

**HB**

**121**

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 121(CRA)

1 Page 2, line 9:

2 Delete all material.

3 Insert "or more service areas if the

4 (1) borough's population in 2005 was less than 65,000 or more  
5 than 75,000; and

6 (2) assembly first determines that the abolishment or"

# ALASKA STATE HOUSE OF REPRESENTATIVES

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State Capitol  
Room 204

## REPRESENTATIVE JOHN COGHILL

### HB 121 Relating to Service Areas

#### SPONSOR STATEMENT

When the legislature established the state revenue sharing program residents of subdivision outside of the city limits that had no maintenance income for their area roads seized the moment. People formed local service area road commissions and collected revenue sharing money based on the mileage in their service area. Many service areas relied solely on revenue sharing income and chose not to levy a mill rate to maintain roads.

With the elimination of revenue sharing money, many service areas are beginning to run out of funding for road maintenance and many road commissions have become nonfunctional. As roads deteriorate, local governments are worried about their liability even though they have no road powers.

The Alaska State Supreme Court ruled in *North Kenai Peninsula Road Maintenance Service Area v. Kenai Peninsula*, 850 P.2d 636 (Alaska 1993) that a service area does not have the corporate status a borough has, therefore, the borough holds the civil liability. As a general rule, only independent legal entities may sue or be sued. Alaska law specifically gives cities and boroughs corporate status, and the right to sue and be sued.

The Fairbanks North Star Borough has over 100 service areas and they are concerned that when the money runs dry, roads could deteriorate to the point that the safe passage of school buses, fire trucks, and ambulances could be hindered. Under current law, they cannot dissolve the service areas without a vote of the residents, even though there is no legal entity, there are no revenues to maintain the roads, and the roads receive no service.

HB 121 is designed to enable the borough to dissolve or consolidate service areas that are nonfunctional or are functioning below minimum standards and that pose a financial risk to the borough. HB 121 is written in such a way as to protect those service areas that are taxing themselves adequately and doing a good job in maintaining their roads to insure safe passage on them.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SSHB 133  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Local Boundary Commission RDU Comm Assist & Ec Dev (405)  
Regs & Powers Component Community Advocacy  
 Sponsor Coghill, Harris, Salmon  
 Requester House Community & Regional Affairs Component No. 2703

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation amends certain powers of the Local Boundary Commission established in Title 29 and Title 44. This legislation has no fiscal impact on the operations of the division.

Prepared by: Athena Logan, Local Government Specialist Phone 269-4540  
 Division Community Advocacy Date/Time 2/23/05 2:37 PM  
 Approved by: Edgar Blatchford, Commissioner Date 2/23/2005  
 Agency Commerce, Community, and Economic Development



## Fairbanks North Star Borough

## Assembly

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February 4, 2005

Representative Bill Thomas, Co-Chair  
House Community and Regional Affairs  
State Capital, Room 428  
Juneau, AK. 99801-1182

Representative Kurt Olson, Co-Chair  
House Community and Regional Affairs  
State Capital, Room 110  
Juneau, AK. 99801-1182

Dear Representative Thomas and Olson,

As Presiding Officer of the Fairbanks North Star Borough Assembly, I would like to submit this letter as support of House Bill 121, "An act relating to consolidating or abolishing certain service areas in second class boroughs."

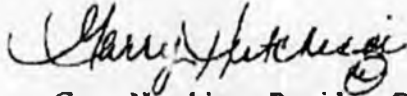
In 2001, amendments were made to AS 29.35.450 adding requirements for an election within service areas when there is a proposal to abolish, replace, or annex tax lots to that area. This was in addition to an election being held in the area that had petitioned for services causing two questions for each election and requiring both questions to pass.

The Alaska Constitution mandates that the local assembly have the authority to manage and make decisions regarding service areas. Service areas are a part of the borough and, according to the Alaska Supreme Court, are not a separate legal entity from the borough and can not sue or be sued. The borough, therefore, bears the ultimate financial responsibility for service areas.

A borough can not legally pass on service area costs to areawide borough taxpayers but some service areas no longer have sufficient funds to pay for the direct costs of providing services and a considerable number of service areas have experienced significant difficulties in maintaining even the minimum number of service area commissioners necessary to legally conduct service area business. Although, the borough bears the ultimate financial responsibility for services areas, the assembly does not have the power to address issues arising from these types of difficulties, particularly in service areas that do not provide any or only provide minimal services. House Bill 121 corrects these problems by allowing boroughs the power to better manage service areas and provide for services to its residents.

The Fairbanks North Star Borough fully supports House Bill 121 and believes its passage will provide for better services for its residents.

Sincerely,



Garry Hutchison, Presiding Officer  
Fairbanks North Star Borough



# Fairbanks North Star Borough

Office of the Mayor

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February 4, 2005

Representative Bill Thomas, Co-Chair &  
House Community and Regional Affairs  
State Capital, Room 428  
Juneau, AK 99801-1182

Representative Kurt Olson, Co-Chair  
House Community and Regional Affairs  
State Capital, Room 110  
Juneau, AK 99801-1182

Dear Representative Thomas and Olson:

This letter is to express my strong support of House Bill 121. Over the last several years the Fairbanks North Star Borough has been struggling to address some serious issues concerning our road service areas.

As you may know, we have over 100 service areas that are currently attempting to deal with significant changing circumstances, largely financial, arising from the zeroing out of state funding. Currently, we have some of our service areas that have chosen not to tax themselves and provide no service to their residents. Others provide only very limited service and do not have the minimum number of voluntary commissioners. While the Borough bears the ultimate financial responsibility for these service areas, it currently lacks the ability to address these problems through either consolidation or dissolution.

In addition to the liability and financial concerns resulting from struggling service areas, their inability to provide even minimal services to Borough residents presents a real impediment to economic growth in the Borough.

Accordingly, as the Mayor of the Fairbanks North Star Borough I strongly support House Bill 121 as I believe that passage of this bill will enable the Borough to better manage service areas not only to ensure minimum services are provided to Borough residents but also to protect all Borough taxpayers from the consequences of financially strapped service areas.

Sincerely,

Jim Whitaker, Mayor

JW:csm/arb

# Alaska State Legislature

Rep. Gabrielle LeDoux  
Rep. Pete Kott  
Rep. Mark Neuman  
Rep. Sharon Cissna  
Rep. Woodie Salmon



State Capitol, Room 124  
Juneau, AK 99801-1182  
Co-Chairs  
Rep Kurt Olson  
(907) 465-2693 FAX 465-3835  
Rep. Bill Thomas  
(907) 465-3732 FAX 465-2652

## COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Date: 2-10-05

To: Representative Olson, Co-Chair House Community and Regional Affairs

From: Representative Thomas, Co-Chair House Community and Regional Affairs

Re: Sponsor statement for HB 121 an Act relating to consolidating or abolishing certain service areas in second class boroughs.

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When the legislature established the state revenue sharing program residents of many subdivisions outside of the city limits that had no maintenance income for their area roads were able to rely solely on revenue sharing money. People formed local service area road commissions and collected revenue sharing money based on the mileage of their service area.

With the termination of the revenue sharing program, many service areas do not have funding for road maintenance and the road commissions are now nonfunctional. As time goes on, the roads that were built under the revenue sharing program are deteriorating. The boroughs are concerned about their liability for the roads even though they have no road powers. There are no funds to maintain the roads, therefore the roads receive no service resulting in safety hazards for all who use them. In addition, the boroughs cannot dissolve the service areas without a vote of the residents.

HB 121 is designed to enable the borough to consolidate or dissolve the service areas that are nonfunctional or are functioning below minimum standards. Consolidation or dissolution will come about by decision of the governing body of the borough after adhering to well defined procedures and a hearing process. Further, HB 121 protects those service areas that are taxing themselves adequately enough to maintain the safety of their own roads. I strongly urge your support of this important piece of legislation.

# Alaska State Legislature

Rep. Gabrielle LeDoux  
Rep. Pete Kott  
Rep. Mark Neuman  
Rep. Sharon Ciss.a  
Rep. Woodie Salmon



State Capitol, Room 124  
Juneau, AK 99801-1182  
Co-Chairs  
Rep Kurt Olson  
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Rep. Bill Thomas  
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## COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Date: 2-10-05

To: Representative Olson, Co-Chair House Community and Regional Affairs

From: Representative Thomas, Co-Chair House Community and Regional Affairs

Re: Sectional Analysis for HB 121 an Act relating to consolidating or abolishing certain service areas in second class boroughs.

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Section 1: The initial part of this section is already in statute and provides that if a service area provides road, fire protection, or parks and recreation services, its abolishment is subject to a majority vote by the voters residing in the area. If a service area is proposed to be abolished and replaced by a new service area it must be approved by a majority of the voters living in the existing service area and in the area that is proposed to be included in the new service area.

The change to AS 29.35.450(c) comes at the very end of the bill and provides that the statute will not apply to second class boroughs who wish to abolish or consolidate service areas. However, the assembly must first determine that such an action is necessary to resolve financial or legal problems facing the borough or to guarantee that services are provided to certain areas within the borough.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB121  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Service Areas in RDU Comm Assist & Ec Dev (405)  
Second Class Boroughs Component Community Advocacy  
 Sponsor Community & Regional Affairs  
 Requester House Community & Regional Affairs Component No. 2703

**Expenditures/Revenues** (Thousands of Dollars)

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

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<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation excludes second class boroughs from the provisions of AS 29.35.450 (c) if the borough assembly determines that the abolishment or consolidation of the services area(s) is necessary because of one of several conditions. This legislation has no fiscal impact on the operations of the division.

Prepared by: Athena Logan, Local Government Specialist Phone 907.269.4540  
 Division: Community Advocacy Date/Time 2/14/05 4:48 PM  
 Approved by: Edgar Blatchford, Commissioner Date 2/14/2005  
 Agency: Commerce, Community & Economic Development



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February 14, 2005

Representatives Bill Thomas and Kurt Olson  
House Community and Regional Affairs Committee  
State Capitol  
Juneau, AK 99811

Re: Support of HB 121 "relating to consolidating or abolishing certain service areas in second class boroughs. "

Dear Representatives Thomas and Olson,

The AML Local Government and Public Services Legislative subcommittee has reviewed this bill and strongly supports it. It is consistent with the AML Policy Statement adopted by the AML membership in November 2004.

This bill is also consistent with the Alaska Constitution. Article 10, Section 5, which states that service areas within a borough may be "established, altered, or abolished by the Assembly subject to the provisions of law or charter." This bill establishes standards for an Assembly to take necessary steps to protect the community as a whole or individuals areas. The standards require that the Assembly determine that the action to be taken is necessary to either:

- "Protect the finances of the borough,"
- "Resolve financial or legal problems of a service area," or
- "Ensure that adequate service is provided to the residents of a service area."

This is a key local control measure to help second class boroughs efficiently and fairly provide services.

Thank you for your consideration.

Sincerely,

Scott Brandt-Erichsen, Chair  
Local Government and Public Services Committee