Senate Committee Substitute is excellent.

Please let me know if I might help convince the committee to move it as presented.

Sincerely,

Mary Griswold
P.O. Box 1417
Homer, AK 99603
235-3725
mgrt@xyz.net

TAM
Please consider
~~it~~ when looking
at "ambiguities"



Alaska State Legislature

HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Representative Carl Morgan
State Capitol Building, Room 408
Juneau, AK 99801
907-465-3882

Sectional Analysis

HCS CSSB 183 (CRA)

Section 1

Encompasses language from **SB 63**
Relating to municipal property taxation in annexed and detached areas.

The issue was raised as an item of concern during the legislative hearings on the City of Homer's Annexation, discussed in 2002 during the 22nd Legislative Session. The annexation was effective in March, but the question of when a tax levy would be applied was uncertain.

This section of the bill provides that a tax may not be assessed or levied before January 1 of the year immediately following the annexation or incorporation. An exception would be if the annexation were effective on January 1st of that year.

For detached areas, this section clarifies that taxes levied on property prior to the date of the detachment remain valid.

Sections 2 through Sections 4.

Relates to **HB 38** relating to mergers and consolidations of municipalities

Title 29 allows municipalities to merge by consolidation or unification. Through the years many communities have attempted to merge through this process, some successfully, some not so successfully. It is through those efforts that deficiencies in fair voting practices surrounding municipal mergers have come to light.

HB 38 seeks to establish a more fair and timely process in the petition and election of municipal mergers by limiting the time allowed for gathering signatures as well as setting clear requirements for how the outcome of the election is to be determined.

Section 5

Encompasses all of the language from **CSSB183 (STA)** authorizing certain boroughs to use revenue collected on an areawide or non-areawide basis for economic development.

Current state law places a limitation on second-class boroughs with respect to expending funds designated for economic development.

Second-class boroughs may only use these funds on a non-areawide basis. This means that the Fairbanks North Star Borough can only deploy these funds on projects located outside the city limits of Fairbanks and North Pole.

Section 6

Relates to **HB 38**

APPLICABILITY. Stating that sections 2-3 do not apply to a merger or consolidation petition filed with DCED before the effective date.

And, section 4 does not apply to an election held as a result of a petition filed with DCED before the effective date of this act.



ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER
CO-CHAIR, SENATE TRANSPORTATION COMMITTEE
VICE-CHAIR, SENATE RESOURCES COMMITTEE
VICE-CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

DATE: February 5, 2004
TO: Rep. Carl Morgan, Chair
House Community & Regional Affairs Committee
FROM: Senator Tom Wagoner *Tom*
RE: CS SB 63 Hearing Request

I respectfully request that you schedule this bill for a hearing in your committee at your earliest convenience.

As you know, this bill is at the direct request of the Local Boundary Commission as a result of issues raised during the Homer annexation process last legislative session.

I am previously submitted information for your bill packet.

Thank you for your time and consideration.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: May 6, 2003

FURTHER REFERRALS:

Date of Committee Action: _____

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

CSSB 63(STA)

CS FOR SENATE BILL NO. 63(STA)

MUNICIPAL ANNEXATIONS AND DETACHMENTS

"An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas."

Recommends it be replaced with HCS or CS for CS for Senate bill 63 (C.R.A.) (_____)

For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

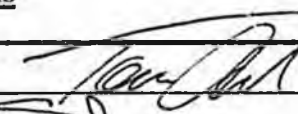
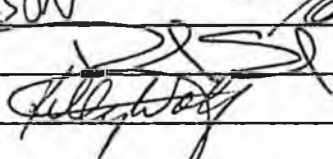
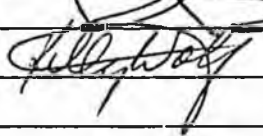
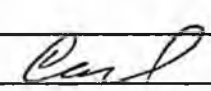
- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DCED				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DCED				✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
ANDERSON 	ANDERSON	X			
	SAMUELS	✓			
	Wolf			✓	
Chair: 				✓	
Chair:					

ALASKA STATE LEGISLATURE
SENATE BILL NO. 63

HISTORY IN THE SENATE

HISTORY IN THE HOUSE

2003 Read first time and referred to:

2/7 CRA, STA

4/28 CRA RPT() CS 2 DP 2 NR DNP AM
New Title Same Title Previous FN
FN 1 OFN To STA

5/1 STA RPT(STA) CS 2 DP 1 NR DNP AM
 New Title Same Title 1 Previous FN
FN OFN To Riscall

RPT() CS DP NR DNP AM
New Title Same Title Previous FN
FN OFN To

Rules Calendar() CS AM Other
New Title Same Title Previous FN
FN OFN

5/4 Read second time

5/4 CS Adopted (STA) New Title
Amended Not Advanced

5/5 Read third time

Letter of Intent adopted

Return to second for specific amendment

5/5 PASSED EFD Same ___ or
Yeas 18 Yeas
Nays 0 Nays
Excused 1 Excused
Absent 1 Absent

Reconsideration
Reconsideration not taken up

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

5/5 Reported correctly engrossed
Signed by President, to House
Kirsten Waid
Secretary of the Senate

2003 Read first time and referred to:
CRA

RPT CS() New Title
DP DNP NR AM
FN OFN Previous FN

RPT CS() New Title
DP DNP NR AM
FN OFN Previous FN

RPT CS() New Title
DP DNP NR AM
FN OFN Previous FN

Read second time
CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Intent adopted

Reconsideration
Reconsideration not taken up

PASSED ON RECON. EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Intent adopted

Reported correctly engrossed, signed by the Speaker
and returned to the Senate

Chief Clerk of the House



Alaska State Legislature

HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Representative Carl Morgan
State Capitol Building, Room 408
Juneau, AK 99801
907-465-3882

Date: May 8, 2003

To: Tam Cook, Director
LAA Legal Services

RE: SB 63 Legal Opinion

Tam,

Could you please provide me with a legal opinion on SB 63 "An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas."

I am concerned that this bill broadens the authority of the LBC in any way. My concern comes from the current authority in statute and the broad authority given the LBC through regulation.

This bill may be brought in the House Community and Regional Affairs Committee next week; I would like to see what your opinion is prior to this meeting. I know you are very busy as the session draws near, but I do need this at the earliest convenience and would greatly appreciate your help.

Thank you for your assistance, I look forward to your opinion. If you have any questions please contact my staff Sue Stancliff at #3882.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

May 9, 2003

SUBJECT: Property taxation and transitional provisions in new municipalities or municipalities with boundary changes (CSSB 63(STA))

TO: Representative Carl Morgan
Co-chair, House Community and Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Director

You ask whether CSSB 63(STA) increases the power of the Local Boundary Commission. Bill secs. 1, 2, 4, 6 and 7 explicitly permit the commission to impose transitional provisions when a municipality incorporates or undergoes various types of boundary changes. However, this is probably not an expansion of the power of the commission in these situations because the commission most likely enjoys the implied power to address the transitional measures that are necessary to accomplish the boundary changes that are authorized by statute now.

Bill secs. 3 and 5 restrict the power of a newly created municipality to immediately impose property taxes and the power of a municipality that annexes territory to immediately impose property taxes in the newly annexed area. In sec. 5 there is also a provision that ensures that the taxes levied by a municipality in property before it is detached remain valid. The Local Boundary Commission may not change these transitional taxing provisions and, in that regard, the power of the commission is reduced in this bill.

TBC:lmb
03-185.lmb

ALASKA STATE LEGISLATURE



SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Robin Taylor, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 427
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-4779

Sponsor Statement

CSSB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

This bill proposes new statutory language to clarify when a municipality may tax an area that was annexed. It also clarifies the question of property taxes in a detached area and in newly incorporated areas. Finally, it provides for specificity regarding that the Local Boundary Commission's authority in regards to transition provisions.

Currently, there is uncertainty with regard to the authority of municipal governments to levy property taxes in newly annexed territory, detached areas, and in newly incorporated areas.

The issue was raised as an item of concern during the legislative hearings on the City of Homer's Annexation, discussed in 2002 during the 22nd Legislative Session. The annexation was effective in March, but the question of when a tax levy would be applied was uncertain.

If adopted, the bill provides that a tax may not be assessed or levied before January 1 of the year immediately following the annexation or incorporation. An exception would be if the annexation were effective on January 1.

For detached areas, the bill clarifies that taxes levied on property prior to the date of the detachment remain valid.

The language regarding clarification of the authority of the LBC for transitions was inserted at the request of the Local Boundary Commission.

ALASKA STATE LEGISLATURE



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Sectional Analysis

CSSB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

- Sec. 1:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission (reclassification of second class to first class city).
- Sec. 2:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission (petition procedure for municipal incorporation).
- Sec. 3:** This is a new section to Title 29, specifying that newly incorporated property may not be assessed or property taxes collected before January 1 of the year immediately following the year in which the incorporation takes effect. The exception is in the event that the incorporation takes effect on January 1.
- Sec. 4:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission as part of their authority.
- Sec. 5:** This is a new section to Title 29, specifying that (a) annexed or detached property may not be assessed or property taxes collected before January 1 of the year immediately following the year in which the action takes effect. The exception is in the event that the action takes effect on January 1, and (b) defining property tax allocation for detachments.
- Sec. 6:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission (under "transition" section).
- Sec. 7:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission as part of their authority (for dissolution petitions).

SA CSSB 63 (STA) 5-02-03 mj

**HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**Introduced:
Referred:**

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 63, relating to municipal property taxation in**
3 **annexed, detached, and newly incorporated areas.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
7 changes to the title of a bill, are suspended in consideration of Senate Bill No. 63, so that the
8 title will read: "An Act relating to municipal property taxation in annexed, detached, and
9 newly incorporated areas."

23-LS0489\X
Cook
2/11/04

**HOUSE CS FOR CS FOR SENATE BILL NO. 63(CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to municipal property taxation in annexed, detached, and newly**
2 **incorporated areas."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 29.05.140 is amended by adding a new subsection to read:

5 (f) Unless the incorporation takes effect on January 1, the newly incorporated
6 municipality may not levy property taxes before January 1 of the year immediately
7 following the year in which the incorporation takes effect.

8 *** Sec. 2.** AS 29.06 is amended by adding a new section to read:

9 **Sec. 29.06.055. Property taxes in annexed or detached areas.** (a) Unless
10 the annexation takes effect on January 1, the annexing municipality may not levy
11 property taxes in an annexed area before January 1 of the year immediately following
12 the year in which the annexation takes effect. However, notwithstanding other
13 provisions of law, the municipality may provide services in the annexed area that are
14 funded wholly or partially with property taxes during the period before the

1 municipality may levy property taxes in the annexed area.

2 (b) If an area is detached from a municipality, all property taxes that are levied
3 by that municipality on property in the detached area based on an assessment that
4 occurred before the effective date of the detachment remain valid. AS 29.45.290 -
5 29.45.500 apply to the enforcement of those taxes.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 63 (STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Municipal Annexations and Detachments RDU Community Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor Senate Community & Regional Affairs
 Requester Senate State Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impact on this division.

Prepared by: Gene Kane, Director Phone (907) 269-4580
 Division Community Advocacy Date/Time 2/11/04 3:16 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/11/2004
 Agency Department of Community & Economic Development

ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair
Representative Kelly Wolf, Vice Chair
Representative Tom Anderson
Representative Ralph Samuels
Representative Pete Kott
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HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

AGENDA

State Capital 124
February 19, 2004
9:00 am – 10:00 am

- Call to Order
- SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENT
- Next meeting announcements - HB 431 Municipal Dividend Program next Thursday
- Adjourn

Alaska State Legislature

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Representative_Paul_Seaton@legis.state.ak.us



345 W. Sterling Hwy.
Suite 102B
Homer, AK 99603
Phone: 235-2921
Fax: 235-4008

REPRESENTATIVE Paul Seaton

District 35

The Local Boundary Commission already has the power to amend petitions and impose transition requirements for boundary changes. Although codifying these powers in the statutes would create additional clarity, removing this language from the bill will not diminish the LBC's ability to effect reasonable boundary changes. I believe leaving this controversial language in the bill may jeopardize its passage this session. I ask that the LBC Commissioners support a change in title and removal of the language referring to transition provisions and powers explicitly granted to the LBC. This compromise may secure final resolution of this longstanding ambiguity in state law concerning municipal property taxation. Thank you for considering my request. Please call me at 1-800-665-2689 if you have any questions.

Sincerely,

Representative Paul Seaton
Alaska State Legislature
House District 35

cc: Mary Griswold

Alaska State Legislature

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REPRESENTATIVE Paul Seaton

District 35

December 30, 2003

Dan Bockhorst
Department of Community and Economic Development
Division of Community Advocacy
550 W. 7th Ave, Suite 1770
Anchorage, Alaska 95501-3510

Dear Mr. Bockhorst,

I hope this letter finds you well and that you are enjoying the holidays. I am concerned about Senate Bill 63 (SB 63), which was introduced last session. To give you a little background on this bill, SB 63 was amended in Senate State Affairs, then passed the Senate and received a House Community and Regional Affairs (CRA) referral.

I understand that SB 63 has been held up in House CRA because the language relating to transition provisions and powers explicitly granted to the Local Boundary Commission (LBC) was found to be unacceptable. In the interest of moving this significant legislation forward towards a vote on the House floor, I am requesting that you ask the LBC Commissioners to consider supporting SB 63 without the language relating to transition provisions. The importance of this legislation is to establish clear, consistent, effective dates for changes in property tax jurisdiction in the event of annexation, detachment or incorporation.

As you may know, the Homer annexation was proposed to begin taxation of the incorporated areas on January 1st of the year following adoption of the incorporation. The public testimony and LBC commission staff's presentations purported a January 1st date. However, upon approval of the incorporation petition, the City of Homer started collecting taxes from the incorporated area mid-way through the year. This unexpected event greatly impacted the local service areas, which had adopted budgets based off collecting projected revenues from the incorporated areas through the end of that year. Therefore, the service areas lost significant revenues and created other operating difficulties due to shortage of funds. This unfortunate situation could have been avoided by waiting to begin taxing the incorporated areas until the annual budget cycle was concluded. This same issue may also be a concern for Anchor Point and other communities across the state that are considering incorporation.



Official Business

ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Community & Regional Affairs
- Member, Legislative Council

Session: January – May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December

145 Main Street Loop; Suite 226

Kenai, AK 99611

Phone: 907-283-7996 Fax 907-283-8127

DATE: February 5, 2004

TO: House Members

FROM: Senator Tom Wagoner

A handwritten signature in cursive script, appearing to read "Tom", written over the printed name "Senator Tom Wagoner".

RE: SB 183 and SB 63

I was disappointed by the comments made during yesterday's floor debate on SB 183.

SB 183 deals with an issue pertaining to Fairbanks. SB 63 deals with an annexation issue from Homer. They were and are two totally separate issues. The fact that a title change resolution was required should have been a clear indicator.

The House Community and Regional Affairs Committee took parts of SB 63 and placed it into SB 183 – deleting language that was requested by the Local Boundary Commission (LBC). I was not consulted about this "merger".

I had agreed to that language, as Chair of the Senate Community and Regional Affairs Committee, which sponsored SB 63. I asked the Commission to review the bill and provide me their suggestions, which I then included in the bill.

The Senate did not concur with these House changes in SB 183 for obvious reasons and asked the house to recede from their amendments last May.

During the interim, the Representative from Homer attended a LBC meeting and asked them to support removing the language. They agreed and it is reflected in their Report to the Second Session of the Twenty-Third Alaska State Legislature.

I had no part in this discussion before the Local Boundary Commission, I am no longer Chair of the Senate Community and Regional Affairs Committee, and Homer is not even in my district.

Ask yourself why I would want to get embroiled in this or assert a claim of ownership.

Holm

Thank you Mr. Speaker, thank you Mr. Majority Leader.

Today this is a simple roll back to SB 183.

We put in .. the House put in some language that came from another senate bill and the ... senator who wanted to put that bill into the other body...

I don't know how to say that ... the other body's representative wanted to put it in the other body wanted to have his own bill ... and so with that ... I would ask that we recede and just pass the bill for the second class boroughs.

Presently ... 2nd class boroughs don't have the opportunity to use ... nonareawide funds for areawide purposes and it is particularly ... difficult for .. my borough, the Fairbanks North Star borough and ... they really want this opportunity and ability to do so that so that we can have... the ability to promote ... projects that will increase economic activity in our boroughs by the use of nonareawide funds for areawide purposes ... and so with that, Mr. Speaker, I would ... ask the body to vote yes for receding.

Kertulla:

Thank you Mr. Speaker, you know ... I'm willing to do that but ... it's sort of a shame that this body does something that makes sense ... takes two good parts of bills and ... we get caught in the other body's shenanigans on whether or not somebody dotted their i's and crossed their t's on some sort of protocol that goes on on the other side

So I just think that this time it may not be so serious but we need to ... keep our own sense of what's right and if it's the right thing to do, we should not concur.

So today I'm willing to do it, but you know, we shouldn't be caught up in the other sides games.

Thank you.

Seaton:

Thank you Mr. Speaker ... I rise to support receding from this bill ... we have sections of two bills that were put together ... the ... if we recede we will hear that bill in it's entirety and ... on our side of the body which has not been done yet so I support this action.

Rokeburg:

Mr. Speaker I understand it's very difficult but we shouldn't be referring to other bills in the committee and so forth ... I know ... the circumstance is very difficult but ... be very careful.

Kott:

Your point of order is well taken. Representative Croft.

Croft:

The way out of that dilemma and I know it's .. difficult to say under the rule, but I mean, the purpose of the rule is that ... we have our own independent judgment ... there's no reason to ... refer to what the other body does or doesn't do because ... how would it possibly be relevant ... if we are going to look at an issue our self ... whether they voted 20 to nothing one way or the other or had a split is simply ...

The rules wanted us to concentrate on not ... having the other body's judgment pass for ours ... not just thinking well ... they liked it so we must.

They wanted to .. the rules wanted to make it irrelevant so that we looked at things fresh ...on the merits ... regardless of whether the other body liked it or not.

So... I mean ...I just propose ... the best way out of that is telling me why I should prefer .. the very short version ... to the one we had .. on the merits .. why is it better to have this provision out ... and I haven't got any of that argument yet ... now I apologize I was gone through a lot of this debate at the end of session for health reasons and so I'm catching up.

But it seems to me when ... we do our job right, is when we say this is a better version than that and here's why.

If we can't convince ourselves of that ... if it's in fact not true ... then we shouldn't recede. That's why we have a bi-cameral system ... that why we do this and ...there are provisions then to have a conference committee on it or whatever.

The reason it's been so difficult it seems to me on debating this ... is because what we're actually doing is improper under the rules ... what we're actually doing is saying, well ...they don't like it ... ok.

It's so hard to explain why we would take ... their version instead of ours because there is no meritorious reason to not ... we are simply acceding to their wishes and substituting for our judgment - theirs.

The reason it's so hard to talk about this bill under the rules is because what we are doing is improper under the rules.

We ought to ... and if anyone can correct me I welcome it ...

Why would it be better ... better public policy... a better decision ... our decision that we could explain to take the one version rather than the other.

And if you can't do that if it's simply ,, well, there, you know, who knows, they wanted it. That's not the reason ... that not what the constitution wants us to do here, that's not what the rules demand we do here ... and it's hard to explain because it's hard to ... justify under either the constitution or the rules.

.....

Debate about points of order, etc; at ease was taken, then back and voted on the bill.



CHAPTER 3 POLICY ISSUES AND CONCERNS

To
Mary Jackson

CSSB 63(STA) "An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas."

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

To ensure that the provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment, Sections 2, 4, and 5 were added. In view of those additions and to maintain existing substantial uniformity in State law regarding all decision-making actions of the Commission, language paralleling the provisions of Sections 2, 4, and 5 were added to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipi-

pal merger, consolidation, and dissolution). Those additions were set out in Sections 1, 6, and 7 of the bill.

On May 5, 2003, CSSB 63(STA) passed the State Senate by a unanimous vote of all members present (18 voted in favor of the bill, one Senator was excused and one Senator was absent). The Local Boundary Commission supported the bill, which is currently before the House of Representatives for review.

In December 2003, Representative Paul Seaton requested that the Commission support the bill without the language relating to transition provisions. He observed that the Commission already has the power to amend petitions and impose transition requirements for boundary changes. He stated that while codifying those powers in statute would create additional clarity, removing the provisions from the bill would not diminish the Commission's ability to effect reasonable boundary changes. He is of the opinion that the transitional language in the bill may jeopardize its passage. Therefore, he requested that the Commission support a change in title of the bill and removal of the language referring to transition provisions and powers of the Commission. He concluded that this compromise could enable passage of a final resolution of the municipal property tax issue.

The Commission concurs with the conclusions and recommendations made by Representative Seaton and encourages amendment and passage of the bill as it relates to municipal property taxation in annexed, detached, and newly incorporated areas; i.e., the provisions in Section 3 and 5 of the bill.

HB 38 "An Act relating to mergers and consolidations of municipalities."

This bill alters existing laws governing merger and consolidation of municipal governments (cities and boroughs). Its provisions are identical to those passed by the Legislature in 2002 as SCS CSHB 296(JUD). That bill was opposed by the DCLD and LBC and vetoed by the Governor.

Section 1 of the bill imposes a requirement that signatures on a voter-initiated local option petition for merger or consolidation of municipal governments must be gathered within a 365-day period. Currently, there is no time limit on the gathering of signatures.

Section 2 adds a new subsection to AS 29.06.100 dealing with a local option petition for merger or consolidation of a borough and more than one city within that borough. It requires the petition to propose one of two results if it is approved by voters in the borough area outside the cities proposed to be merged or consolidated but is not approved by voters in each of the cities. The two options are: (1) the entire proposal is defeated, or (2) the proposal is partially approved and the borough is merged or consolidated with the cities in which the proposal has been approved.

Section 3 amends existing law. It requires that a majority of the votes in each of the municipalities proposed to be merged or consolidated through the local option process must favor merger or consolidation in order for it to be approved.

Votes on a proposal to merge or consolidate a borough and one or more cities within that borough must be tabulated as follows:

1. in the borough area outside of each city in that borough proposed to be merged or consolidated, and
2. in each of the cities in the borough proposed to be merged or consolidated.

If one or more municipalities outside of the borough are also included within the proposal, in each of those other municipalities a separate tabulation must be made for that area.

The bill provides that the proposal is defeated if it is not separately approved in the borough outside of the cities in that borough that are proposed to be merged or consolidated. If municipalities outside of the borough are included in the proposal, it is also rejected if not approved in those other municipalities.

If the proposal is not approved in one or more of the cities within the borough that are proposed to be merged or consolidated but is otherwise approved in each of the areas separately tabulated, the proposal is either entirely defeated or partially approved as specified in the petition under the new provision set out in Section 2.

Lastly, Section 3 states that the provisions in the amended law are intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1).

ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair
Representative Kelly Wolf, Vice Chair
Representative Tom Anderson
Representative Ralph Samuels
Representative Pete Kott
Representative Sharon Cissna
Representative Albert Kookesh



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HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

AGENDA

State Capital 124
February 12, 2004
8:00 am – 10:00 am

- Call to Order

- SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENT

New fiscal note is ~~to~~ because the one in your packet is on last years form.

*at ease
for 2 minutes*

- DEC – Low Sulfur Diesel Fuel

- Next meeting announcement

- Adjourn



CHAPTER 3 POLICY ISSUES AND CONCERNS

CSSB 63(STA) “An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas.”

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

To ensure that the provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment, Sections 2, 4, and 5 were added. In view of those additions and to maintain existing substantial uniformity in State law regarding all decision-making actions of the Commission, language paralleling the provisions of Sections 2, 4, and 5 were added to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipi-

pal merger, consolidation, and dissolution). Those additions were set out in Sections 1, 6, and 7 of the bill.

On May 5, 2003, CSSB 63(STA) passed the State Senate by a unanimous vote of all members present (18 voted in favor of the bill, one Senator was excused and one Senator was absent). The Local Boundary Commission supported the bill, which is currently before the House of Representatives for review.

In December 2003, Representative Paul Seaton requested that the Commission support the bill without the language relating to transition provisions. He observed that the Commission already has the power to amend petitions and impose transition requirements for boundary changes. He stated that while codifying those powers in statute would create additional clarity, removing the provisions from the bill would not diminish the Commission's ability to effect reasonable boundary changes. He is of the opinion that the transitional language in the bill may jeopardize its passage. Therefore, he requested that the Commission support a change in title of the bill and removal of the language referring to transition provisions and powers of the Commission. He concluded that this compromise could enable passage of a final resolution of the municipal property tax issue.

The Commission concurs with the conclusions and recommendations made by Representative Seaton and encourages amendment and passage of the bill as it relates to municipal property taxation in annexed, detached, and newly incorporated areas; i.e., the provisions in Section 3 and 5 of the bill.

HB 38 "An Act relating to mergers and consolidations of municipalities."

This bill alters existing laws governing merger and consolidation of municipal governments (cities and boroughs). Its provisions are identical to those passed by the Legislature in 2002 as SCS CSHB 296(JUD). That bill was opposed by the DCED and LBC and vetoed by the Governor.

Section 1 of the bill imposes a requirement that signatures on a voter-initiated local option petition for merger or consolidation of municipal governments must be gathered within a 365-day period. Currently, there is no time limit on the gathering of signatures.

Section 2 adds a new subsection to AS 29.06.100 dealing with a local option petition for merger or consolidation of a borough and more than one city within that borough. It requires the petition to propose one of two results if it is approved by voters in the borough area outside the cities proposed to be merged or consolidated but is not approved by voters in each of the cities. The two options are: (1) the entire proposal is defeated, or (2) the proposal is partially approved and the borough is merged or consolidated with the cities in which the proposal has been approved.

Section 3 amends existing law. It requires that a majority of the votes in each of the municipalities proposed to be merged or consolidated through the local option process must favor merger or consolidation in order for it to be approved.

Votes on a proposal to merge or consolidate a borough and one or more cities within that borough must be tabulated as follows:

1. in the borough area outside of each city in that borough proposed to be merged or consolidated, and
2. in each of the cities in the borough proposed to be merged or consolidated.

If one or more municipalities outside of the borough are also included within the proposal, in each of those other municipalities a separate tabulation must be made for that area.

The bill provides that the proposal is defeated if it is not separately approved in the borough outside of the cities in that borough that are proposed to be merged or consolidated. If municipalities outside of the borough are included in the proposal, it is also rejected if not approved in those other municipalities.

If the proposal is not approved in one or more of the cities within the borough that are proposed to be merged or consolidated but is otherwise approved in each of the areas separately tabulated, the proposal is either entirely defeated or partially approved as specified in the petition under the new provision set out in Section 2.

Lastly, Section 3 states that the provisions in the amended law are intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1).

ALASKA STATE LEGISLATURE



SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Robin Taylor, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

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White Paper on SB 63

April 5, 2003

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SPONSOR STATEMENT

SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

This bill proposes new statutory language to clarify when a municipality may tax an area that was annexed. It also clarifies the question of property taxes in a detached area.

Currently, there is uncertainty with regard to the authority of municipal governments to levy property taxes in newly annexed territory. The Local Boundary Commission has recommended clarification of this for several years.

The issue was raised as an item of concern during the legislative hearings on the City of Homer's Annexation, discussed in 2002 during the 22nd Legislative Session. The annexation was effective in March, but the question of when a tax levy would be applied was uncertain.

If adopted, the bill provides that a tax may not be assessed or levied before January 1 of the year immediately following the annexation. An exception would be if the annexation were effective on January 1.

For detached areas, the bill clarifies that taxes levied on property prior to the date of the detachment remain valid.

BACKGROUND INFORMATION TO SB 63

As a background to discussion of SB 63, the minutes of the Joint meeting of Senate & House Community and Regional Affairs Committee of Feb 7, 2002 should be reviewed. The Local Boundary Commission (LBC) presented their 2002 Annual Report to the Legislature at that meeting.

The presentation included the following – verbatim from the minutes of that meeting.

(Continuation of Chair Kevin Waring's presentation.)

Ambiguities in State law

At present, state statutes are unclear about municipal authority to levy property taxes during the period immediately following incorporation, boundary changes, dissolutions or reclassification. Specifically, the pertinent sections of the statutes do not clearly authorize or prohibit municipal governments that incorporate or change boundaries after January 1, but come into being during that calendar year, to assess, levy and collect taxes. The commission believes it would be beneficial to local governments to make the ground rules clear. Those issues are fully addressed on pages 28 and 29 of the annual report and they offer some draft legislation that was developed with the state assessor and some municipal assessors that would resolve this uncertainty

REPRESENTATIVE SCALZI asked what prompted the concern regarding levying property taxes after January 1.

DAN BOCKHURST said Homer provides an example. If approve, the annexation for the City of Homer, it will occur on March 9. There are some who assert that if property assessment value is fixed as of January 1 of each calendar year then that date also establishes a date by which a municipal entity has power to levy property taxes. If the area isn't in the corporate boundaries of the City of Homer on January 1 2002, then the question arises as to whether the City of Homer has the authority to levy property taxes for the period of time between March 9 and the end of the calendar or fiscal year. There is an Attorney General opinion that municipal governments have a duty to levy taxes on property that is annexed after January 1 but in time for the municipal government to place that property on the tax role. In many cases there is dispute and confusion among city and borough governments on this question and some insist that the territory must be within the jurisdiction on January 1 in order for it to be taxable for that period of time. The commission's proposal would provide a mechanism to resolve that ambiguity.

AMBIGUITIES IN STATE LAW (-continued)

MR. WARING added it is easy to see what a fair outcome would be; that whichever government is providing services at the time should be entitled to a comparable share of the revenues. That outcome can be achieved with clarification in the statutes. The alternative is inevitably some litigation of the issue. Statutory clarification is a better resolution.

CO-CHAIRMAN TORGERSON commented he thought the commission already has broad based authority to accomplish this in their order for annexation or detachment. There may be a 45 day legislative review process but that is when the order becomes effective, not the effective date of stipulations that the commission may add to annexation. He said he's not sure they need legislation. Rather, "you just need to step out and do it."

MR. WARING said the legislation statutorily states that the commission has that discretionary authority to place conditions on boundary changes. He agreed they do have broad authority, but they are generally conservative about venturing beyond what they see in statute and regulation. They would feel more comfortable with a statutory statement that the Legislature agrees this is something they should do.

ALLEN TESCHE, LBC representative from the Third Judicial District, said his view of state statutes governing taxation is that they are specific and clear as to the process that should be followed. He too agrees that they would prefer having clear guidance from the Legislature on that issue rather than simply taking a position and waiting to see what the courts decide. Personally, he would rather see the issue addressed as a policy matter at the legislative level.

CO-CHAIRMAN TORGERSON said he disagreed but the question is whether they have the authority to put in the order when taxes would start being collected and when they wouldn't. The LBC isn't arguing whether they have the authority, they just choose not to exercise the authority.

MR. TESCHE said they question whether they have the authority in the first place and that is where the problem starts. He's not comfortable with the proposition that they have the authority.

The Commission again addressed the issue in the 2003 Annual Report. On page 84 of that report, under the section entitled "Ambiguities in State Law Concerning Municipal Property Taxation in Newly Annexed or Detached Areas" conditionally supported draft legislation presented by then Rep. Drew Scalzi. (SB 63 is based on that draft and comments related to LBC stipulations on the draft presented elsewhere.)

Clearly then, the Commission is uncertain with regard to it's authority in this matter.

Public Policy Issues

For the purposes of the Senate Community and Regional Affairs Committee, the issue must be reviewed not only from the premise of what is or is not appropriate functions or duties of the LBC, but also in terms of public policy issues.

The public policy questions regarding this include the following.

1. Annexations/Detachments that involve other taxing jurisdictions.

Using the Homer annexation as an example, an existing road service area was affected.

A service area develops an annual budget based on properties within their tax base. That budget necessarily includes operations affecting the entire service area, not just the properties that are eventually detached. The budget does not specify items like labor costs or equipment costs on a neighborhood or region basis; rather it is for the entire area.

Detaching property from a service area affects the budget because it changes the annual revenues that are anticipated by the service area. Predictability in revenue sources is a critical issue in determining annual budgets for service areas.

2. Annexations that do not involve other taxing jurisdictions.

Annexation of properties that are not involved with a taxing jurisdiction do not have the impacts that are associated with properties that do have a taxing jurisdiction.

For example, City X is authorized to annex areas immediately adjoining it, but City X is located in the unorganized area. The adjoining property involved is not currently being assessed for governmental services by another taxing jurisdiction and thus, there is no conflict with the budgets or services as a result.

3. Taxpayer expectations.

Taxpayers expect property assessments and tax bills in an orderly manner. Like governments, most people budget annually and an immediate increase in their property taxes would be unexpected and potentially pose a hardship.

Identifying a specific date for changes in mill rates establishes a taxing certainty for the affected taxpayer when their property taxes are changed as a result of an annexation or detachment.

This expectation is essentially universal – it would be of import to a property owner that is currently paying a mill rate in a service area as well as a property owner that would begin to pay a mill rate as a result of annexation.

LBC Stipulations on SB 63

As was noted earlier, the 2003 Report to the Legislature included stipulations on the work draft that was provided them for review. (Note that SB 63 is based on the work draft and does not include the stipulations suggested by the LBC.)

The first stipulation was that the draft be modified to address municipal incorporations in a like manner. The second stipulation was that "it be understood that the legislation does not reduce the ability of petitions and/or the Commission to determine appropriate transition measures as outlined in AS 29.05.130-140 and 3 AAC 110.900."

This is puzzling, because they appear to be contradictory stipulations.

AS 29.05.130-140 pertains to integration of special districts and services area (.130) and Transition (.140).

Current language is specific to integration in new municipalities – that is, to new municipal incorporations.

The statutes specify a time specific, as is shown below:

Sec. 29.05.130. Integration of special districts and service areas.

- (a) A service area in a newly incorporated municipality shall be integrated into the municipality within two years after the date of incorporation.

The language in SB 63 provides for a specific time frame – January 1 following the date of the annexation or detachment. Including municipal incorporation in this bill, with these time restrictions, would appear to be contrary to the provisions in 29.05.130.

It is not contrary in the respect that it is done within the two-year timeframe – certainly 9 months is within the 24 month time frame. It is contradictory in that it limits the transition ability of the LBC. It establishes a time specific for the transition time frame of "within two years".

In terms of the public's comfort level, it would probably be welcomed because they would have some definitive assurances of when their tax bills were due.

Clarifying by statute, in cases of incorporation, annexation, and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers.

It is important to note that with many annexations, there is a corresponding simultaneous detachment from another government. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. During a transition period, whichever government is providing services can be appropriately compensated through contract agreements worked out in the transition plan without requiring an untimely change in the taxing jurisdiction. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous annexation and detachment.

Taxpayers expect property assessments and tax bills on an orderly schedule. They learn their tax jurisdiction and valuation well in advance of the levy and can plan their personal budgets accordingly. Annual tax adjustments within one government unit are usually small, whereas annexation usually results in a dramatic increase in property tax liability. It is better to make these adjustments within the existing assessment procedures taxpayers are familiar with, than to surprise them with a big change in the middle of the assessment calendar.

If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Municipalities have discretion to choose their own dates to determine the levy and mail the tax bills as long as they meet the legal deadlines. Exactly how close the effective date of an action could crowd the taxing schedule is too open a question to leave unresolved until well into the petition analysis. Realistic revenue projections are necessary early in the process for responsible transition planning.

Property affected by annexation or incorporation effective after June 15 is not taxed until the following year. These municipalities must plan to exercise their powers and responsibilities in a manner to conform to this financial restriction. If it is clearly established that all actions after January 1 will wait until the following year to levy taxes, everyone will plan accordingly. Municipalities are not expected to immediately provide the host of services typically associated with government; nor is it likely that a city would be financially overwhelmed to extend essential life and safety services to an annexed area during the relatively short time it will not collect property taxes. It is also important to note that municipalities have revenue sources other than property taxes. An area deemed appropriate for incorporation or annexation has demonstrated sufficient economic and human resources to support government. Sales taxes could serve as an initial source of funding for government services while a municipality builds a solid financial foundation. Organized boroughs may loan start-up money to newly incorporated cities. The state offers significant financial incentives, including a \$600,000 organizational grant, to areas of the unorganized borough willing to incorporate. These measures help bridge the revenue gap.

Clear guidelines for municipal taxation authority will promote orderly municipal growth and will reduce the stress and contention associated with boundary changes. Please support CSSB 63 so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you.
Mary Griswold
Box 1417
Homer

Mary Griswold CSSB 63 support 5/6/03

Please support CSSB 63, relating to municipalities' authority to levy property taxes in the initial period following annexation, detachment, or incorporation.

State statutes are unclear with respect to municipal authority to levy property taxes during an initial period following incorporation, annexation, or detachment. AS 29.45.110 establishes January 1 of the assessment year as the date properties shall be valued. AS 29.45.240(b) requires municipalities to determine the rate of levy before June 15 and to mail tax statements setting out the levy by July 1. The question is whether taxes accrue in full on January 1 when the valuation is set, or on the date the levy is determined. To complicate the situation, the Local Boundary Commission is given broad powers to place conditions on boundary changes, but there is no clear authority for it to decide property tax jurisdiction. This is a policy issue and is better resolved through legislation than by the LBC on a case by case basis, or by dragging it through the courts.

The question is important because most annexations are done through the legislative review process which means, if not denied, they become effective in early March following procedures established in Alaska's constitution. In most annexations to date, including all of those done in Palmer and Wasilla, the affected municipalities adjusted their tax structure the following January. However, because our taxation statutes do not specifically address annexations, the opportunity exists for a municipality to levy taxes on newly annexed properties between March and the levy date as long as the assessors have time to change the jurisdictions before the mailing deadline. This approach is very disruptive to affected governments and taxpayers.

There is no question that these statutes prevent municipalities from levying taxes in the same year for any annexation or incorporation that becomes effective after July 1.

As you might suspect, this issue came up with Homer's recent annexation. SB 63 will not affect Homer's case, but may save unanticipated disruption for affected parties in future annexations. Kachemak Emergency Service Area began its FY03 budget preparation using revenue projections from the borough finance department based on property values within the service area on January 1. In mid-April, 2002, well after the deadline for revising numbers in the preliminary budget document, the board learned they would suffer a 25% reduction in revenue because Homer requested that newly annexed property be added to its jurisdiction immediately, instead of waiting until 2003. It was a difficult decision for the borough administration, but in the end they decided to grant the request, based in part on the lack of clarity in Alaska Statutes.

KESA weathered this setback, but it made me realize how such a late revenue adjustment can seriously derail orderly budget planning. Service areas could face immediate personnel layoffs, difficult debt restructuring, and other drastic program cuts to comply with last minute revenue reductions.

Clarifying by statute, in cases of incorporation, annexation and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers.

Mary Griswold SB 63 support

Title 3 of the Alaska Administrative Code requires a prospective petitioner to prepare a draft annexation petition, including a transition plan, and conduct a public hearing before submitting a legislative review annexation proposal to the Department of Community and Economic Development. The best way to promote an orderly, efficient, and economical transfer of responsibilities is to set simple, straightforward ground rules. If everyone involved in a proposed annexation understands that revenue streams will shift on January 1 following an effective date, everyone can plan accordingly. The Administrative Code allows a transition period of up to two years. Municipal budgets can be revised in an orderly manner within normal budget preparation cycles to accommodate shifts in service delivery. New services can be added as tax revenue becomes available. Everyone will work with consistent, predictable expectations.

It is important to note that with many annexations, there is a corresponding simultaneous detachment from another government. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. During a transition period, whichever government is providing services can be appropriately compensated through contract agreements worked out in the transition plan without requiring an untimely change in the taxing jurisdiction. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous annexation and detachment.

Taxpayers expect property assessments and tax bills on an orderly schedule. They learn their tax jurisdiction and valuation well in advance of the levy and can plan their personal budgets accordingly. Annual tax adjustments within one government unit are usually small, whereas annexation usually results in a dramatic increase in property tax liability. It is better to make these adjustments within the existing assessment procedures taxpayers are familiar with, than to surprise them with a big change in the middle of the assessment calendar.

Some people have argued that this approach is unduly conservative and punitive, especially for areas undertaking incorporation because they will be required to immediately provide services for which they have no funding. I am sympathetic, but after analyzing the consequences of trying to accommodate special situations, I realized that the conflicts created by more flexible approaches defeat their purpose. Practical considerations of implementing a taxing authority require a January 1 date certain, under which flexibility may be exercised to balance service delivery with revenue allocations. Municipalities have latitude to establish their levy date, tax payment schedule, and fiscal cycles within the limits of the statutes. They must prioritize the exercise of their powers and authorities to provide services consistent with their financial and human resources. Municipalities must make policy decisions about the appropriation of funds. Such planning decisions are considered discretionary and are immune from suit. Alaska Statute 09.65.070(d)(2) provides that neither a municipality nor its agents, officers, or employees are liable for failing to exercise a discretionary function, as upheld in the 1998 Alaska Supreme Court case *Adams v City of Tenakee Springs*. In other words, the sense of urgency is often exaggerated. Municipalities are not expected to immediately provide the host of services typically associated with government; nor is it likely that a city would be financially overwhelmed to extend essential life and safety services to an annexed area during the relatively short time it will not collect property taxes. Anticipated services and delivery timelines should be made clear to everyone early in the consideration to incorporate or annex territory.

The assessment date is the effective date for property tax liability. That Alaska statutes allow up to six months to mail the bills is a practical necessity for sufficient time to create an assessment roll, notify property owners, consider adjustments, conduct board of adjustment hearings, develop annual budgets, certify the roll, set an appropriate levy, and prepare the tax bills. The 1998 Supreme Court case *Kenai Peninsula Borough v Arndt* essentially established that property taxes accrue in full on the assessment date. A property's tax situs (including situs) becomes fixed for the full tax year on the date of its assessment. "Tax situs can be based on whether the property in question is taxed by another taxing government." The court recognized the general agreement that post-assessment changes in value, situs, and ownership of taxed property require no changes in tax for the corresponding year. The 1989 opinion of the state attorney general regarding municipal taxation of oil and gas production property in annexed territory concluded that an assessor can assess property and add it to the tax roll any time before its certification. This opinion has not stood the test of the court system and oversteps the legally prescribed January 1 assessment deadline.

If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Municipalities have discretion to choose their own dates to determine the levy and mail the tax bills as long as they meet the legal deadlines. Exactly how close the effective date of an action could crowd the taxing schedule is too open a question to leave unresolved until well into the petition analysis. Realistic revenue projections are necessary early in the process for responsible transition planning. This question could also result in a lengthy delay of an annexation due to court challenges of the LBC's tax jurisdiction decision.

It is commonly understood and accepted that property in annexations and incorporations effective after June 15 will not be taxed until the following year. These municipalities must plan to exercise their powers and responsibilities in a manner to conform to this financial restriction. If it is clearly established that all actions after January 1 will wait until the following year to levy taxes, everyone will plan accordingly. It is important to note that municipalities have revenue sources other than property taxes. An area deemed appropriate for incorporation or annexation has demonstrated sufficient economic and human resources to support government. Sales taxes could serve as an initial source of funding for government services while a municipality builds a solid financial foundation. Organized boroughs may loan money to newly incorporated cities similar to a loan made by the Kenai Peninsula Borough to a service area formed in October, 2000, for which the borough did not levy taxes until June, 2001. Another service area which will be formed in June 2003, if the voters approve, will also be eligible for an advance on its 2004 property tax revenue. The state offers significant financial incentives, including a \$600,000 organizational grant, to areas of the unorganized borough willing to incorporate. Such payments would help bridge this revenue gap.

If SB 63 were adopted without including incorporation, a risk of multiple taxation arises when an area within a service area of an organized borough incorporates as a city before July 1. If the city levies taxes in the initial year following incorporation while the taxes on the detached area of the borough remain in effect under SB 63, the property owners in the new city will be taxed twice.

Clear guidelines for municipal taxation authority will encourage municipalities to be cautious about extending services beyond their boundaries, will promote orderly municipal growth as the need for services increases, and will reduce the stress and contention associated with boundary

changes. The Local Boundary Commission unanimously endorsed this legislation, as amended, at its meeting on April 7, 2003. Please support CSSB 63 so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you.
Mary Griswold
P.O. Box 1417
Homer 99603

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 63
(S) Publish Date: 2/28/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Municipal Annexations and Detachments BRU Community Assist & Eco. Dev. (405)
Component Community & Business Development
Sponsor Senate Community & Regional Affairs
Requester Senate Community & Regional Affairs Component No. 2486

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impacts to this division.

Prepared by: Gene Kane, Acting Director Phone 907-269-4578
Division Community & Business Development Date/Time 2/25/03 4:57 PM
Approved by: Edgar Blatchford, Commissioner Date 2/25/2003
Agency Department of Community & Economic Development

February 5, 2004

SB 63 relating to municipal property taxation in annexed, detached, and newly incorporated areas is scheduled to be heard in HCRA on Thursday, February 12, 2004.

Please support SB 63 as amended to remove the transition language.

State statutes are unclear with respect to municipal authority to levy property taxes during an initial period following incorporation, annexation, or detachment. AS 29.45.110 establishes January 1 of the assessment year as the date properties shall be valued. AS 29.45.240(b) requires municipalities to determine the rate of levy before June 15 and to mail tax statements setting out the levy by July 1. The question is whether taxes accrue in full on January 1 when the valuation is set, or on the date the levy is determined. To complicate the situation, the Local Boundary Commission is given broad powers to place conditions on boundary changes, but there is no clear authority for it to decide property tax jurisdiction. This is a policy issue and is better resolved through legislation than by the LBC on a case by case basis, or by dragging it through the courts.

Clarifying by statute, in cases of incorporation, annexation, and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers.

It is important to note that with many annexations, there is a corresponding simultaneous detachment from another government. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. During a transition period, whichever government is providing services can be appropriately compensated through contract agreements worked out in the transition plan without requiring an untimely change in the taxing jurisdiction. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous annexation and detachment.

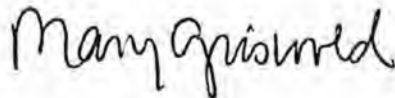
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If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Municipalities have discretion to choose their own dates to determine the levy and mail the tax bills as long as they meet the legal deadlines. Exactly how close the effective date of an action could crowd the taxing schedule is too open a question to leave unresolved until well into the petition analysis. Realistic revenue projections are necessary early in the process for responsible transition planning.

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Clear guidelines for municipal taxation authority will promote orderly municipal growth and will reduce the stress and contention associated with boundary changes. Please support SB 63, as amended to remove transition language, so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you for your consideration.



Mary Griswold
Box 1417
Homer
235-3725
mgrt@xyz.net



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

May 5, 2003

The Honorable Thomas Wagoner
Chairman, Senate Community and Regional Affairs Committee
State Capitol, Room 427
Juneau, Alaska 99801-1182

Re: CS FOR SENATE BILL NO. 63(STA)

Dear Senator Wagoner:

Thank you for your leadership in promoting CSSB 63(STA). The bill has the unqualified endorsement of the Local Boundary Commission.

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

It is critical that provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment. For example, the law must not be construed to prohibit a municipal government from extending essential services funded in whole or in part by property taxes to a newly annexed area until that area becomes subject to property taxes. Sections 2, 4, and 5 accomplish that objective.

Further, to maintain the existing substantial uniformity in State law regarding all decision-making actions of the Commission, it is appropriate to extend parallel language in Sections 2, 4, and 5 to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipal merger, consolidation, and dissolution). This is accomplished in Sections 1, 6, and 7 of CSSB 63(STA).

Again, thank you for your support and efforts to address these matters.

Very truly yours,

A handwritten signature in cursive script that reads "Darroll Hargraves".

Darroll Hargraves
Chair



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

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A handwritten signature in cursive script, appearing to read "Darroll Hargraves".

Darroll Hargraves
Chair

WORK ORDER REQUEST FORM

W.O. 23-LS1713

KEYWORDS: UNIFORM RULES

ASSIGNED: Cook

REQUEST FOR: Resolution

TAKEN BY: Duffy

SUBJECT: Suspend UN RLS: Title Change for SB 63

REQUESTED FOR: HC HCRA

BY: Mary Siroky

PHONE: 465-3882

DELIVER TO: Rep. Morgan; Attn.: Mary, Cap 408

INSTRUCTIONS:

Tight title change - applying taxation to annexation detachment and incorporation to munis.

<p>OBTAIN</p>	<p>SPECIAL DRAFTING INSTRUCTIONS ATTACHED [] AUTHORIZED TO CONFER WITH _____ _____ RETURN _____ _____ TO REQUESTOR APPROVED <input checked="" type="checkbox"/> DIRECTOR, LEGAL SERVICES</p>
<p>REVIEWED _____ IN <u>02/10/04</u> DUE _____ TYPED: DRAFT _____ DATE _____ FINAL _____ DATE _____ PROOFED _____ DELIVERED _____</p>	<p>SPECIAL INSTRUCTIONS to TYPING/PROOFING Request for DRAFT</p>

for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

ARTICLE X. LOCAL GOVERNMENT.

SECTION 1. PURPOSE AND CONSTRUCTION. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions. A liberal construction shall be given to the powers of local government units.

SECTION 2. LOCAL GOVERNMENT POWERS. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

SECTION 3. BOROUGHS. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be

organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

SECTION 4. ASSEMBLY. The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter.

SECTION 5. SERVICE AREAS. Service areas to provide special services within an organized borough may be established, amended, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

SECTION 6. UNORGANIZED BOROUGHES. The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough.

SECTION 7. CITIES. Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

SECTION 8. COUNCIL. The governing body of a city shall be the council.

SECTION 9. CHARTERS. The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law. In the absence of such legislation, the governing body

of a borough or city of the first class shall provide the procedure for the preparation and adoption or rejection of the charter. All charters, or parts or amendments of charters, shall be submitted to the qualified voters of the borough or city, and shall become effective if approved by a majority of those who vote on the specific question.

SECTION 10. EXTENDED HOME RULE. The legislature may extend home rule to other boroughs and cities.

SECTION 11. HOME RULE POWERS. A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

SECTION 12. BOUNDARIES. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

SECTION 13. AGREEMENTS; TRANSFER OF POWERS. Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

SECTION 14. LOCAL GOVERNMENT AGENCY. An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

SECTION 15. SPECIAL SERVICE DISTRICTS. Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

ARTICLE XI. INITIATIVE, REFERENDUM, AND RECALL.

SECTION 1. INITIATIVE AND REFERENDUM. The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.

SECTION 2. APPLICATION. An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review.

SECTION 3. PETITION. After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State, it may be filed with the lieutenant governor.

SECTION 4. INITIATIVE ELECTION. An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title

The Commission concurs with the conclusions and recommendations made by Representative Seaton and encourages amendment and passage of the bill as it relates to municipal property taxation in annexed, detached, and newly incorporated areas; i.e., the provisions in Section 3 and 5 of the bill.

HB 38 "An Act relating to mergers and consolidations of municipalities."

This bill alters existing laws governing merger and consolidation of municipal governments (cities and boroughs). Its provisions are identical to those passed by the Legislature in 2002 as SCS CSHB 296(JUD). That bill was opposed by the DCED and LBC and vetoed by the Governor.

Section 1 of the bill imposes a requirement that signatures on a voter-initiated local option petition for merger or consolidation of municipal governments must be gathered within a 365-day period. Currently, there is no time limit on the gathering of signatures.

Section 2 adds a new subsection to AS 29.06.100 dealing with a local option petition for merger or consolidation of a borough and more than one city within that borough. It requires the petition to propose one of two results if it is approved by voters in the borough area outside the cities proposed to be merged or consolidated but is not approved by voters in each of the cities. The two options are: (1) the entire proposal is defeated, or (2) the proposal is partially approved and the borough is merged or consolidated with the cities in which the proposal has been approved.

Section 3 amends existing law. It requires that a majority of the votes in each of the municipalities proposed to be merged or consolidated through the local option process must favor merger or consolidation in order for it to be approved.

Votes on a proposal to merge or consolidate a borough and one or more cities within that borough must be tabulated as follows:

1. in the borough area outside of each city in that borough proposed to be merged or consolidated, and
2. in each of the cities in the borough proposed to be merged or consolidated.

If one or more municipalities outside of the borough are also included within the proposal, in each of those other municipalities a separate tabulation must be made for that area.

The bill provides that the proposal is defeated if it is not separately approved in the borough outside of the cities in that borough that are proposed to be merged or consolidated. If municipalities outside of the borough are included in the proposal, it is also rejected if not approved in those other municipalities.

If the proposal is not approved in one or more of the cities within the borough that are proposed to be merged or consolidated but is otherwise approved in each of the areas separately tabulated, the proposal is either entirely defeated or partially approved as specified in the petition under the new provision set out in Section 2.

Lastly, Section 3 states that the provisions in the amended law are intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1).



CHAPTER 3 POLICY ISSUES AND CONCERNS

CSSB 63(STA) “An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas.”

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

To ensure that the provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment, Sections 2, 4, and 5 were added. In view of those additions and to maintain existing substantial uniformity in State law regarding all decision-making actions of the Commission, language paralleling the provisions of Sections 2, 4, and 5 were added to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipi-

pal merger, consolidation, and dissolution). Those additions were set out in Sections 1, 6, and 7 of the bill.

On May 5, 2003, CSSB 63(STA) passed the State Senate by a unanimous vote of all members present (18 voted in favor of the bill, one Senator was excused and one Senator was absent). The Local Boundary Commission supported the bill, which is currently before the House of Representatives for review.

In December 2003, Representative Paul Seaton requested that the Commission support the bill without the language relating to transition provisions. He observed that the Commission already has the power to amend petitions and impose transition requirements for boundary changes. He stated that while codifying those powers in statute would create additional clarity, removing the provisions from the bill would not diminish the Commission's ability to effect reasonable boundary changes. He is of the opinion that the transitional language in the bill may jeopardize its passage. Therefore, he requested that the Commission support a change in title of the bill and removal of the language referring to transition provisions and powers of the Commission. He concluded that this compromise could enable passage of a final resolution of the municipal property tax issue.

Kott, Samuels, Morgan, Kooker - Csm

8:09 -

adopted CS for CSSB (3 COA) -

Rep Sealm -

KT Why I intro this bill -

SA Worked w/ Spren - affects his district.
Spren supports CS

ST = Cleans up w/ annex, Union's service area -
happen smoothly = ~~at~~

local boundary process is the way decisions are
made = currently ^{at} June 15th means ~~start~~
start 1/1

SM = ^{wait} 6-8 months would that make more sense?

ST = Since there's diff jurisdictions this makes more
sense.

SM What if that's not on calendar budget year -

ST Believe munis on calendar yr. No muni ^{have} ~~to~~ ~~meet~~
raised that concern:

Mary Szwald - Requests support.
Read her letter of request

Close public testimony.

Reschedule for next Thursday.

etc needed

Disrupts + supports are always in the
lookout for way to enhance education
EPD will not give up on the piece to
enhance education

LBC = finalized report based on discussion

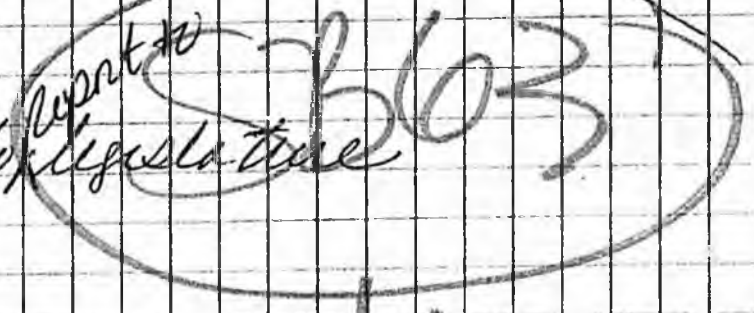
Chair wants Lanyard's sentiments into the
report. whole commission agreed by not
down long.

EPD to send comments to Dan.

LBC draft to legislative

Draft

Chptr 3



SB 603 = letter Dec 30 Senator supporting w/
amendment in order to win favorable hearing
in the H.

SB 603 provides certainty when taxes take place

CSSB 603 endorsed by LBC

State amendment =

Lanyard dealing w/ transition to receive
by the H as such LBC to much price. Senator's
amendment says that it should
impact activities of LBC & Dan agrees w/
Senator's position.

Bob = cracks w/ Dan's recommendation