

**HB**

**133**

From: <AkwinRES@starband.net>  
To: <fairbanks\_ljo@legis.state.ak.us>  
Date: Sun, February 27, 2005 7:13 pm  
Subject: Written Testimony (SSHB-133)

FEB 28 2005

Rosalyn Stowell  
51.3 mile Elliott Highway  
C/O 177 Simpson Way  
Fairbanks, Alaska 99712

It was nice that you scheduled a teleconference for this Bill February 24, 2005. Unfortunately, 8:30 a.m. was not a very good time for anyone living very far from Fairbanks to come in and participate.

I live out the Elliott Highway, toward the Yukon River. My area is part of the proposed Borough annexation that is being put forward by Borough Mayor Jim Whitaker. I am totally opposed to being annexed and maybe your SSHB-133 might possibly help keep us from being swallowed up.

Between Whitaker and Wilkens, it is going to be tough to continue the current life style of a large part of the interior population. Most of us are either on fixed incomes or eking out a bare living the best we can. We have to count every penny and decide just what we will do without this month, just so we can afford things that most folks in towns take for granted. A hot shower with unlimited hot water at Hilltop Truck Stop is a luxury. So just where are we to come up with the money to pay the minimum 4 mil tax on property that will be assessed as soon as we are gobbled up by a Borough? Do we do without food for a few months? Do we go on public assistance, if that is available? Right now, we are all able to live a life that is dependent on our own ability to make do and fend for ourselves. My daughter and 2 of my grandchildren and I built them a house this past summer. We had no professional assistance. Those kids are learning self respect and have gained in the knowledge that they can do something as important as that.

Just what could a Borough do to help us? Nothing. There is not one service offered by the Borough that would be of use to us.

This is not exactly on the mark for sticking to the subject, but SSHB-133 may help keep the Borough at bay for a while longer. My personal opinion is that the Borough should be dissolved. It has taken on far more than the duties it was made to do. It should be audited for misuse of tax dollars.

Allow us to continue living with dignity.

Please Pass SSHB-133.

Thanks.

Rosalyn Stowell  
51.3 mile Elliott Highway  
C/O 177 Simpson Way  
Fairbanks, Alaska 99712

HCRA

HB133

MAR 09 2005

**Subject:** Written Testimony SSHB-133

**Date:** Sun, 27 Feb 2005 23:13:31 -0500 (EST)

**From:** <AkwmnRES@starband.net>

**To:** <fairbanks\_lio@legis.state.ak.us>

Rosalyn Stowell  
51.3 mile Elliott Highway  
C/O 177 Simpson Way  
Fairbanks, Alaska 99712

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Fairbanks, Alaska 99712



LEGISLATIVE INFORMATION OFFICE  
119 N. CUSHMAN, SUITE 101  
FAIRBANKS, AK 99701  
452-4448

MAR 09 2005

DATE: 3/3/05

Please accept the enclosed original(s) of written  
testimony for the

HB 133 HC & RA teleconference scheduled on

2/28/05. A copy of this testimony was  
transmitted to your committee via fax.

Thank you,

From: <AkwmnRES@starband.net>  
To: <fairbanks\_lio@legis.state.ak.us>  
Date: Sun, February 27, 2005 7:13 pm  
Subject: Written Testimony SSHB-133

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MAR 09 2005

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Fairbanks, Alaska 99712



**Tok Legislative Information Office**  
PO Box 845 Tok, AK 99780  
Phone: 883-5020  
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FAX.....FAX.....FAX.....FAX

To: House HES committee members

Date: 3/02/05

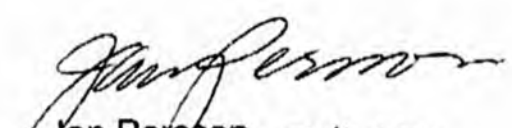
Pages: 5

**RE: FYI**

- Urgent
- For Review
- Please Comment
- Please Reply
- Please Post

Please accept these testimonies regarding HB 133 from Glen Marunde.  
He asked that they be sent in anticipation of tomorrow's discussion.

Thank-you

  
Jan Persson, TOK, LIO

## A VOICE FOR THE BUSH

By Glen Marunde, Tok kResident

"It's Government for rabbits"

*Testimony for HB 133*

Two of Alaska's most respected elder statesmen, both of whom played important roles in the framing of Alaska's State Constitution, are on record as opposing the formation of large boroughs in the Unorganized Borough.

Elder statesman, Judge Thomas Stewart, now living in Juneau, was the chief organizer of the original constitutional convention. Judge Stewart served as the secretary of the convention.

On February 13 and 14, 1996 The Local Boundary Commission hosted a seminar entitled "A Review of the Local Government Article of Alaska's Constitution Forty Years after it was Written" The seminar took place in Juneau. Judge Stewart was invited to participate as an expert on the Local Government Article X of the Alaska Constitution.

Here are Judge Stewart's comments quoted from a transcription of the meeting. Near the end of the meeting, Judge Stewart said, "My strong thought is that the Legislature, the Governor, and the Department and the Commission have failed to give weight to that word (local). And too many of the boroughs that have been formed are regional in nature, and in my judgement never should have been. If there are taxable properties out there like Prudhoe Bay, they should have been in an unorganized borough administered by the State. Barrow has no business managing Prudhoe Bay ----that they never used. It's regional in my judgement. And you should confine the boundries down to the land surface that the local people have traditionally used that have those characteristics of population, geography, economy, transportation that are local. The word "local" has not been adequately recognized."

Bob Hicks "You say the word "local" for boroughs should be very, very small equivalent of a small county, shouldn't be that expansive?"

Judge Stewart, "Absolutely!"

Alaskan elder statesman, Lt. Gov Jack Coghill, in a recent interview with

"A Voice for the Bush" commented on SCR-12, the bill that could force a layer of unwanted and unneeded borough government on citizens of the Unorganized Borough, without the vote of any person answerable to an electorate.

Lt. Gov Coghill, who was a framer for our constitution said, " We wanted to be sure that the power to form government was in the people, not the Legislature. It is unconstitutional for the Legislature or the Local Boundary Commission to impose a government on anyone. Just read Article 1, Section 2 of our State Constitution. It's all right there!"

Here's what Article 1, section 2 says, "All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole."

Coghill stressed that framers intended no timetable what-so-ever for the establishment of local governments. He said that the framers thought there would be areas of unorganized borough forever. That is why the framers gave the Legislature the power to act as an assembly for the Unorganized Borough. They did not want an unnecessary layer of regional governments on top of local governments.

Coghill also explained that when the framers gave authority to the Local Boundary Commission to study boundary changes and make recommendations to the Legislature that could become law without a vote of the Legislature they intended this third party authority to be used only to resolve boundary disputes involving annexations, detachments, and other disputes between existing local governments. The framers never intended for the Local Boundary Commission to use this authority to establish or force new local governments on the residents of the unorganized borough.

Like Judge Thomas Stewart, Coghill thinks some of the existing boroughs are far too large and are really regional, not local, in nature.

Lt. Gov Coghill summed up his feeling about large, unnecessary boroughs in just four words when he said, "It's government for rabbits."

*Glen Marunde*  
*Box 192 Tok, Alaska 99750*  
*March 2 - 2005*

*Testimony for HB 133*

### JUST HOW ORGANIZED IS THE UNORGANIZED BOROUGH??

My name is Glen Marunde and I am a 44 year resident of Tok. My wife, Dorothy, and I have raised 5 children in Alaska. I earn my living as an electrical and mechanical contractor.

There are 148 cities in Alaska. These are cities with state charters, formed in accord with Alaska statute. In the organized borough there are 7 home rule cities, 7 first class cities and 34 second class cities for a total of 48 cities.

In the unorganized borough there are 5 home rule cities, 13 first class cities, and 80 second class cities for a total of 98.

Most Alaskans are surprised to learn that there are nearly twice as many cities in the unorganized borough as there are in the organized borough. In truth there already is a lot of local government in the Unorganized Borough!!

Unfortunately there exists a small group of politicians who want to force a layer of unwanted and unneeded government on large, sparsely populated areas of the Unorganized Borough by mandatory annexation and/or the mandatory creation of new boroughs ---even if those Alaskans who live in these areas do not vote in favor of such government.

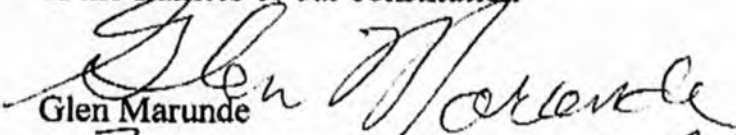
The sad thing is that these politicians are not promoting borough government because it is the best and most logical government for communities in the bush. City government, not borough is the closest to the people. These bureaucracy-loving politicians are using mandatory boroughs as a vehicle to tax the bush with nary a concern for what is best, most effective, and most efficient.

Let's assume for a minute that those who want a wall-to-wall layer of government achieve their goal and all of the model boroughs become legal boroughs. This would mean that all 98 cities in what is now the Unorganized Borough would be saddled with three (the most possible) layers of government with taxing authority overnight. They would be subject to state, borough, and city taxing authority and regulation. The establishment of this unneeded layer of government would be in direct conflict with state constitution.

Article X, section 1 which says, "The purpose of this article is to provide for maximum local self government with a minimum number of local government units and to prevent duplication of tax-levying jurisdictions

The large number of cities in the Unorganized Borough and the ongoing activities to form new boroughs stands as proof the Article X is working as the framers of our constitution intended. C'mon you politicians, It ain't broke so please don't fix it!

I testify in favor of passage of HB133 I believe this bill clarifies the intent of the framers of our constitution

  
Glen Marunde  
Box 192, Tok, Ak 99780  
March 2 - 2005

# 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

**Konrad Jackson**

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**From:** Sharon Tyone [crm@alaska.net]  
**Sent:** Friday, February 25, 2005 6:07 AM  
**To:** Rep. Kurt Olson  
**Subject:** SSHB 133

**Rep. Olson**

HB 133 needs amended to allow an immediate vote by residents of already incorporated areas to dissolve. That would put all residents of the state on equal footing.

**C.R.Mott**

**47910 West Poppy**

**Soldotna [crm@alaska.net](mailto:crm@alaska.net)**

PRESIDENT EGAN: If there is no objection.

HURLEY: One of general intent. Is my idea correct that no organized borough will become effectuated without the voice of the people within the area?

PRESIDENT EGAN: Would you care to comment on that, Mr. Fischer?

V. FISCHER: The answer, I think, would be "no". The borough, as visualized here, is even more than just a unit of local government. It is also a unit for carrying out what otherwise are carried out as state functions; and when a certain area reaches a position where it can support certain services and act in its own behalf, it should take on the burden of its own

government. As was explained earlier today, we don't actually visualize that the state will force boroughs to organize, since we feel that they should be set up on such a basis that there will be enough inducement for each one to organize. However, just as you have in school districts, the legislature has granted power to, I think, the board of education to incorporate school districts when they reach a certain minimum population so that they would assume their own load.

PRESIDENT EGAN: Does that answer your question, Mr. Hurley.

HURLEY: Yes.

PRESIDENT EGAN: Are there other questions at this time, or are there other amendments to Section 15? Mr. Hinckel.

HINCKEL: I'd like to ask a question, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Hinckel.

HINCKEL: In line with Mr. Hurley's question, I am again now confused, because I thought that I understood, but now I'm afraid that I do not, after Mr. Fischer's answer. If he had said that the answer was that the people would have the right to decide, why then I would have felt that I knew what was going on. My interpretation was that, up until such time as the borough adopted a charter, that they would operate under rules that would be set up by the legislature, and at the time that they decided to organize, why they would then adopt a charter, and that the people would, at that time, accept the charter by some sort of a referendum or something like that. Am I completely confused now, or --

V. FISCHER: No. I might not have made my answer completely clear.\* The legislature would have the authority to establish an organized borough. When it comes to adopting a charter, that is something that is up to the people. A borough does not have to adopt a home rule charter.

HINCKEL: Up until the time they do, though, they will operate under some sort of regulations that are set up by the state?

V. FISCHER: Under the general law of the state.

HINCKEL: But you would call that an organized borough?

V. FISCHER: Yes, and I might say that the legislature may very well see fit to provide that before a borough could be organized, that the people do approve it by referendum. The question

I was answering was whether we were definitely setting it up on a voluntary basis. But we're not. We're \* leaving it to the legislature whether a referendum will or will not be required.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I yield to Mr. Johnson.

JOHNSON: I just wanted to follow that out a little bit, and ask Mr. Fischer why it was that the referendum idea was used only in the charter portion of the act -- the proposed charter and borough?

V. FISCHER: Well, as I tried to explain, there is some question as to whether or not the state would want to force the organization of a borough. There are reasons that the state may have for organizing a borough. However, when it comes to adoption of a charter, the people, in other words, set up their own form of local government at that time. I mean, they prescribe the rules, etc. That is something that is not of direct state concern, whereas, the organization of the borough, in the first place, would be, and so that is left up completely to the people, by referendum.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this was on a point of clarification. Mr. Fischer said that until a charter was granted, that they would operate under the laws or regulations promulgated by the legislature. That was the general intent, I believe, and I'd like to ask you, Mr. Fischer, if the legislature may not deal with an organized borough, and delegate taxing powers, and other powers, to an organized borough or city which has not applied for a charter?

V. FISCHER: Yes. Certainly.

R. RIVERS: Well, that's the point I wanted to make clear.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: If someone else wants to speak, I've talked too much.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I'd like to ask a question. Did I understand Mr. Fischer, that the proposition of whether an area should organize itself into a borough is put before the people. Is that right? Or whether they vote "yes" or "no"?

V. FISCHER: It may or may not be, as the legislature sees fit.

METCALF: In case it should be -- legislature should see fit to let it out on referendum basis, I wonder if they would know how many representatives the rural areas will have on the assembly, and how many representatives the cities will have on the assembly?

V. FISCHER: Well, I'm sure that the organization of boroughs would be prescribed by general law before they start organizing the boroughs. They would have to have the system prescribed previously, so the people would know what the borough would be.

METCALF: Well, I'm wondering, again, supposing a borough should get into a tight fix, or should buy

something it wouldn't like? Is there a way to appeal to get out of the fix?

V. FISCHER: That again is left up to the legislature.

PRESIDENT EGAN: Mr. Kilcher has been attempting to get the floor. Mr. Kilcher.

KILCHER: Mr. Fischer, if I may ask you a question, this charter which the people of an unorganized borough may ask to have applied to them, will they set up the charter themselves, with due assistance, legal or common assistance?

V. FISCHER: Yes.

KILCHER: Are there any standards set for that charter? Could you envisage these charters to change greatly from borough to borough, and yet be acceptable to the legislature?

V. FISCHER: The home rule charter could be quite different from borough to borough. I think that, for instance, the form of their administration may differ. Some may want a borough manager -- like a city manager form of government. Others may want to have the equivalent of a mayor as the chief executive. So, there could be various differences.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Fischer, when I think of local self-government, I do not think of it mainly in terms of the executive, I think of it largely in terms of legislative and policing powers, too. In other words, two local self-governments. Now, do you assume that the state executive government and the legislature will be willing or reluctant to delegate their powers to boroughs, or do the boroughs have certain demands that they can make?

Constitutional demands? I would like to see something in the constitution that they may ask -- not be given. In other words, the Section 15 creates in my mind, and some others, that this borough -- this unorganized borough is also a well-domesticated borough. You said a while ago that you should be willing to take the burden. I begin to see now why the word "borough" may be a very good one. Now, you talked about inducements a while ago, inducements dangled in front of the borough. I'm not worried about what inducements -- how I might be induced of doing a thing. I would like to know what rights the borough might have.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I can see why you're putting your question in the way you do, since you're a coauthor of an amendment to change the name of this unit; but to answer your question, no right that the people within the borough would have would be beyond the reach of the legislature by general law. The legislature could deny the exercise of any right just as they can deny today within cities or any place else. However, unless the legislature denies a specific right, it will belong to the people within the borough.

KILCHER: Could you admit us more self-government, not in the administrative sense, but in terms of participation, in form of referendum, etc? To give you an example, Mr. Fischer, I'm living in a PUD, and dissatisfaction has been generally expressed with the Territorial PUD Act in my area; and some of the people down there, during the Christmas recess, had voiced the fear that the borough may be some sort of a super PUD with ramifications, more or less, but inasmuch as they are dissatisfied with the lack of

CHIEF CLERK: "Section 6, page 3, line 9, delete the comma, insert a period and strike the balance of the section."

PRESIDENT EGAN: What is your pleasure, Mr. Hurley?

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the amendment. Is there a second to the motion?

MCNEALY: I will second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. Mr. Hurley.

HURLEY: Mr. President, I realize that this section is, to a large extent, of a recommending nature rather than a directive nature, but yet I feel it could be construed as a directive, and a limitation on the functions of the borough assembly. I also recognize that we have a problem presently in the Territory in the matter of making it desirable for cities to incorporate and to take in suburban areas into their incorporated area, but I think what seems to be a relatively unimportant amendment goes to the basis of this whole concept that is being brought forward here on the matter of local government. The very fact that we previously had an amendment concerning the school districts indicates to me that the question is one of deciding where the relative powers of this borough are going to be. I think the whole article is fairly inconsistent in its acceptance of cities themselves. In other words, they have agreed that it is undesirable to have school districts separately organized; it is undesirable to have public utilities separately organized as taxing units; it is undesirable to have various other districts; yet they say it is desirable to have cities. They go further and provide in this section that in the event an area needs a particular public service that it shall not have it if it can meet the qualifications of incorporating as a city. I think it tends to destroy the desirable, in my mind, function of the borough to govern the area in the most desirable manner. I think it sets up a stumbling block. Now I can recognize that those people that have had problems of city incorporation are going to be very suspicious of this amendment, but I submit by leaving these words in we are, in effect, putting a stumbling block in front of the effective operation of our borough government. I also submit that there is nothing in my mind that a service area within the borough cannot do that a city can do, so, in fact in my mind a city is no more than an organized service area, and I think if we make it possible to, over the years, lose our old-fashioned concept of the city, we will eventually be better off. Now, the adoption of this small amendment is not going to accomplish all that, but in my opinion it is going to remove a possible stumbling block to more efficient administration of borough affairs and I hope that you will see fit to adopt the amendment.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. McNealy.

MCNEALY: Mr. President, I had the same amendment written out, and being a little slow, I appreciated the fact that Mr. Hurley has submitted this amendment, and I feel obliged to speak on this particular subject, taking it in conjunction with Section 1 of the article to which this particular section refers to. Now, contrary to statements that have been made on the floor about all of the elected representatives to the legislature being from within the city of Fairbanks, I reside outside of the city of Fairbanks and I also, I believe, on two occasions, however, voted in the area in which I live to become annexed to the city, and in both cases it was voted down, so when I speak I don't speak from a personal standpoint, but my thought in regard to this is I have seen this happen before. Bills have been offered in the legislature in an attempt to force annexation. There has been a continuous movement in the Territory over the years. I remember years ago being on the school board down at Seldovia and we were told if we did not

incorporate the town they were going to take the high school away. Incidentally, we incorporated the town and in that instance it did not do any harm, according to the latest reports that I have. I see in this, written in here, a way of at least a backdoor attempt of forcing cities, small areas, to either incorporate or forcing areas to become annexed to the city, because under the borough system of government here, the county system or what you will, we state in the first paragraph that the liberal construction shall be given to the power of local government; and reading that in conjunction with this particular section here, it is going to give the assembly, certainly, the right to construe this paragraph here that they have, say that an area outside the city, for example, if it is necessary to have the health district to protect not only the health outside the city but inside the city, and they want to reach out and encompass this area outside the city and they can use that as a whip to hold over the people in this outlying area, and say if you don't become annexed and come into part of the city the assembly is not going to give you this service here. You may be paying taxes out here but you are not going to get anything because this is a simple way to do it and bring you within the city. Or they can go to a small community, say within 10 miles of the city, if that is within this prescribed area, and the assembly can say we are giving you nothing out here because the better way for you to be is to set up a small corporation out here. I think we all know a lot of these small incorporations don't work out because there isn't the money there for the taxation in that particular area to support a small town. I feel on this. I could talk on it possibly for an hour. I remember speaking on it in the legislature. I am not going to take up the time. I am glad Mr. Hurley advanced this here because of the fact that we should consider that the areas outside the city should not be controlled and dominated by a larger group of people within the city. I believe the American way of life gives us the right to incorporate if we want to; to become annexed to a city if we want to; or if we don't want to, to maintain the status quo where the only ones that are actually affected by it to a great extent are those outside the city itself.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I have experience along that same line that has just been presented here, and the area where I live we tried twice to get into the city and some people opposed it and we did not get in and now there is a group that have felt they have been forced, coerced by the bigger body and they have backed up on it. You can't coerce people or groups to come in. It is wrong to try to hold it over the outlying districts, a threat, because they will not come in by a threat. When it is advantageous to come in they will come in, and if this is a threat over them, I'm going to be for the amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I might speak for the Committee on this section; it is just as the Committee feels, and they may vote as they choose. Our main intention was to try not to have a lot of separate little districts set up, you know, handling only one problem and try to combine them.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, on this section, the thinking of the Committee, as I interpret it, was that you will notice in this section there is no limitation on taxes in the amounts of assessed evaluation or the amounts of rates, and we had visualized a situation where a city had grown up with certain services, where there was a fringe area that needed certain services, but not all of the services, so the fringe area could annex the city on a differential taxation basis for such services it may desire, such as a fire protection for one. It was also visualized that out in an area where a service area had enough functions, where it stood by itself, where it got big enough to incorporate as a city under this section, it could then do so. There was no intent or thought in the Committee's mind that there was any possibility of putting pressure on to get them to do certain things. The thought was it would still be their own choice and selection as to whether or not they would be better served by entering a fringe area as a suburban area

KILCHER: Objection.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion. The motion is open for discussion. Mr. Kilcher.

KILCHER: I would like to have the Committee explain its change in its stand.

PRESIDENT EGAN: Mr. Rosswog, would you care to explain?

ROSSWOG: I think it was in the discussion yesterday, Mr. Chairman, and it was felt that by asking for a boundary commission which we thought was very necessary in establishing your local government boundaries that it should be under some branch of the government and it should necessarily be under the executive branch.

PRESIDENT EGAN: Is there still objection?

KILCHER: No.

TAYLOR: May I ask a question? Mr. Rosswog, is that local boundaries commission, is that a commission organized in each borough?

ROSSWOG: No.

TAYLOR: A state commission?

ROSSWOG: It would be statewide because you could not leave it just to the local unit to set up its own boundaries. There should be some supervision or someone setting them up.

TAYLOR: Then one other question, in line 22, the article says, "The commission may consider any proposed boundary." That would necessarily imply that that is a proposed borough boundary, is that right?

ROSSWOG: There is an amendment in local government.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to ask the Committee a question. Does this commission in the executive branch that they have pointed out now, was there consideration given to the fact that that could be an additional duty of the apportionment board?

ROSSWOG: Yes.

COOPER: And that is what you have in mind?

ROSSWOG: Yes, we have in mind that it could be combined with some other --

COOPER: Yes. Then, would the words, "The legislature shall establish" -- would that have anything to do with it because the apportionment board now would be established by the governor?

ROSSWOG: My belief is that they could designate the same board if they wished or one might be appointed by the governor.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask a question of Mr. Rosswog.

PRESIDENT EGAN: If there is no objection, you may ask your question.

R. RIVERS: The way this would read that "The legislature shall establish a local boundary commission in the executive branch and regulate its activities." It sounds as though the commission is going to regulate the activities of the executive branch. What you should say is, "The legislature shall establish within the executive branch a local boundary commission." So, I would ask you if there is any objection to changing your language over to the front of line 20 instead of where it is now and saying "within the executive branch".

HELLENTHAL: What is wrong with having the executive control the executive?

COOPER: May we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will have a one-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper.

COOPER: Mr. President, I would like to ask for the floor on a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Cooper, you may have the floor on a point of personal privilege.

(Mr. Cooper spoke on a matter of personal privilege.)

PRESIDENT EGAN: Are there amendments for Section 9 or 10? Sections 11 or 12? Do you have an amendment for Section 12?

CHIEF CLERK: It has not been acted on yet.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I think I can safely say that the question brought up by Mr. Rivers can be handled by Style and Drafting.

R. RIVERS: I so consent.

PRESIDENT EGAN: Mr. White.

WHITE: I want to ask a question of the Committee. In answer to a previous question, I believe you stated that the Committee took into account that this could become a part of the apportionment board set up in another article. I was wondering if the use of the word "commission" here would preclude that. In the apportionment article it says, "There shall be a nonpartisan board of reapportionment."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I believe that it would not stop them from being the same commission, but I did not think at this time that we should tie them up together, forcing them to be the same board. It should be left to a decision at the time because this local boundary question will be a very controversial question and will need a lot of study to set it up, and even with these words they could be grouped together if it was found necessary.

WHITE: Mr. President, in the resources article we had quite a discussion on the difference between a commission and other types of regulatory boards, and it occurred to me that using the word "commission" here means something entirely different than using the word "board". I didn't mean to suggest that they be forced to be one and the same.

PRESIDENT EGAN: Is there further discussion on the proposed amendment?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 4, lines 20 and 21, Section 12, insert the words 'in the executive branch' after the word 'commission'."

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. The Convention will come to order. Mr. White.

WHITE: Mr. President, I haven't had time to write this out but I have an amendment to Section 12, line 20, after the word "commission" insert "or board".

HELLENTHAL: Do you ask unanimous consent?

WHITE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Line 20, page 4, after the word 'commission' insert the words 'or board'."

PRESIDENT EGAN: Is there objection? Mr. Nerland.

NERLAND: Mr. White, would you also include that same wording on line 21?

WHITE: Yes, I certainly would.

PRESIDENT EGAN: If there is no objection that will become a part of the amendment. Is there objection to the unanimous consent request for the adoption of the proposed amendment?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard. Do you so move.

WHITE: I so move.

PRESIDENT EGAN: Mr. White so moves

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. The motion is open for discussion. Mr. Coghill.

COGHILL: Mr. Chairman, I believe the motion should also be extended to the word "commission" on the following page, page 5, line 3.

PRESIDENT EGAN: Is that acceptable to the maker of the proposed amendment?

WHITE: It is acceptable.

PRESIDENT EGAN: Is there objection? Hearing none that will become a part of the proposed amendment. Mr. Kilcher.

KILCHER: May I ask a question? Would you think a commission or board could also be called an agency?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I think the word "agency" would cover all types of boards, commissions, boroughs and other things.

KILCHER: I would like to ask Mr. White, in that case, if you might not substitute both for "commission" and board [the word] "agency", because in Section 14 we have also provision for an agency in the executive, which may well end by being the same agency.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, in answer to your question, this is as far as I intended to go, Mr. Kilcher, merely because the Committee said that they took into consideration that this organization might be combined with the apportionment board, and the word used in the apportionment article is "board".

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as it is before us at the present time.

CHIEF CLERK: "Section 12, page 4, lines 20 and 21, page 5, line 3, insert the words 'or board' after the word 'commission'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be

adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hinckel.

HINCKEL: May I ask another question?

PRESIDENT EGAN: You may ask your question if there is no objection, Mr. Hinckel.

HINCKEL: Did I overlook a discussion on how this legislature was going to regulate this executive branch board or has that been answered?

PRESIDENT EGAN: Could the Committee answer that question?

HINCKEL: I thought there were two separate branches.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: The way it reads the legislature would establish it; it would be contained within the executive; and the legislature would regulate it; but the intent was, and I speak for the whole board, the intent was that the legislature would establish such a board or commission by law and it would function and lie within the executive department to more or less direct and regulate its activities. That was the intent. I can see here, as I saw it before you mentioned it, the dual possible interpretation, and I hope that this will be noted for the benefit of Style and Drafting Committee.

PRESIDENT EGAN: Are there other amendments to Section 12.

HURLEY: I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment by Mr. Hurley.

CHIEF CLERK: "Section 12, line 25, page 4, strike the words 'at the end of' and line 1, page 5, strike 'the session unless disapproved,' and insert therefor the words 'when approved'."

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed amendment. Is there a second to the motion?

RILEY: I second the motion.

PRESIDENT EGAN: Mr. Riley seconds the motion. Is there discussion of the proposed amendment? Mr. Hurley.

HURLEY: Mr. President, I detect a sleepy feeling on some of the parts of the delegates on this matter, but I think this is a crucial one and one of which I recognize there are good arguments on both sides, but I feel that I should bring the amendment before the group to determine what the feeling of the group is. There is a very distinct difference between the wording as it was before and the wording as it is now. At least, I intend that there be a distinct difference. The wording as it was before was a self-executing proposition where the board made a recommendation and if the legislature didn't by resolution accept it, it became law. Now, I am reactionary enough, I guess, to think that is kind of a bad thing. I can

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## MEMORANDUM

February 28, 2005

**SUBJECT:** Local Boundary Commission procedures (SSHB 133)

**TO:** Representative Kurt Olson,  
Co-chair, House Community and Regional Affairs Committee  
Attn: Eleanor Wolfe

**FROM:** Tamara Brandt Cook  
Director

You ask me to identify constitutional issues raised by SSHB 133.

**Sec. 1.** This prevents the Local Boundary Commission (LBC) from amending or conditioning an incorporation petition. This provision appears to be within the power of the legislature to adopt under Art. X, secs. 3 and 7 of the state constitution. Sec. 3 provides that methods for organizing boroughs "shall be prescribed by law." Sec. 7 provides that the manner for incorporating cities is "prescribed by law."

**Sec. 2.** This requires a public hearing and voter approval in an area proposed for borough incorporation before the LBC may submit the incorporation proposal to the legislature under Art. X, sec. 12. While Art. X, sec. 12 is worded broadly and permits the LBC to consider "any proposed local government boundary change," the authority of the LBC to present a borough incorporation to the legislature under this constitutional section has not been tested in court. If the court ultimately concludes that the LBC does have independent constitutional authority to present a proposed borough incorporation to the legislature under sec. 12, it is quite possible that the court will find that the legislature cannot condition that authority on voter approval of that incorporation. The court has noted generally that the power granted to the LBC under the state constitution is precisely to ensure state level decisions are made with respect to local boundaries rather than local decisions. (Port Valdez Co. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); City of Douglas v. City and Borough of Juneau, 484 P.2d 1040 (Alaska 1974)) In addition, the legislature has a remedy if it disagrees with a LBC proposal. Under sec. 12 it may reject that proposal, and this rejection is not subject to veto or appeal.

**Sec. 3.** This makes the standards and procedures adopted by the LBC for various municipal changes subject to standards and procedures for those changes that have been adopted by law. This provision appears to be consistent with Art. X, sec. 12 to the extent it applies to local action changes. The last sentence of that section states, "The commission or board [LBC], subject to law, may establish procedures whereby

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boundaries may be adjusted by local action." It is unlikely that this provision of statute, if enacted, would apply to restrict procedures for proposed boundary changes the LBC submits to the legislature under the independent constitutional authority contained in sec. 12. If the LBC may present a proposed borough incorporation under sec. 12, the proposed borough must satisfy standards "provided by law," including those enumerated in Art. X, sec. 3.

**Sec. 4.** The applicability section contains the same issues raised in the other sections of the bill.

TBC:med  
05-131.med

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## REPRESENTATIVE JOHN COGHILL

### HB 133 Local Boundary Commission SPONSOR STATEMENT

Sponsor Substitute for House Bill 133 makes three changes in the way the Local Boundary Commission deals with municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution.

This legislation protects the voters' right to incorporate, outline the boundaries, and select the levels of service. The Local Boundary Commission will no longer be able to amend the petition or impose conditions on the incorporation.

Also we will add a provision that requires at least one public meeting and voter approval by a majority of the votes cast in an election before the Local Boundary Commission can take a proposal directly to the legislature.

Finally, AS 29.06.040(c)(1) requires a proposed annexation to be approved by a **"majority of the votes on the question cast by voters residing in the area proposed to be annexed"**. The Local Boundary Commission has a regulation that expands that requirement to "an aggregate vote of the people in the borough and the people in the area to be annexed." This is a requirement above and beyond what the legislature had in mind and dilutes the voting rights of those voters in the area to be annexed.

This legislation is about fairness, preserving a representative form of government, and making sure that laws implemented by non-elected servants of government through regulation do not extend beyond the laws implemented by elected legislators.

## **Prepared Remarks to the Alaska State House Committee on Community and Regional Affairs**

**Bob Hicks, -Vice-Chair, Local Boundary Commission  
February 24, 2005**

### **Regarding Sponsor Substitute for House Bill Number 133**

Thank you Mr. Chairman and members of the Committee;

Commissioner Hargraves referred to me in the present tense as an attorney who specializes in municipal law. I like to characterize myself as "a recovering lawyer." I left that 30-year career in 2001, and now I enjoy a much more physical and exciting life as the dive officer for the Alaska SeaLife Center here in Seward. I spend my days now trying to convince lawyer colleagues that there really is life after the law.

But every once in awhile, we recovering lawyers suffer lapses, so I hope you'll please forgive me for talking law for a few minutes today.

Let me first say that SSHB 133 is certainly a radical swing from prior Legislatures.

Five of the seven of you on this Committee come from Boroughs that were mandated by an Act of the Legislature in 1963: Kenai Peninsula, Greater Anchorage, Kodiak Island, Matanuska-Susitna Valleys, Greater Ketchikan, Greater Juneau, Greater Sitka and Greater Fairbanks.

Your constituents pay local property taxes. Your constituents are required to pony-up a substantial contribution to local public education costs in your region.

I presume that, in representing your constituents, you want to spread their tax burden equitably and fairly around the state. I also presume that, in representing your constituents, you want to increase their State subsidy of public education wherever possible, both to improve their local education and to reduce their tax burden.

If that is your mindset, then you should vote against passing SSHB 133 out of Committee.

But I think there is a more noble reason to vote against SSHB 133. This Bill is a patently unlawful attempt to change the Alaska Constitution by statute. It is a figurative slap in the face for the Framers of our Constitution, who devoted many months and much hard study to the development of standards and procedures for local governments. If there are going to be any changes to that work effort, there should be much more thought and deliberation put into that process than what we see in SSHB 133.

Section 1 of SSHB 133 prohibits the Local Boundary Commission from amending or imposing conditions on a petition to incorporate a city government or a borough government.

If that were the law, then why would the LBC ever even hold a public hearing on a petition? Under the provisions of this Section, no matter what the citizens might suggest as a needed change in the new corporation, the LBC could not make that change – howsoever small it might be. The petitioner prevails – all or nothing – and every respondent with constructive changes goes unheard. There is not even a shadow of democracy in such a process.

By contrast, let's look at the scenario created by the Framers of our Constitution:

Article X, Section 12 says, very clearly and very simply, "The commission or board may consider any proposed local government boundary change."

SSHB 133 would purport to change this constitutional provision to read, instead, "The commission ... may consider only the proposed local boundary change in the petition, and nothing more or less, and nothing different."

I submit to you that such a change is totally contrary to the intent of the Delegates to the Alaska Constitutional Convention, as reflected in their Minutes: and that such a change flies in the face of the plain English meaning of Article X, Section 12 of the Constitution that we are all sworn to uphold.

Section 2 of SSHB 133 says that the Local Boundary Commission cannot submit a proposed incorporation of a borough for legislative review unless voters in the proposed area have first approved that corporation.

Why bother to submit the incorporation to the Legislature for review, if the local voters have already approved it?

SSHB 133 purports to totally gut the constitutional concept of two distinct methods for boundary changes: "legislative review" and "local action."

By contrast, Article X, Section 12 provides a very specific procedure for legislative review of a proposed change, and it conspicuously does not say that this procedure can be changed by law.

Article X, Section 12 then provides a very general statement, that the Commission can establish procedures for local action elections – which pointedly are "subject to law."

Where the Constitution describes a very specific procedure for legislative review, and pointedly does not authorize that procedure to be changed by law, and where the Constitution then authorizes a local action process that specifically is subject to legislation, SSHB 133 cannot gut the first process by superimposing upon it the second process. No legislation can change our Constitution.

If SSHB 133 was enacted as written, and if statutes could change our revered Alaska Constitution, then SSHB 133 amends Article X, Section 12 to read, in effect:

“The Commission may no longer consider “any” proposed change, but shall consider only the exact boundary change described in a petition, without regard for glaring errors and omissions, and without regard for the advise and opinions of anyone else in the affected community. Local action and legislative review are hereby merged as one procedure. The Commission may not present proposed changes to the legislature during the first ten days of any legislative session, unless the proposed changes have first been approved by the voters in the affected area.”

This Bill says to your constituents in boroughs, the Alaska Legislature is going to obstruct and delay any effort to equalize your tax burden with contributions from similarly populated areas of the Unorganized Borough.

There is a lawful process, for changing standards and procedures in our Constitution. But SSHB 133 is not the way to do it. This Bill throws to the wind months of study and contemplation by the Framers of our Constitution. This Bill attempts to change our Constitution by legislative fiat.

I submit to you, that SSHB 133 is patently unconstitutional, and I trust and believe that no self-respecting member of the Alaska Bar will tell you otherwise.

## **Prepared Remarks to the Alaska State House Committee on Community and Regional Affairs**

**Darroll Hargraves, Chair, Local Boundary Commission  
February 24, 2005**

### **Regarding Sponsor Substitute for House Bill Number 133**

Thank you Mr. Chairman, members of the Committee. For the record, my name is Darroll Hargraves; I serve as Chair of the Alaska Local Boundary Commission. I am testifying this morning from Dillingham.

Also participating by teleconference this morning is Bob Hicks, Vice-Chair of the Local Boundary Commission. Commissioner Hicks is an attorney who has practiced law in Alaska for more than three decades. He specializes in municipal law. During his distinguished career, Commissioner Hicks frequently represented municipalities regarding matters involving the Local Boundary Commission.

I am going to address policy concerns regarding HB 133. Following my testimony, Mr. Chairman, I will ask that you allow Commissioner Hicks to briefly address additional concerns regarding the legislation.

The Department of Commerce, Community, and Economic Development, which serves as staff to the LBC, has prepared a bill analysis setting out the effects of the bill. Dan Bockhorst, representing that agency, is available at the Anchorage teleconference site to answer questions. I have asked Mr. Bockhorst to provide a copy of my prepared remarks to the staff of the Community and Regional Affairs Committee.

As noted in the bill analysis, Section 1 of the bill expressly prohibits the LBC from amending and imposing conditions on a petition to incorporate city governments and borough governments. To remove such authority would render the incorporation of city and borough government particularly rigid proceedings. A petition could only be approved or denied.

If there were a fatal error in a proposal – for example, a borough assembly apportionment plan that does not meet the equal representation provisions of the State and U.S. Constitutions – the LBC would have no alternative but to deny the petition. Under existing law, the petitioners would be precluded from resubmitting a substantially similar proposal for two years.

Experience has clearly demonstrated that flexibility is needed in carrying out the duties of the LBC. That is why the legislature has long provided express statutory authority for the Commission to amend and impose conditions for all

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matters that come before the LBC. That includes proposals for city reclassification and each of the six fundamental boundary changes that come before the LBC (incorporation, annexation, detachment, dissolution, merger, and consolidation).

Section 1 of the bill would impose great obstacles with regard to city and borough incorporation proposals. Additionally, as Commissioner Hicks will discuss shortly, we believe that Section 1 has substantial legal flaws.

Section 2 of the bill would only allow the LBC to submit a legislative review borough incorporation proposal if the voters of the area first approved the proposal.

The framers of Alaska's Constitution expressed a preference for voluntary borough incorporation. The LBC shares that preference. However, those who wrote our Constitution recognized that the State could compel a region to incorporate if that region had the administrative and fiscal capacity to do so, but took no initiative to organize. (*See: Borough Government in Alaska*, Thomas Morehouse and Victor Fischer, p. 61 - 62 (1971).

In 1963, the State Legislature established a clear policy that areas with the capacity to organize must do so. The 1963 Legislature mandated boroughs encompassing eight regions and more than 80 percent of all Alaskans. Voters in those eight regions were given no choice as to whether they would organize.

Nine years later, the State Legislature instituted a similar policy by mandating that every second-class city with at least 400 residents be reclassified, without a vote, to first-class city status. First-class cities in the unorganized borough have the same duties and obligations as boroughs. Thus, the effect of the 1972 Act was similar to the 1963 Mandatory Borough Act.

Section 2 of SSHB 133 represents a clear reversal of the legislative policies of 1963 and 1972. If the Legislature now chooses to annul those long-standing policies, it could generate fundamental questions of fairness among the 84 percent of Alaskans that today live in boroughs that were formed under the 1963 Mandatory Borough Act. The same issue exists with regard to residents of cities in the unorganized borough that were reclassified without voter approval by the 1972 Mandatory City Reclassification Act.

Section 3 of the bill is apparently intended to nullify the aggregate voter method of annexation. That method was established by the LBC under its constitutional authority to "establish procedures whereby boundaries may be adjusted by local action" (Article X, Section 12, Constitution of the State of Alaska) and the

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Commission's statutory duty to do so.<sup>1</sup> It is unclear, however, whether Section 3 of the bill actually accomplishes that end.

The aggregate voter method of annexation provides local governments and residents additional tools to seek boundary changes. Some local governments and some local residents prefer that method to others. If that option is eliminated, petitioners will likely rely on the legislative review method of boundary change, which provides for no local vote.

Section 4 of the bill nullifies any proposal pending before the LBC that does not comply with the new terms of this bill. As noted, I have questions whether Section 3 actually accomplishes what it is apparently intended. Moreover, a petition for annexation using the aggregate voter method is currently pending before the LBC. I question whether Section 4 runs afoul of the prohibition in Article I, Section 15 of our Constitution that prohibits the passage of any ex post facto law.

That concludes my prepared remarks. If you have questions, I would be happy to try to address them. Again, Mr. Chairman, I would ask you to allow Commissioner Hicks to address this bill.

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<sup>1</sup> AS 29.06.040(c) provides that, "the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include [but are not limited to] a provision that (1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached; (2) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and (3) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body."

As reflected in the bracketed text above, AS 01.10.040(b) states, "When the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.' "

## Article X

state law (see also *Simpson v. Municipality of Anchorage*, 635 P.2d 1197, Alaska Ct. App., 1981; and *City of Valdez v. State*, 793 P.2d 532, 1990).

Conflict or inconsistency of an ordinance with a state law is not necessarily fatal, provided the ordinance deals with a matter of purely local concern rather than statewide concern. Thus, for example, the court upheld the leasing ordinance of a home-rule city against its alleged inconsistency with state law (*Lien v. City of Ketchikan*, 383 P.2d 721, 1963; contrast *Foreman v. Anchorage Equal Rights Commission*, 779 P.2d 1199, 1989; see also *Acevedo v. City of North Pole*, 672 P.2d 130, 1983.)

Article II, Section 19, which prohibits "local and special legislation," protects home-rule and other municipalities from selective intervention in their affairs by the legislature and serves the constitutional objective of providing "maximum self-government."

### 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.**

Through the local boundary commission created in this section, the convention delegates sought a mechanism to bring flexibility and adaptability to local government structures in Alaska. In their view, a major failing of municipal government in the older states was the rigidity of boundaries: city, county, and other jurisdictional lines could not, as a practical matter, be modified to respond to changing governmental needs and opportunities. They wanted to remove boundary decisions from the parochial perspective of local politics. In the words of the local government committee, this scheme allows boundary decisions to be made "at a level where areawide or statewide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively."

The local boundary commission is a five-member body appointed by the governor. It is part of the Department of Community and Economic Development (see AS 44.33.810). The department serves as staff to the commission. The local boundary commission may propose boundary changes, subject to a legislative veto. (See AS 44.33.810-812.)

The term "boundary change" in this section refers to changes in established boundaries such as through annexation and detachment, not to the creation of new cities and boroughs through incorporation. Although the local boundary commission plays a key role in new incorporations, it does so through authority conferred on it by the legislature under Sections 3 and 7 of this article (which say that cities and boroughs may be incorporated, merged, consolidated, classified, or dissolved in the manner provided by law). The supreme court ruled that the local boundary commission's approval of the incorporation petition of the North Slope Borough was not subject to legislative approval because the statutes governing incorporation did not require it (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 1974).

Boundary changes that result from annexation may involve the dissolution of an existing unit of government. In such cases, approval of the annexation by the local boundary commission, if it survives legislative scrutiny as provided here, is decisive, even if existing statutory procedures regarding dissolution required ratification by the voters of the dissolved governmental unit. (See *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 1962, which involved the dissolution through annexation of a public utility district without ratification, and *Oesau v. City of Dillingham*, 439 P.2d 180, 1968, which involved the dissolution through annexation of a fourth-class city without ratification by voters of the fourth-class city.)

The local boundary commission considers proposals for local government boundary changes requested of it by the legislature, the commissioner of the Department of Community and Economic Development, or a political subdivision of the state. Thus, for example, the local boundary commission considered and approved a request by the commissioner of the department for detachment from the North Slope Borough of the mineralized zone around the Red Dog mining property. This detachment was critical to the success of the proposed Northwest Arctic Borough, incorporation of which the commission also approved. The local boundary commission also considers boundary changes submitted by a petition of local residents.

The legislative veto over decisions of the local boundary commission is one of two explicit authorizations of the legislative veto in the Alaska Constitution (see Article III, Section 23; also see Article IV, Section 15). Here the veto requires a majority of both houses acting separately rather than a majority voting in joint session. Decisions by the local boundary commission have occasionally been rejected by the legislature. For example, in 1989 the legislature rejected the proposed annexation by the Fairbanks North Star Borough of Pump Station 7 on the trans-Alaska pipeline (Legislative Resolve No. 6).

Statutory provisions governing incorporation and alternation of municipalities are AS 29.05 and AS 29.06.

## Central Issue

### Can a Borough be legally created using the present LBC sponsored process involving Valdez?

Whittier City Council submitted a request for a Borough petition to the LBC. The LBC approved the request and asked the Department of Commerce and Economic Development to draw it up.

Standard public hearings are not available during these phases of the process.

Once the petition is completed it is submitted to the LBC.

If the LBC accepts it, public hearings begin.

If the LBC may approve or amend the petition.

Once it is approved it is law, unless the Legislature overturns it.

### Questions:

- 1) How does this process involving Valdez differ from the standard procedure?
- 2) Is the public as involved in the new process?
- 3) Is the legislature able to weigh in the same way in the new process?
- 4) Does the LBC have the authority to use this new process?
- 5) Does the legislature have the authority to establish a different process?
- 6) How restrictive can the legislative changes be?
- 7) How has the LBC changed its regulations to establish the new process they are using?
- 8) Who instigated these changes and why?
- 9) Has the LBC ever used this process, or originated any other to create a Borough?
- 10) Why aren't the standard procedures sufficient to establish a Borough?
- 11) Who in the legislature has encouraged the LBC in any way to use this option?

**3 AAC 110.210. Local action**

Territory that meets the annexation standards specified in 3 AAC 110.160 - 3 AAC 110.195 and has been approved for local action annexation by the commission, may be annexed to a borough by any one of the following actions:

- (1) borough ordinance if the territory is wholly owned by the annexing borough;
- (2) borough ordinance and a petition signed by all of the voters and property owners of the territory;
- (3) approval by a majority of voters residing in the territory voting on the question at an election;
- (4) approval by a majority of the aggregate voters who vote on the question within the area proposed for annexation and the annexing borough;
- (5) approval by a majority of the voters who vote on the question within the annexing borough if the territory is uninhabited.

Sec. ~~29.06.040~~. Local Boundary Commission.

(a) The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 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.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include a provision that

(1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

(2) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time.

## Rynniva Moss

---

**From:** Dan Bockhorst [dan\_bockhorst@commerce.state.ak.us]  
**Sent:** Friday, January 21, 2005 4:31 PM  
**To:** Rynniva Moss  
**Subject:** Re: 3 AAC 110.210 (4) Local Action

Ms. Moss: Your reading of 3 AAC 110.210(4) is correct. The method set out in 3 AAC 110.210(4) allows annexation upon approval by (1) the Local Boundary Commission and (2) a majority vote of the combined voters both in the borough and in the area proposed for annexation.

You questioned whether such provisions are inconsistent with AS 29.06.040(c)(1). I do not believe that they are.

First, AS 44.33.812(a)(2) provides that, "The Local Boundary Commission shall adopt regulations providing standards and procedures for . . . annexation . . ."

Moreover, AS 29.06.040(c) requires that the LBC "establish procedures for annexation . . . by local action" that are "in addition to the regulations adopted under AS 44.33.812."

In full, AS 29.06.040(c) states:

In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include [but are not limited to\*] a provision that

- (1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;
- (2) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and
- (3) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

X Additionally, Article X, Section 12 of the Alaska Constitution provides, in part, that "The [Local Boundary Commission], subject to law, may establish procedures whereby boundaries may be adjusted by local action."

Thus, the LBC has constitutional authority and a statutory duty to establish procedures for local action annexation in addition to those procedures set out in AS 29.06.040(c). To fulfill that duty, the LBC adopted 3 AAC 110.210(4) and other measures.

In the sense that a borough annexation involves the perfecting of boundaries of an existing borough, a proposed annexation under 3 AAC 110.210(4) is analogous to the local action process for incorporation of a new borough. Incorporation of a borough by local action is subject to

- (1) approval by the Local Boundary Commission and (2) a majority vote of all voters within the boundaries of the proposed borough. A borough incorporation proposal is not subject to a majority vote in each of several different portions of the proposed borough. Similarly, a borough annexation under 3 AAC 110.210(4) is subject to a majority vote within the boundaries of the proposed expanded borough. It is not subject to a majority vote in the area proposed for annexation.

If you wish to discuss this matter or if you have further question, please contact me.

Cordially,

Dan Bockhorst  
269-4559

\*AS 01.10.040(b) states that, "When the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not

limited to.' " AS 01.10.050(b) provides that "Words in the singular number include the plural, and words in the plural number include the singular."

Rynniewa Moss wrote:

- > Am I reading 3 AAC 110.210.Local action subsection (4) wrong. It says
- > a territory can be annexed upon "approval by a majority of the
- > aggregate voters who vote on the question within the area proposed for
- > annexation and the annexing borough."
- > That seems to read a majority vote of the combined voters both in the
- > borough and in the territory proposed for annexation.
- > Such a vote would be inconsistent with AS 29.06.040(c)(1) which states
- > " a proposed annexation and detachment must be approved by a majority
- > of votes on the question cast by voters residing in the area proposed
- > to be annexed or detached."
- > It would certainly diminish the vote of an area with 700 or 800 voters
- > when the existing borough would have tens of thousands of voters.
- > Please clarify.

## A VOICE FOR THE BUSH

By Glen Marunde, Tok kResident

"It's Government for rabbits"

*Testimony for HB 133*

Two of Alaska's most respected elder statesmen, both of whom played important roles in the framing of Alaska's State Constitution, are on record as opposing the formation of large boroughs in the Unorganized Borough.

Elder statesman, Judge Thomas Stewart, now living in Juneau, was the chief organizer of the original constitutional convention. Judge Stewart served as the secretary of the convention.

On February 13 and 14, 1996 The Local Boundary Commission hosted a seminar entitled "A Review of the Local Government Article of Alaska's Constitution Forty Years after it was Written" The seminar took place in Juneau. Judge Stewart was invited to participate as an expert on the Local Government Article X of the Alaska Constitution.

Here are Judge Stewart's comments quoted from a transcription of the meeting. Near the end of the meeting, Judge Stewart said, "My strong thought is that the Legislature, the Governor, and the Department and the Commission have failed to give weight to that word (local). And too many of the boroughs that have been formed are regional in nature, and in my judgement never should have been. If there are taxable properties out there like Prudhoe Bay, they should have been in an unorganized borough administered by the State. Barrow has no business managing Prudhoe Bay ---that they never used. It's regional in my judgement. And you should confine the boundaries down to the land surface that the local people have traditionally used that have those characteristics of population, geography, economy, transportation that are local. The word "local" has not been adequately recognized."

Bob Hicks "You say the word "local" for boroughs should be very, very small equivalent of a small county, shouldn't be that expansive?"

Judge Stewart, "Absolutely!"

Alaskan elder statesman, Lt. Gov Jack Coghill, in a recent interview with

"A Voice for the Bush" commented on SCR-12, the bill that could force a layer of unwanted and unneeded borough government on citizens of the Unorganized Borough, without the vote of any person answerable to an electorate.

Lt. Gov Coghill, who was a framer for our constitution said, " We wanted to be sure that the power to form government was in the people, not the Legislature. It is unconstitutional for the Legislature or the Local Boundary Commission to impose a government on anyone. Just read Article 1, Section 2 of our State Constitution. It's all right there!"

Here's what Article 1, section 2 says, "All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole."

Coghill stressed that framers intended no timetable what-so-ever for the establishment of local governments. He said that the framers thought there would be areas of unorganized borough forever. That is why the framers gave the Legislature the power to act as an assembly for the Unorganized Borough. They did not want an unnecessary layer of regional governments on top of local governments.

Coghill also explained that when the framers gave authority to the Local Boundary Commission to study boundary changes and make recommendations to the Legislature that could become law without a vote of the Legislature they intended this third party authority to be used only to resolve boundary disputes involving annexations, detachments, and other disputes between existing local governments. The framers never intended for the Local Boundary Commission to use this authority to establish or force new local governments on the residents of the unorganized borough.

Like Judge Thomas Stewart, Coghill thinks some of the existing boroughs are far too large and are really regional, not local, in nature.

Lt. Gov Coghill summed up his feeling about large, unnecessary boroughs in just four words when he said, "It's government for rabbits."

*Glenn Maruende*  
*Box 192 Tok, Alaska 99750*  
*March 2-2005*

## *Testimony for HB 133*

### **JUST HOW ORGANIZED IS THE UNORGANIZED BOROUGH??**

My name is Glen Marunde and I am a 44 year resident of Tok. My wife, Dorothy, and I have raised 5 children in Alaska. I earn my living as an electrical and mechanical contractor.

There are 148 cities in Alaska. These are cities with state charters, formed in accord with Alaska statute. In the organized borough there are 7 home rule cities, 7 first class cities and 34 second class cities for a total of 48 cities.

In the unorganized borough there are 5 home rule cities, 13 first class cities, and 80 second class cities for a total of 98.

Most Alaskans are surprised to learn that there are nearly twice as many cities in the unorganized borough as there are in the organized borough. In truth there already is a lot local government in the Unorganized Borough!!

Unfortunately there exists a small group of politicians who want to force a layer of unwanted and unneeded government on large, sparsely populated areas of the Unorganized Borough by mandatory annexation and/or the mandatory creation of new boroughs—even if those Alaskans who live in these areas do not vote in favor of such government.

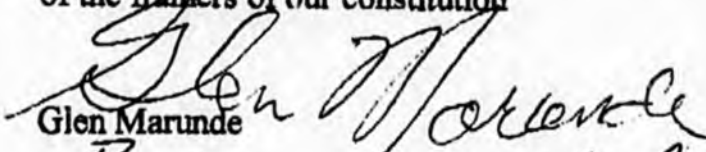
The sad thing is that these politicians are not promoting borough government because it is the best and most logical government for communities in the bush. City government, not borough is the closest to the people. These bureaucracy-loving politicians are using mandatory boroughs as a vehicle to tax the bush with nary a concern for what is best, most effective, and most efficient.

Let's assume for a minute that those who want wall-to-wall layer of government achieve their goal and all of the model boroughs become legal boroughs. This would mean that all 98 cities in what is now the Unorganized Borough would be saddled with three (the most possible) layers of government with taxing authority overnight. They would be subject to state, borough, and city taxing authority and regulation. The establishment of this unneeded layer of government would be in direct conflict with state constitution.

Article X, section 1 which says, "The purpose of this article is to provide for maximum local self government with a minimum number of local government units and to prevent duplication of tax-levying jurisdictions

The large number of cities in the Unorganized Borough and the ongoing activities to form new boroughs stands as proof the Article X is working as the framers of our constitution intended. C'mon you politicians, It ain't broke so please don't fix it!

I testify in favor of passage of HB133 I believe this bill clarifies the intent of the framers of our constitution

  
Glen Marunde  
Box 192, Tok, Ak 99780  
March 2 - 2005

**City of Ambler**

P.O.Box 09

Ambler, Alaska 99786

Phone (907) 445-2122/Fax (907) 445-2174

E-mail [cityofamblerak@yahoo.com](mailto:cityofamblerak@yahoo.com) <<mailto:cityofamblerak@yahoo.com>>

*\* in NINARTIC BM  
w/ school district*

*3% sales tax*

*AMBLER POPULATION 291*

February 15, 2005

Senator Gary Wilken  
State Capitol Rm. 518  
Juneau, Alaska 99801

*1% sales tax  
PER CAPITA*

<i>*AMBLER</i>	<i>JUNEAU</i>
<i>\$26</i>	<i>\$196</i>

RE: Senate Bill 98 " Supplemental appropriations, Fast Track Bill"

*Revenue each 1%*

<i>\$7,500/yr</i>	<i>\$6,105,000/yr</i>
-------------------	-----------------------

To: Senate Finance Committee,

*Increased value  
Per Capita AV*

<i>\$3.5 million</i>	<i>\$3 Billion</i>
<i>\$12,159</i>	<i>\$99,199</i>

The City of Ambler is very much interested in receiving money from the Governor's Supplemental and Capital Appropriations Bill. We are struggling to keep things running. We had to reduce insurance coverage to a minimum. We dropped our VPO position because we couldn't afford the insurance coverage so we are completely dependent on the state troopers and our one VPSO, which puts a lot of pressure on one person to be available 24/7. Our insurance is one of our highest expenses at over \$22,000 per year. Last year it was over \$30,000. We are struggling to keep up with the insurance payments. We need to raise our 3% sales costs but we won't see any increase in revenues from that for a while and the public needs to vote on that also. There is a high unemployment rate in our village so rising costs are a hardship on everyone.


We need a dependable fuel supply. Our local fuel project runs out every 3-4 weeks and we had to borrow fuel from AVEC from our other buildings and heavy equipment, and haul fuel from other villages to keep our water plant heated. We have 2200 gallon tanks to help us through the scarce times but we need to have a little more storage capacity and also some help in off setting the high cost of fuel. The Borough is trying to work on this problem but right now we could really use some help in meeting the high costs of fuel in our area. Gas is \$5.15 per gallon and stove oil is \$4.95 per gallon.

The costs of keeping our water and sewer plant running and also keeping up with maintenance of our heavy equipment is a challenge. Our heavy equipment rentals brings in necessary revenues during construction projects but the cost in keeping it running keeps going up and maintenance is high, as well as fuel. The cost of shipping in parts for our water/sewer project and heavy equipment, and fuel, etc. is one of the highest in the state, which makes the cost of everything go up more so here than in many other parts of the state. I was told yesterday one resident paid as much as \$1.75 per pound for freight on groceries in order to have something fresh.

Additional revenue at this time would be a God send to our village and would be a huge help to get us thru this difficult time while we figure out other possible options for dealing with our rising expense

Thank you for considering our village for receiving these additional funds. We would greatly appreciate this additional revenue for helping to operate our city at this time.

Most sincerely,



Morgan Johnson-Mayor



Barbara MacManus-Sec/Treas.

cc: file

**CITY OF ALEKNAGIK**

P.O. BOX 33, MAIN STREET  
ALEKNAGIK, ALASKA 99555-0033  
PHONE: 907-842-5953 OR 842-2528  
FAX: 907-842-2107  
EMAIL: [cityalek@nushincl.com](mailto:cityalek@nushincl.com)

*5% sales tax + 5% betax*

*ALEKNAGIK POPULATION 235*

January 27, 2005

Governor Frank Murkowski  
Office of the Governor  
Mail Stop 0001  
Juneau, AK 99801

*1% sales tax  
per capita*

*ALEKNAGIK Kmai Rem Bor  
\$50 \$145*

*1% revenue  
sales tax*

*\$18,700/yr \$7,450,000/yr*

RE: Reinstatement of the Revenue Sharing Program

To the Honorable Governor Murkowski:

The community of Aleknagik, Alaska would like to see the reinstatement of the state's revenue sharing program for municipalities. Many communities in Alaska are hurting financially due to the state's budget cuts for the revenue sharing program and the capital matching grants. A reinstatement of the revenue sharing program would help to provide a minimum of service and public safety to the neediest communities.

The legislators need to look at "level of service" not "dollar amount" in determining equity between the urban and rural communities. The cost of goods and services is higher in rural communities, so their need for funding is greater just to provide basic services. Please look at level of service, not cost, to determine what is equitable.

In response to the budget cuts, the City of Aleknagik has made cuts to its budget, and is working on increasing revenue. The City has a sales tax that does help to fund local government services. In addition, the City has cut back on employee's hours, meeting fees, senior transportation services, non-essentials, defer maintenance, and defer equipment upgrades.

The result of the City's budget cuts is a lower level of services and public safety. That in turn means that the personnel do not have enough time to provide an adequate level of service, and the buildings and equipment are in various stages of disrepair, so the airport is not always open, or the roads are not always maintained. This could be a disaster in the event of an emergency where someone needs to be Medivaced or we need to get a fire truck to someone's house. So if you live in a community where EMS and Fire services are available 24-7-365, remember that these basic services are not always available in the villages.

JOINT RESOLUTION  
RESOLUTION 05-01

A JOINT RESOLUTION OF THE COUNCILS OF THE CITY OF ALEKNAGIK, ALEKNAGIK TRADITIONAL COUNCIL, AND BOARD OF DIRECTORS OF ALEKNAGIK NATIVES LIMITED SUPPORTING REINSTATEMENT OF THE STATE'S REVENUE SHARING PROGRAM FOR MUNICIPALITIES.

WHEREAS, Aleknagik Natives Limited, Aleknagik Traditional Council and the City of Aleknagik executed a Memorandum of Understanding on October 29, 2000 to recognize areas of mutual concern and support, and to establish a framework for cooperative relations and communication for the benefit of the community of Aleknagik as a whole as the desire of the three entities is to cooperate concerning legal and political matters inherent in their relationships to one another; and,

WHEREAS, the City of Aleknagik, Aleknagik Traditional Council and Aleknagik Natives Limited are representative of the community and are hereafter known as "The Councils"; and,

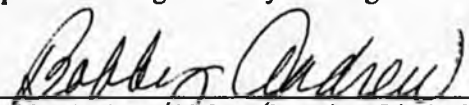
WHEREAS, due to fiscal problems for cities since the revenue sharing program was cut from the state budget, The Councils see a need to reinstate the state's revenue sharing program for municipalities; and,

WHEREAS, the recent state oil revenue "windfall," should be shared with communities to offset negative fiscal impacts. The increased oil revenue benefits the state, while local governments, businesses, and families are effected with higher prices for heating fuel and transportation.

NOW THEREFORE BE IT RESOLVED that The Councils support the reinstatement of the state's revenue sharing program for municipalities using the state's budget windfall as a source of funding to get it started.

BE IT FURTHER RESOLVED that the Governor and Legislature are urged to restore the revenue sharing program funding as a part of the long-range fiscal plan for the state.

PASSED AND APPROVED on the 20th day of January, 2005 by a duly constituted quorum of the Council of the City of Aleknagik, the Aleknagik Traditional Council and Board of Directors of Aleknagik Natives Limited at a public meeting hosted by Aleknagik Natives Limited.

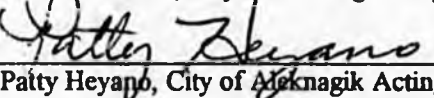
SIGNED:   
Bobby Andrew, Aleknagik Natives Limited President

ATTEST:   
Nina Tinker, Secretary, Aleknagik Natives Limited

SIGNED:   
Gusty Chythook, Aleknagik Traditional Council Chair

ATTEST:   
Kay Gorman, Secretary, Aleknagik Traditional Council

SIGNED:   
Berna Andrews, City of Aleknagik Mayor

ATTEST:   
Patty Heyano, City of Aleknagik Acting City Clerk



# City of Brevig Mission

North Tutu Street  
Brevig Mission, Alaska

99785-5021

Phone/Fax (907) 642-3851



February 18, 2005

Attn: Senator Donald Olson  
State Capital  
Suite 510  
Juneau, Alaska 99801-1182

3% sales tax population 3/3

1% sales tax = \$31.69  
per capita

Revenue each 1% = \$9,927

Dear Senator Olson:

Greetings! I am writing to express my support for Governor Frank Murkowski's Supplemental and Capital Appropriations Bill. As Mayor for the City of Brevig Mission I support the section of the bill that addresses "Small City Energy Assistance" and the Governor's effort to provide assistance and avoid the growing crisis in rural communities such as Brevig Mission.

However, I also want to express continued support for a long-term solution such as "Community Revenue Sharing." We need such assistance to operate and maintain insurance, water & sewer services, and emergency services such as fire protection & search and rescue. The City of Brevig Mission is that "Point of Light" in this community that connects it to the support and services that the State of Alaska is seeking to provide to its citizens. Therefore, it is my hope that you will beseech the Senate Finance Committee on behalf of the Community of Brevig Mission saying, "Don't let the light go out!"

Thank you for your efforts to represent our community on this important issue.

Sincerely:

Brian Crockett  
Mayor, City of Brevig Mission

Cc Governor Frank Murkowski  
Cc State Representative Richard Foster  
Cc Alaska Municipal League

CITY OF CLARKS POINT  
P.O. BOX 110  
CLARKS POINT, ALASKA 99569  
PHO. (907) 236-1221  
FAX (907) 236 1412

FEBRUARY 15, 2005

TO THE SENATE FINANCE COMMITTEE;

HELLO, WE ARE WRITING THIS LETTER TO EXPRESS OUR CONCERNS  
TOWARDS THE "SMALL CITY ENERGY ASSISTANCE" BILL.  
WITH THE LOSS OF THE REVENUE SHARING AND OTHER CUTS, US SMALL  
COMMUNITIES ARE BARELY MAKING IT. THE HIGH COST OF FUEL TO HEAT  
AND PROVIDE ELECTRICITY TO RESIDENTS IS GETTING CRUCIAL.  
SO WE ARE 100% IN FAVOR OF YOUR PASSING THE "SMALL CITY ENERGY  
ASSISTANCE" APPROPRIATION.  
THIS WILL HELP US MAKE IT THROUGH ANOTHER YEAR.

THANK YOU,

THE CLARKS POINT CITY COUNCIL

**CITY OF DEERING***Small City Energy Assistance appropriation*

The money appropriated from the Small City Energy Assistance would help the City of Deering's costs with high cost of fuel and the increase of our insurance for 2005 year. Our community has been impacted by the State Revenue Sharing Budget cut, the City has had to cut down on 2 jobs at the City Office, 3 jobs at the Washeteria due to no funding to pay for such, also the fuel costs has gone up this year, which is effecting the whole community.

**State Revenue Sharing:**

<b>City of Deering W. State Revenue</b>	<b>Current w/o State Rev</b>
Budget: \$325659.00	Budget: \$264497.00
Profit/Loss: \$12384.00	Profit/Loss: - \$48778.00

*Our community facilities has had to have a budget cut in all areas, which includes the City Office which is in need of an Administrator and the facilities in need of repair, the Cable which is in need of upgrades/repair, the Washeteria which is in need of two certified operators for the safety and health of our community water, a attendant to run the Washeteria on a daily basis and the upgrades that need to be done on our sewer system in order to have safe water to deliver to our community.*

**Submitted by:**

  
Beverly Moto, City Clerk



# City of Delta Junction

P.O. Box 229, Delta Junction, Alaska 99737  
Ph 907-895-4656 Fax 907-895-4375  
www.ci.delta-junction.ak.us  
city@ci.delta-junction.ak.us

Welcome to the  
Friendly Frontier

February 15, 2005

Attention: Alaska Municipal League / Alaska Senate Finance Committee

REF: Hearing on Governor's Supplemental and Capital Appropriations Bill

SUB: "Small City Energy Assistance"

Currently Diesel Fuel at the pump costs \$2.17 while in Fairbanks that price is \$2.01 per gallon and regular gasoline is \$2.19 in Delta Junction with Fairbanks prices at \$1.96 to \$2.03 per gallon. It was reported last week that gasoline in Anchorage could be brought at \$1.76 per gallon.

The small population centers in the State of Alaska could use the Governor appropriation to help defray the increase costs in shipping, insurance, and energy these past several years.

The City of Delta Junction has experienced large increases in operational costs.

HEATING OIL IS UP 51%.  
DIESEL FUEL IS UP 38%.  
GASOLINE COST IS UP 24%  
ELECTRICITY IS UP 8%.

The above costs are increases for the local area. They are not compared with other metropolitan sites in the State of Alaska.

Other costs increases have been in insurance - health, general liability, worker compensation.

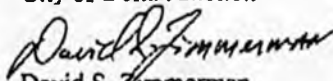
Health insurance costs for a single person increase 15.53% in FY 2004 and up again 10.25% in FY 2005. Family insurance coverage increases 15.52% in FY 2004 and was up 14.20% in FY 2005.

General Liability insurance costs were up 52% for FY 2004 but favorable down 19% for FY 2005. This is the only costs showing a decrease.

Worker Compensation insurance overall average a 27% increase for FY 2005.

Therefore, the City of Delta Junction with a population base under 1,000 people, the Governor "Small City Energy Assistance" appropriation would be greatly appreciated.

Sincerely,  
City of Delta Junction

  
David S. Zimmerman  
Finance Officer

CITY OF EEK  
P.O. BOX 09  
EEK, ALASKA 99578  
PHONE # 907-536-5129

DATE: FEBRUARY 14, 2005

TO: THE SENATE FINANCE COMMITTEE

RE: MAYOR TERESA JACKSON, CITY OF EEK

RE: SUPPLEMENTAL APPROPRIATION FOR SMALL COMMUNITIES

TO WHOM IT MAY CONCERN, WE, THE CITY OF EEK, ARE REQUESTING THAT THIS BILL BE PASSED, SINCE IT IS NEEDED BY ALL COMMUNITIES IN RURAL ALASKA. IF THIS DOES NOT PASS, SMALL COMMUNITIES, LIKE EEK, WILL HAVE MAJOR PROBLEMS, WITH REGARDS TO STABILITY, FOR SERVICES PROVIDED TO COMMUNITY. WITHOUT AID FROM THE STATE, MANY OF OUR SERVICES WILL BE CUT IN THE NEXT FISCAL YEAR, WHICH WILL BE IN ABOUT 4 MONTHS. IN THE LAST COUNCIL MTG, CUTS WERE DISCUSSED, IN THE AREA OF POLICING, CUSTODIAL AND ROAD MAINTS. MOST OF THE EMPLOYEES, ALREADY, WORK LESS HOURS, THAN NORMAL. PRESENTLY WE HAVE ONE VILLAGE POLICE OFFICER THAT WORKS 6 HOURS PER DAY, WHICH WILL BE CUT TO 3 HOURS PER DAY, IN THE NEXT FISCAL YEAR. IN THE PAST THE CITY HAD 2 POLICE OFFICERS THAT WORKED 6 HRS A DAY BUT DUE TO CUTS TO STATE REVENUE SHARING, WE NOW HAVE ONE, WHICH LEAD TO A HIGH TURNOVER RATE FOR POLICE PERSONNEL. SINCE JULY OF LAST YEAR, THE CITY HAD REPLACE VPO'S THREE TIMES IN THAT SPAN. NONE OF THEM WERE NEVER FIRED, ALL QUIT STATING, THAT IT IS TOO HARD TO WORK ALONE. WE, THE EEK CITY COUNCIL, FEEL ANY CUTS TO OUR PRESENT WORK FORCE WILL CRIPPLE OR HINDER SERVICES THE CITY PROVIDES TO THE COMMUNITY. PLUS, THE HIGH COST OF FUEL AND FREIGHT COST SHOULD BE CONSIDERED BY YOU, THE COMMITTEE, IN MAKING YOUR DECISION. ANOTHER ASPECT TO CONSIDER IS THE SITUATION IN CHEVAK, AK, THERE WILL BE A NUMBER OF COMMUNITIES THAT WILL HAVE THE SAME PROBLEMS, IF THIS BILL IS NOT PASSED BY YOUR COMMITTEE. A STATE OF EMERGENCY IS ON THE HORIZON FOR RURAL ALASKA, IF THIS BILL IS NOT CONSIDERED OR PASSED BY YOU THE COMMITTEE.

SIGNED:

*Teresa Jackson For*  
TERESA JACKSON, MAYOR

*Signed by Elias Keyes  
Vice Mayor*

# CITY OF FORT YUKON

INCORPORATED 1959

Post Office Box 269

Fort Yukon, Alaska 99740

Telephone (907) 662-2479 or 2379

Senate Finance Committee  
State of Alaska  
Juneau, AK

February 18, 2005

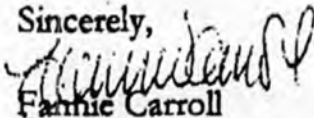
Dear Senator,

Much of our budget has to go towards the extreme high cost of heating fuel, which is necessary to keep our water system working. Yes, our lifestyle has improved since we have had piped water, yet this system is expensive to operate to prevent the pipes from freezing for the water lines must be continuously circulating. Because we are a remote village the fuel cost is high. We need the State to assist us so we can continue with a healthy lifestyle. This is clearly a priority for us.

Also, the increase cost of our insurance has not been easy for us to meet as well. We need the State to supplement our increased expenses which are mandatory to operate.

We, the City of Fort Yukon, are proud to be a part of this great strong state. Please help our community as the loss of the State Revenue Sharing has hurt us to meet needs. Again, we ask for your support on the Governor's Supplemental and Capital Appropriations Bill which includes the Small City Energy Assistance.

Sincerely,



Fannie Carroll

City Manager

Cc: file, AML



**City of Gustavus**  
P.O. Box 1  
Gustavus, AK 99826  
Phone: (907) 697-2451

February 16, 2005

Senate Finance Committee  
Juneau, Alaska


Distinguished Members,

As the mayor of the first community to incorporate in Alaska in at least 19 years, and the community with possibly the highest electrical rates in the United States, I can assure you that any monies directed our way will be used to offset the cost of utilities in the community.

The hydroelectric project in Gustavus has been a work in progress for more than a decade. The reason it has moved forward is due to its ability to pay for itself, but unfortunately, at no reduction in rates to the end user. Only by seeking out grants and putting money like this into the project will the community of Gustavus be able to enjoy electrical rates more in line with Alaskan communities of like size and circumstance.

As we all know, one of Alaska's means of bringing in additional revenue is tourism. Tourism in Alaska has made a steady decline for the past eight or nine years, regardless of the spin placed on tourism numbers by the cruise industry. Gustavus is one of those areas substantially impacted by the decline. That decline and the loss of revenue sharing have been instrumental in bringing the community to its knees. High fuel costs, high electrical rates and the ever-present dilemma of the community dock keep us in such a state of repression, we fear for the health of this small community. Our incorporation goal is to bring Gustavus back into a positive condition where people will be able to live, work and raise their families without the burden of such a high cost of living rate. We intend to keep our community's needs small, but will be unable to do so without the infusion of these types of assistance.

Respectfully,

  
Sandi Marchbanks, Mayor  
City of Gustavus



**CITY OF HOUSTON**  
office of  
**MAYOR**  
**DALE ADAMS**

**Subject: Levy Property Tax Exemption.**

January 11, 2005

Dear Senator Wilken,

The City of Houston supports a property tax exemption for Seniors and Disabled Veterans. We also feel that the State should reimburse the city. Where this is a mandated exemption by the state, yet the state does not reimburse the local governments.

Some Seniors incomes are high and got the ability to pay property tax. But property taxes and assessments are rising and is leaving seniors with fixed income the inability to continue to afford there homes. The City of Houston is loasing about \$42,000.00 a year which is a lot of money for a small city like Houston.

Thank You,

  
\_\_\_\_\_  
Dale Adams Mayor



## City of Marshall

P.O. BOX 09 • MARSHALL, ALASKA 99585 • (907) 679-6215/6415

February 14, 2005

Co-Chairs: The Honorable Senators Green and Wilken  
Vice Chair: The Honorable Senator Bunde

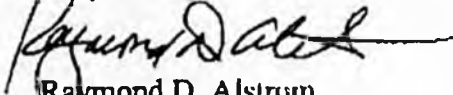
Finance Committee Members:  
The Honorable Senators Dyson, Stedman, Hoffman and Olson

Re: Senate Bill 98 "Supplemental Appropriations, Fast Track Bill"  
"Small City Energy Assistance"

The City Of Marshall's population currently stands at 384 and a distribution of \$50,000 to the City will assist us in purchasing fuel and paying for our insurance costs for the immediate future. The high cost of fuel this year has put the City in a financial crunch. Since the State Revenue Sharing Program was eliminated we have experienced a decrease in services provided to the residents of Marshall.

Thank you for your consideration.

Respectfully,



Raymond D. Alstrom  
Mayor

CC: The Honorable Senator Kookesh  
The Honorable Representative Salmon  
Ms. Kathie Wasserman, AML



**CITY OF MCGRATH**  
PO Box 30  
McGrath, Alaska 99627  
(907) 524-3825 ~ FAX (907) 524-3536  
[cityadmin@mcgrathalaska.net](mailto:cityadmin@mcgrathalaska.net)

February 15, 2005

**Governor's Supplemental and Capital Appropriations Bill  
Small City Energy Assistance**

Dear Members of the Senate Finance Committee:

The City of McGrath is in the same situation as every other small rural community in Alaska. We've had extraordinary fiscal burden thrust upon us from every direction, starting two years ago with a sudden and complete elimination of Revenue Sharing and Safe Communities funding along with the cessation of Capital Matching Grants. At the same time, vendor price increases on diesel and unleaded fuel that is required to keep our basic essential services functioning within our communities, such as electricity, water, sewer, and road maintenance.

Internally, our operating budget was slammed with dramatic increases in Worker's Compensation Insurance, Insurance premiums on our liability, vehicles, buildings and utilities infrastructure also soared. As with many other villages, McGrath is also dependent on shipping everything via air or a few commodities such as fuel by barge. These costs have also risen sharply, adding considerably to every aspect of the living expenses of our residents and to the cost of providing the services of our infrastructure.

Passing this Supplemental Appropriations Bill will assure the City of McGrath the ability to prudently sustain basic and essential services that our residents depend on and provide us the fiscal capacity to meet our existing obligations.

We look forward to hearing news that the Bill has been passed and that our fiscal crisis will be eased during this last half of FY05.

Sincerely,

A handwritten signature in cursive script that reads "Natalie Baumgartner".

Natalie Baumgartner  
City Administrator

cc: Alaska Municipal League

**City of New Stuyahok**

P.O. Box 10  
New Stuyahok, AK 99636  
Phone: (907) 693-3171  
FAX: (907) 693-3176

February 14, 2005

Senate Finance Committee

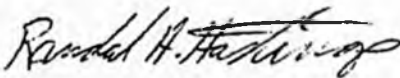
Dear Sir or Madam:

Revenue sharing is vital to the community of New Stuyahok and our children. It has helped paid our IRS bills, high insurance for our workers, paid for high cost of our oil and gas, helped maintained our heavy equipment needed for plowing and maintaining the roads esp. with our new airport being built. Our Head Start bus, school truck, fire truck, ambulance, and VPSO truck would have a hard time on the road or wouldn't be able to go on it if we don't have the capacity to keep it graded or maintained.

Without it we wouldn't be able to maintain this place that has about 600 people and growing rapidly. It is hard enough now to maintain the city and without revenue sharing we would be back in the stone ages. As of this moment right now it is very difficult to pay for our electricity, heating oil, phone, and gas. We need this to keep our 2<sup>nd</sup> class city moving forward and not going backwards.

Thank you very much for your time and please think of our children and community.

Sincerely,



Randa A. Hastings  
Mayor



Mitch Chocknok  
City Administrator

**CITY OF NUIQSUT**  
**Post Office Box 89148**  
**Nuiqsut, AK 99789**  
**Phone 907 480-6727 Fax 907 480-6928**

---

February 11, 2005

The Honorable John Cowdery  
Chair  
Alaska State Senate Rules Committee  
Alaska State Capitol  
Juneau, Alaska 99811

FAX: 907 465 2069

Dear Senator Cowdery:

The duly elected members of the City of Nuiqsut City Council have instructed me to communicate with you and firmly assert their unqualified support for Senate Bill 98, the Supplemental Appropriations, Fast Track Bill.

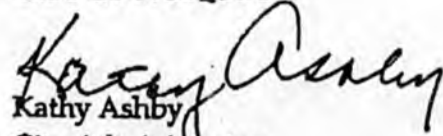
Alaska is indeed blessed with resource largesse of which many locales can only dream. Alaska's resources provide healthy economic activity and enviable lifestyles in metropolitan areas of the state. Those resources, as you well know, are located, explored, developed, and extracted in areas of the state where amenities are exceedingly few and far between, where the price of one container of milk compares with the expense of a bag of groceries in other areas.

The general fund is largely based upon resource revenues. Therefore, it is imperative that inherent inequities be ameliorated where possible. Senate Bill 98 purports to address, with general fund monies, the exorbitant cost of utilities in non-metropolitan areas of the State through energy assistance.

Please afford this bill your unqualified support as it traverses through the committee referrals and ensure its passage into law. Thank you for your assistance.

Sincerely,

CITY OF NUIQSUT

  
Kathy Ashby  
City Administrator



**CITY OF OUZINKIE**

P.O. Box 109  
3<sup>rd</sup> & C Street  
Ouzinkie, AK 99644

Phone (907) 680-2209  
Fax (907) 680-2223  
cityofouzinkie@starband.net

**COUNCIL MEMBERS**

Zack Chichenoff - Mayor  
Alex Ambrosia - Vice Mayor  
Angeline Campfield - Sec./Treas.  
Sharon Boekofsky - Member  
Danny M. Clarion Sr. - Member  
Katherine Panamerioff - Member  
Darren Muller - Member

February 15, 2005

Senate Finance Committee  
State Capitol  
Juneau, AK 99801

Dear Finance Committee Representatives;

I am writing to encourage you to take into consideration how important the Governor's Supplemental and Capital Appropriations Bill is to every community in this state.

As you know healthy communities can provide services in a more effective and efficient way than the state. This only serves to save the state money in the future. By passing the above bill the communities can then use those funds to stabilize taxes and provide services.

We are being faced with skyrocketing fuel bills and insurance without the aid of revenue sharing. Communities with high transportation problems, a lack of insurance, exorbitant energy costs, crumbling infrastructure, and unaffordable shipping rates cannot provide a healthy environment with which to raise a family.

Sincerely,

Zack Chichenoff  
Mayor



Office of the Mayor

P.O. Box 430  
Pilot Point, Alaska 99649  
Tel. (907) 797-2200  
Fax (907) 797-2211


Senate Finance Committee  
Juneau, Alaska

February 12, 2005

To Whom It May Concern:

We applaud the Governor's proposal to distribute financial energy relief to rural Alaska. The combined impacts of rising fuel prices, declining municipal revenues, Federal grant opportunities, commercial fisheries disasters, and the overall lack of economic opportunity in rural Alaska have hit all of us very hard. In Pilot Point we have had to fly fuel in at \$4.66 per gallon for heating oil. The City cannot in good conscience charge our consumers a price that allows us to break even, consequently, we are absorbing a loss of over \$2.00 per gallon. Any financial relief at this time would be greatly appreciated.

Sincerely,



Gregory Kingsley  
Pilot Point City Council

Faxed  
2/25/05

Jack: UPSO

paid from VPSO \$19  
request for  
reimbursement from  
UPSO  
rec'd 2/15/05  
RMPD

To:  
Trooper Sgt. Perry Barr  
P.O. Box 268  
Bethel, AK 99559

From:  
VPSO Simeon Askoak  
P.O. Box 129  
Russian Mission, AK 99657

Date: 09FEB05

RE: Fuel, Phone, Mail expenses

Lyman  
2/27/05

Note on  
bottoms

Dear Perry,

This is to advise you that I wrote a letter of request to Jack Hopstad regarding the monthly expenses that I have been paying for out of my own pocket.

Here are the total expenses that I have been paying in the past that still have not been reimbursed by the city council of Russian Mission:

Truck fuel	227.33
Heating fuel for RMPD	35.20
Certified mail to DA/AST	57.27
Telephone/fax bills	196.31
Total expenses paid	516.17

The City of Russian Mission is bankrupt at this time due to severe State budget cut. I was informed that the city is going to receive only \$25,000 and that it won't cover all their 04FY budget and that they are expecting another cut sometime this year.

I mailed all the copies the phone bills, gas and oil receipts and certified mail receipts to Jack Hopstad. I am hoping that this will be resolved. It is causing me so much stress and hardship on my family's budget. I am also hoping that we can get together with the Iqurmit Traditional Council to see if they can pay for the monthly RMPD bills. Thank you very much for your attention to this important matter.

Sincerely,

*Simeon Askoak*  
VPSO Simeon Askoak *SNAP*

Please fax to

Rep. Mary Kapsner's office

Copy - Rep. Mary Kapsner's office  
Senator Lyman Hoffmann's

Senator Lyman Hoffmann's  
Office

Kevin Ritchie

From: Kevin Smith [kevins@amljia.org]
Sent: Monday, December 22, 2003 8:16 AM
To: Terri McFarland; Tammy White; Rick Gifford; Kevin Ritchie; Karl Short; Joe Evans; Jerome Selby; Betty Glick; Clement Richards
Cc: Venus Zink; Kevin Ritchie; Betty Jo Svensson; Annie McIlvain; Sarah Gilbertson
Subject: Budget crunch burdens villages

http://www.adn.com/front/story/4541566p-4516702c.html

Here's an interesting article from yesterday's paper. Times are tough. Happy Holidays. Kevin



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TOP ALASKA STORIES

Budget crunch burdens villages

CUTS: Slashed state aid leaves small towns facing financial straits.

By JOEL GAY
Anchorage Daily News
(Published: December 21, 2003)

Anchorage isn't the only community struggling to fill the hole in its budget after Gov. Frank Murkowski and the Alaska Legislature axed state aid to cities and boroughs earlier this year.

They're dousing the streetlights in Huslia and laying off cops in Hooper Bay. Taxes may triple in White Mountain, while

Coffman Cove can't pay its insurance bill. And more than one village could merge its municipal operations with the local Native tribe.

These are tough times for the state's smallest communities, said Larsen King, mayor of Me koryuk, a community of 200 on Nunivak Island. In villages where jobs are scarce and expenses are high, the state grants of \$25,000 to \$50,000 kept the city office open and the bills paid, he said.

The already rocky financial footing of rural Alaska villages has dramatically worsened, said King and other community leaders.



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"How does anyone expect the little places to survive?" he asked.

The state has been providing grants to cities and boroughs since statehood, according to Bill Rolfzen of the state Division of Community Advocacy. The grant programs evolved and expanded as Alaska developed, and by 1985 the two main programs, Municipal Revenue Sharing and Safe Communities, paid out more than \$160 million.

Although Safe Communities grants were restricted to police, fire, emergency services or sanitation, Revenue Sharing could be spent on almost anything. That was the beauty of the program, Rolfzen said. The money might buy a winter's worth of diesel in one village and a year's worth of workers' compensation in another, he said.

Nearly 20 years of budget cuts eroded the two programs to \$25 million last year. But even that was more than Murkowski wanted, and he vetoed funding for both and for a third program that funded capital projects.

"It is clear to me," Murkowski wrote to the communities, "that Alaska's fiscal situation requires us all to make the tough choices. ... We must take responsibility for prioritizing what our governments can do based on what we can afford."

Murkowski gave the municipalities a one-year reprieve, splitting \$15 million in federal funds among them. But for the fiscal year that begins next July, they're on their own. Throughout Alaska this winter, city administrators and councils are coming to grips with the looming shortfall.

Some officials are optimistic.

"We'll just have to start tightening our belts and watch where our money goes," said Linda Getz, city clerk in Ouzinkie, a coastal village of 200 near Kodiak.

It will mean making do with old equipment, scrimping on paper clips and saving this year's grant, she said. The city hasn't even talked about raising taxes. But Ouzinkie will survive, she said. "I think we can do it."

Other administrators fear the effect on their cities but are resigned to it.

"When you don't have the money, you don't have the money," said Pete Platten, city manager in Tanana.

The cuts to rural communities were shortsighted, Platten said, because rural Alaska spends its money in the cities.

"Once they kill the Bush, they have no customers out here," he said. If villages shut down, "all that money is not going to Fairbanks anymore."

Rural communities are less able to cope than their urban cousins, said Raphael Murran, city manager in Hooper Bay. The village of 1,100 on the Bering Sea coast has cut several city positions, including one police officer, and city employees have taken pay cuts.

But raising revenues will be difficult in Hooper Bay, Murran said. The city has a 4 percent sales tax, but increasing it won't yield much more. "We don't have that much economy."

And the city can't charge property tax because there is no private property, Murran explained. As in most rural villages, the land is owned by the village Native corporation or the federal government, which provides a small payment in lieu of taxes, or PILT.

During better times, the Yukon River village of Ruby built up a city savings account, said Mayor Donald Honea Sr., "but we've almost completely wiped the thing out now."

Ruby has reduced employee hours and city services, and now there's little left to cut, Honea said. It can no longer afford a public safety officer and may have to turn off the streetlights. Volunteers staff city hall, and the teen center remains closed unless an adult offers to open it for a night or two.

"We can't hire people to do a lot of the work we had before, like plowing snow," he said. "This year if we get a heavy snow, we have the guy do it when he can." Because the roads aren't getting plowed, Honea is nervous about house fires. "You'd have a hard time getting to the houses," he said.

The city has no sales tax, and just 200 residents to pay it if the council decides a tax would help.

"Like all the small villages, there's no employment and there's no revenue coming in, so it's pretty hard," Honea said. Commercial salmon fishing has been poor for years, and firefighting wages have declined. "The only thing is the (Permanent Fund) dividend, and a lot of people use it to catch up with their light bills."

But Ruby isn't throwing in the towel, Honea said.

"We'll continue to exist. We've existed before when times were tough. We're just going to have to cut what we had before," he said, perhaps returning to the kind of village it was before streetlights and running water.

They're also at a crossroads in small villages like Ouzinkie, White Mountain, Koyuk and Kiana, municipal officials there said. Losing the state grants will force crucial decisions that affect their communities' survival, they said.

"Insurance -- that's the scary thing. It's pretty well mandated," said city administrator Judy Willis of Coffman Cove, a former logging camp in Southeast. "Do you run the risk of not having insurance?"

Small communities are in a tough spot, acknowledged Mike Black, community development chief for the Department of Community and Economic Development. State and federal agencies that have poured millions of dollars into water plants or health clinics want those facilities insured, he said.

"But when you're the mayor or council, you're going to have to make decisions based on what you think your residents will support," Black said. "Insurance is one of those costs that doesn't immediately provide the local residents a demonstrated product. It's not like buying another policeman."

Many small communities operate their own water, sewer or electric utilities, and customers pay for the plant operations. But state municipal grants often paid for the clerks who did the billing.

"That's what pays my salary," said Dorothy Barr, city administrator in White Mountain, a village near Nome. She also writes grants, which have provided

services to White Mountain residents, such as a part-time librarian.

Her village voted down an increase to the 1 percent sales tax, and utility rates are as high as they can go, Barr said. She and other city employees have cut their hours.

"Right now we're looking at taxing pull-tabs and bingo winnings," she said. "We have to try to find different revenues."

State officials empathize with the ailing villages, but have little to offer except advice, said Rolfzen, with the state. Cities that can't afford to operate have few choices, he said. They can formally dissolve their municipal government, as several villages did as a statement of Native sovereignty in the 1980s or simply close the doors and stop functioning.

With the loss of municipal grants, Rolfzen said, "We might see a little of both, or a lot of both."

But some communities, including Mekoryuk, are considering a third option -- retaining the city government, but turning over the administration to the local tribe.

It may offer the best of both worlds, said Hultman Kiokun, administrator of the Native Village of Mekoryuk. The city can levy a sales tax -- it's 2 percent now -- and apply for grants available only to incorporated cities, while the tribe can tap federal resources.

"Having two governments in one small village, there's a lot of funds being wasted. We can eliminate those, and use that money for where it's needed most in the village," Kiokun said. "We need to make the best use of what little is coming to our village."

Mekoryuk's city and tribe are still negotiating, Kiokun said. The tribe doesn't want city liabilities to drag it down, he said, and may consider dropping money-losing services like cable television.

Nevertheless, the potential merger makes him more optimistic about Mekoryuk's future.

"It's got to change," Kiokun said. "The leaders have to understand that unless we make this change we're going to be stuck with the past, and possibly lose the services we have now."

Mekoryuk Mayor King agrees that a merger is likely, but isn't happy about it. He blames the village's poor financial condition on the "goody do-gooders" who brought water and sewer and other services to rural Alaska.

"These people bring these good things, but don't throw in operating and maintenance costs," King said. "There's no way the municipalities can survive if they cut revenue sharing off. If we raise funds like other little villages, with (bingo and pull-tab) gaming, we'll just exploit ourselves and make our community poorer and poorer."

Kiana and Koyukuk are also considering city/tribe mergers, and more villages could follow now that municipal funding is gone, said Anthony Caole, a former Quinhagak city and tribal administrator who is now an Anchorage consultant.

The merger "is not an ideal arrangement," Caole said. It will create an unwieldy council of 10 to 14 members working in a gray area that is both city and tribe.

"The ideal would be one form of government," he said. "It's just that nobody knows what that looks like."

And a merger is not for every community, he said. Some tribes may be reluctant to merge with their local municipality. Cities bring little to the bargaining table except sales tax powers, and many tribes are already overwhelmed with work, he said.

In addition, the future of tribal funding is uncertain. Sen. Ted Stevens has said it is increasingly difficult to secure funding for Alaska's 229 federally recognized tribes and has proposed they consider some form of consolidation.

In the meantime, the mergers may be the best option for foundering municipal governments, Caole said, though he doesn't see why it's necessary.

"I just can't imagine the state not providing resources to keep their sister governments alive," he said.

State officials are sympathetic to the plight of Mekoryuk, Ouzinkie and other small municipalities. But like the state, they'll have to find their own ways of balancing local needs and revenues, said Edgar Blatchford, commissioner of community and economic development. If that means dissolving their government because they can't afford it, "that's their decision," he said.

The Murkowski administration believes rural communities' fate lies with basic economics, Blatchford said. "If there's an economic base that local people can seize, there's hope for the future."

But where the only income is state and federal grants, the future looks bleak, Blatchford said.

"Sad to say," he said, "these are very challenging times for Alaska."

*Daily News reporter Joel Gay can be reached at [jgay@adn.com](mailto:jgay@adn.com) or at 257-4310.*

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# Ketchikan Daily News

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## Ten small Alaska communities drop city insurance

JUNEAU (AP) — Ten small Alaska communities have discontinued their municipal insurance because of declining assistance from the state and rising insurance and fuel costs.

Another dozen could follow within the next few months, said Kevin Smith, executive director of the Alaska Municipal League Joint Insurance Association.

Smith would not release the names of the communities affected, but the league confirmed that Juneau is not one of the 10 cities.

The league's insurance program covers workers' compensation, natural disasters, third-party injury liability and other costs for about 134 Alaska cities, boroughs and school districts.

Gov. Frank Murkowski vetoed \$22 million in municipal revenue sharing last year that had helped many communities pay insurance costs. Combined with the rising costs of fuel, the cuts have made it impossible for some cities to continue paying.

"In the past when they could count on a municipal assistance and revenue-sharing check, we'd carry them until the state checks were cut," Smith said. "They can't pledge zero, so I can't carry them. We carried them as long as we could and finally had to pull the plug."

In an effort to offset the cuts, Murkowski sent \$15 million to cities that same year in one-time federal money from President Bush's Jobs and Growth Tax Relief Act, with minimum payments of \$40,000 going to smaller communities.

This year Murkowski is asking the Legislature to approve \$6.8 million in aid for about 125 small, rural communities.

The program would provide \$25,000 for communities with fewer than 100 residents, \$50,000 for those with 100 to 500 residents and \$75,000 for those with 500 to 1,200 residents. The program is intended to offset rising fuel costs.

But it is unlikely that the revenue-sharing program will be reinstated this year as it existed before the cuts, said Becky Hultberg, a Murkowski spokeswoman.

"Things are still open," she said. "We are still considering alternatives. The state this year will have some very important priorities, education being one of them. It is unlikely that insurance for cities would rise to that level. But the governor has recognized the needs of some of the smaller communities due to the disproportionately high cost of fuel and is making an effort to address those needs."

The municipal league has made the reinstatement of some form of revenue sharing for cities its top priority this legislative session, which begins in January, according to program and policy coordinator Kathie Wasserman.

Insurance costs have increased substantially, according to Mike Black, director of the state's Division of Community Advocacy.

Communities without insurance would have to appeal to the Legislature, Alaska's congressional delegation or some other state or federal agency for assistance, according to Black. He said he has advised communities with municipal employees to maintain their workers' compensation insurance policies because injured workers can sue the city, resulting in large court settlements.

"It's required under state law that an employer have workers' compensation insurance," he said. "We tell them that's something you have to retain."

Wednesday, December 01, 2004

# Fairbanks Daily News-Miner

## 10 Alaska communities forgo insurance

Friday, December 03, 2004 - Staff and Wire Reports

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Another dozen could follow within the next few months, said Kevin Smith, executive director of the Alaska Municipal League Joint Insurance Association.

Smith would not release the names of the communities affected.

Somewhat ironically, the city of Fairbanks just started purchasing insurance through the municipal league in July as a means of saving money.

The city was self-insured previously and was able to save money by purchasing insurance as part of the larger group, said Fairbanks Mayor Steve Thompson. "By going together in a pool with more people you can keep rates down," he said. He said the news that some communities might be dropping out and making the pool smaller is troubling.

"That's kind of a bother," he said.

The league's insurance program covers workers' compensation, natural disasters, third-party injury liability and other costs for about 134 Alaska cities, boroughs and school districts.

Thompson said Fairbanks received notice that its workers' compensation coverage through the AML would increase by 12 percent effective July 2005. The AML requires six-months' notice for dropping out of its program. The mayor did send a letter of tentative notice to the AML Thursday, he said, but he emphasized that the letter is standard procedure to allow the city to shop for other carriers and the city has no intention of going without coverage.

"It is only responsible for us to continually do that," he said. "It's no different that any responsible business would do to continually make sure they're saving as much money as possible."

The Fairbanks North Star Borough is self-insured and does not use the AML program.

Gov. Frank Murkowski vetoed \$22 million in municipal revenue sharing last year that had helped many communities pay insurance costs. Combined with the rising costs of fuel, the cuts have made it impossible for some cities to continue paying.

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"Things are still open," she said. "We are still considering alternatives. The state this year will have some very important



## West News

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### Ten Small Alaska Communities Drop City Insurance

December 8, 2004

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**Find this article at:**

<http://www.insurancejournal.com/news/west/2004/12/08/48327.htm>

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**Kevin Smith**

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**From:** "Annie McIlvain" <annie@akml.org>  
**To:** "Kevin Ritchie" <kevin@akml.org>; "Kathie Wasserman" <kathie@akml.org>; "Kevin Smith" <kevins@amljia.org>  
**Sent:** Monday, December 20, 2004 3:59 PM  
**Subject:** homer news



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## Editorial

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### Insurance woes taking toll on Alaska

By John Crowder  
Homer Tribune

Alaska is not the only state of the union facing rising health insurance costs, but here in the far north we rank among the most uninsured in the nation. While we are only a microcosm of a much larger problem, it is clear that health care and insurance racketeers are pushing Alaska into the red.

Hikes in long-term care and Medicaid and prescription drugs

are also on the rise, according to a recent study sponsored by the Pew Charitable trust. The study showed that 22 percent of adult Alaskans are without health insurance. Although Alaska's Denali Kid Care program covers a significant number of children under 18 – boosting our national ranking to 35th – close to a fourth of our population is using the Medicaid system.

Insurance gouging is meanwhile taking a tremendous toll on local Alaska governments, and the state's decision to bail out our school system from rising costs likely kept them from deficit spending. Ten small communities in our state have recently discontinued municipal insurance plans because of rising costs and lack of state assistance. Many more are expected to do the same in the near future, according to reports from Alaska Municipal League. This type of insurance covers everything from natural disasters to workers' comp. Such a trend is opening communities up to enormous liability.

Homer is having its own budgetary problems. But will more state revenue sharing be the key to bailing communities out of this insurance bind? I believe the problem demands a more comprehensive overhaul at the

federal level.

The ramifications of these hikes are that insurance companies are allowed to cause rampant reductions in every other area of government spending, to make up the difference. The state's Health and Social Services budget has skyrocketed, causing infiltration into other departmental budgets. The city of Homer's Public Employee Retirement System and workers' comp levels are going through the roof, a large reason for the city's need to cut other areas of spending and boost fees in various departments. But where is the accountability for insurers and health care providers? That is the question that people are asking nationwide. While health care was a major focus in the recent election, one must concede that each political party has its hands in the pie. It appears that antitrust violations will simply continue as long as special interest partisan politics flourish.

Obviously, mere criticism will not do any good. And granted, there are a number of virtual epidemics that play into the problem, from the spread of HIV/AIDS to America's obesity rate and aging populous. In Alaska, health care providers also face tremendous travel costs in many cases. Perhaps there is more complexity to the situation than a few big wigs sitting in a smoky penthouse trying to concoct ways to gouge the commoner. Yet, neither can we deny the big money lobbying that keeps America uninsured.

Unfortunately, it will probably take even more individuals and corporate entities pulling out of the insurance grid altogether before regulators are willing to affect any meaningful change.

Meanwhile, what do we do? Splint our own broken bones and cross our fingers that nobody sues the pants off the city for slipping on the sidewalk?

Well, perhaps it's not that bad. We must acknowledge, with all its flaws, that at least we have a health care system that functions. There are plenty of countries that would gladly pay out the nose just to have a hospital available in every community. On that note, Homer and the rest of America is truly blessed to have the health providers that it does. Until there is change on the horizon, Alaskans will just continue to do the best with what they have.

**Annie McIlvain**  
Director of Member Services  
Alaska Municipal League  
907.586.1325 phone  
907.463.5480 fax

# ALASKA

## 10 towns can't pay insurance

DECEMBER 6, 2004

■ **BROKE:** Without state aid to pay premium, small cities risk disaster.

By JOEL GAY  
Anchorage Daily News

Nearly a dozen rural communities are flirting with financial disaster after failing to pay their insurance bills and dropping out of a statewide pool of self-insured cities, boroughs and school districts.

The 10 small cities are no longer carrying workers' compensation, snowplow insurance or basic liability coverage, in large part because the state has eliminated the grants they once relied on to pay such expenses, said Kevin Smith, executive director of the Alaska Municipal League Joint Insurance Association.

Now uninsured, they could be fined for failing to meet legal requirements. They also run the risk of bankruptcy if slapped with a big lawsuit, Smith said.

## INSURANCE: If town is sued, state may take hit

Continued from B-1

much to collect from a bankrupt city, Smith said.

"He can be the proud owner of an old waste-water treatment plant," he said.

It's also possible that a person could turn to the state, if a city were bankrupt, Smith said.

"You might decide the deeper pocket is to go after the state," since every city is a political subdivision of the state government, he said.

That's untested legal ground in Alaska, he added.

The cities that lost their insurance could get it back, Smith said, but it will take work. Not only must they make up the last four months, but they'll have to pay ahead several months.

They could get help if the Alaska Legislature approves a Murkowski proposal to give communities another one-time grant, with the smallest receiving \$25,000.

Several small cities that last year had feared the loss of state aid said Friday that they are still financially solvent, though it has required extreme measures.

"We're still floating," and keeping up with insurance payments, said Larsen King, mayor of the Nunivak Island village of Mekoryuk.

But to save money, the city has merged with the local tribe, he said. The arrangement allows the city to tap state aid whenever it can but share the cost of administering the city's government with the tribe.

To the north, the village of Kiana did the same thing, said Dolores Tuckfield, deputy director of Kiana Traditional Council. In a move driven largely by the loss of revenue sharing, the city contracted with the council to administer city services, she said.

"It's been a lot of work" to establish the new system, which began July 1, Tuckfield said. But

so far, it's working well, she said, and the city has stayed ahead of its insurance bills.

The Southeast logging village of Coffman Cove is also meeting its financial obligations, though not without some sacrifices, said city administrator Judy Willis.

"Our (insurance) payments aren't always on time," she said. "But we haven't got a cancellation notice yet. I think they're being generous."

Insurance is a major expense in the city of 165, Willis said. Even after paring away nonessential costs, it was still more than \$20,000 a year, she said.

Coffman Cove has survived the loss of state revenue sharing so far, Willis said. But there's not much more the community can cut or raise without help from the Alaska Legislature. Willis wants to allow second-class cities such as hers to levy a flat property tax — say, \$100 an acre. Current law prohibits property

taxes unless they're based on an assessment.

"If we had enough money to have everything assessed, we wouldn't need the tax," she said.

Otherwise, communities such as hers will have to rely on bake sales and raffles to raise money for expenses such as insurance and salaries, Willis said. She was going to a fund raiser Friday night for local sports teams. "Next week it's the fire department," she said.

Alaska's cities and boroughs received state aid for years. Some of the grants were specifically for public safety or construction. Others could be used for anything, including heating oil, city hall salaries and expenses such as insurance.

The three main sources of municipal aid dwindled over many years but finally expired when Gov. Frank Murkowski vetoed the last of them in 2003. Murkowski later used a federal grant to give municipalities a one-time check, which for the smallest communities was \$40,000.

Most cities absorbed the loss by cutting services, raising taxes and fees, or both. In small communities with fewer resources, the cuts meant reducing or shutting down popular services, such as snowplowing, teen centers and street lights.

But 10 communities, which Smith would not name, started falling behind on their monthly payments to the statewide insurance pool. This month, their insurance was canceled, he said.

The pool has "been carrying them for four months," Smith said. "I couldn't do it any longer." And another dozen or so communities are close to losing their insurance, as well, he said.

Cities are required to carry workers' compensation, and most provide it for their volunteer firefighters and emergency medical personnel, Smith said. Asked what the uninsured cities are doing now, he said, "panicking."

The Alaska Department of Labor could fine the cities for failing to insure their workers, Smith said. That would just drive the cities further into debt, he said.

If a worker got hurt or a visitor slipped on city property and successfully sued, there wouldn't be

See Page B-3, INSURANCE

Daily News reporter Joel Gay can be reached at...



[Click here to return to the original story](#)

## Tenakee eyes solutions to its fiscal crisis

### Loss of revenue sharing means trouble for dozen small towns

It's not news to residents that Tenakee Springs has had some financial problems. But Shelly Wilson, mayor of the town of 150 people, said she was frightened when she realized how serious the problems are.

When Gov. Frank Murkowski stopped sharing revenues with local governments in 2004, Tenakee Springs lost \$40,000 a year. It is facing a \$25,000 deficit. The city is applying for a \$50,000 loan.

The Tenakee Springs City Council has proposed selling some city land to increase revenues and expects to put the issue on the ballot within the next two months. Council members also contemplated increasing the sales tax from 1 percent to 2 percent.

For the first time, the city might impose a property tax.

"These are some short-term solutions," Wilson said. "We look forward to receiving some funding from the state."

The Chichagof Island town is not alone.

According to the Alaska Municipal League, 14 small towns have contacted the state about formal dissolution or entered into an agreement with a tribe to resume city responsibilities - or simply have not held local elections. Twenty towns have had their insurance canceled for lack of payment.

An Alaska Municipal League report said the crises result from massive state cuts to cities at a time of skyrocketing local costs and economic downturn. In 2004, Alaska became one of a handful of states that eliminated its local government revenues-sharing programs.

"All the communities face the same problems," said Kevin Ritchie, executive director of Alaska Municipal League. "But the smallest communities, which have the smallest tax bases, have the biggest problems."

Becky Hultberg, spokeswoman for the governor, said Murkowski stopped the local government revenue-sharing program because he doesn't believe it is the state's responsibility to give block grants to local governments.

But Hultberg said when local governments experience the difficulties such as the rise of the fuel and the increase of the public employment retirement system, the state has a role in giving the community some temporary help.

In this session, Murkowski proposed giving \$6.5 million to towns with populations of fewer than 1,200 to help them deal with the rise in fuel prices. Towns with populations between 100 and 600, such as Tenakee Springs, can receive \$50,000. The governor also proposed to offer \$37.5 million for cities and \$77 million for school districts in the next two years to help them pay for the public employment retirement system.

"This is not ongoing funding. This is only temporary help," Hultberg stressed.

And that is exactly the problem, Ritchie said.

"Cities are part of the government," Ritchie said. "The Legislature is responsible for all the state to have some public services. Revenue-sharing is the most efficient way."

Wilson said she hopes the Alaska Legislature would approve the small city fuel assistance program as soon as possible.

"I will just pray we can hold that long," Wilson said. "I know it is just a one-time deal, though."

• I-Chun Che can be reached at [ichun.che@juneauempire.com](mailto:ichun.che@juneauempire.com).

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# JUNEAU EMPIRE

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## Empire editorial

# State needs to share the windfall with cities

Some states would be envious of Alaska even in our worst budget times, but once again financial fortune has smiled on this state and the result will be hundreds of millions of unexpected dollars into its lap.

Revenue from record-high oil prices likely will close the state's \$360 million budget gap and send an additional \$500 million to its general fund. This rare stroke of luck isn't going to last forever and state leaders therefore need to make sure the extra income isn't squandered.

Education is at the top of the list of items that need greater funding. Juneau is not the only city in the state in which teachers struggle with classrooms of more than 30 students. Key to improving education in this state is reducing class size by increasing the state's allocation to schools. Gov. Frank Murkowski already has called for a \$126 million increase in spending for K-12 education over the next two years. The Alaska Legislature needs to follow up on that and make sure that some of this fleeting wealth brings improvements in classrooms across the state.

The Murkowski administration also is looking at putting money back into social-service programs, many of which have been trimmed in recent years. The governor is proposing \$6 million for children's services, \$1.5 million for juvenile justice and \$7.1 million for preventing drug and alcohol abuse. These are all wise investments and could save the state money down the road, particularly in the criminal justice system.

With its financial windfall, the state needs to make sure that it avoids two things: using the money for pet capital projects and leaving cities to struggle

on their own.

Too many schools and other public buildings are in need of maintenance that has been delayed because of tight budgets in recent years. These need to be brought up to par before money is frittered away on new capital projects, which will in time need maintenance of their own.

Most importantly, though, Alaska's legislators cannot leave cities out in the cold financially. Lawmakers have failed to take real action to solve the state's long-term budget problems. Too worried about their own political careers, legislators haven't made the tough decisions that are needed on broad-based taxes, increasing revenue from the oil industry or other measures that would bring long-term financial stability. What lawmakers have done is shift the burden to cities by slashing their state funding.

As revenue sharing with cities has been cut, local governments statewide have had to increase property taxes by 33 percent and at least 30 rural communities have had to cut essential services, such as road maintenance or public safety, according to the Alaska Conference of Mayors. Ten small towns have had to drop their municipal insurance program, which covers workers' compensation, natural disasters and other costs.

With the unexpected oil revenues, the state needs to share the wealth and restore funds to its Municipal Revenue Sharing program. Many of Alaska's small cities are desperate for a financial boost because of belt-tightening in recent years, and it's only fair that this windfall of cash should be used to bring them some relief.

**January, 2005**  
**Local Government Issue Paper**  
**Alaska's Small Cities in Crisis**



In 2003, there were 94 cities with annual local government operating budgets under \$300,000 per year, and averaging \$164,000, to provide public services for an entire community (according to State figures, DCED). From **2003 to 2005, those 94 cities** (out of a total of 146 cities in Alaska) **lost an average of approximately 42% of the revenue required to provide basic public services.** The crises are due to massive State cuts to cities at a time of skyrocketing local costs and economic downturns. In 2004, Alaska became one of only a handful of states that eliminated its local government revenue sharing programs. Most small rural cities operate in a cost effective manner with many part-time or volunteer positions. However, most of Alaska's small rural communities have very little local tax base due to cash poor subsistence economies.

<b>2003 Average Operating Budget for two thirds of AK Cities</b>	<b>\$164,000</b>
<b><u>Examples of Approximate 2003-04 Cuts/cost increases:</u></b>	<b>-\$69,000)</b>
2003 State Cuts to Revenue Sharing/Match Grants	-\$10,000)
2004 State Eliminates Revenue Sharing	-\$40,000)
Fuel/electricity/goods rise due to oil prices	-\$7,000)
Community insurance increases	-\$6,000)
State mandated increases (PERS)	-\$4,000)
New state inspection fees, service transfers, etc.	-\$2,000)

**Growing Impacts of Loss of Revenue Sharing, etc.**

It is difficult to know the status of small rural communities. Few that fail have the administrative capacity to take steps to formally dissolve. They simply layoff their employees, cease being able to hold elections, cancel insurance for community facilities, stop providing services, etc. In some cases tribes or other organizations take over key government services.

The following cities have either been unresponsive to contacts by the State, entered into an agreement with a tribe to assume city responsibilities, or contacted the State regarding formal dissolution: **Akhiok, Ambler, Chevak, Holy Cross, Hughes, Kiana, Kivalina, Koyukuk, Napaskiak, Nikolai, Platinum, Russian Mission, Scammon Bay.** Additionally, **15 cities** have had their insurance canceled for lack of payment to date, but the names of the cities cannot be released by the carrier. **That is 5 more canceled since the issue was reported in the news media early December, 2004.**

While it is too early to say that these cities have ceased operations, they are unquestionably in peril. While these are a quarter of Alaska's small cities, it appears that many more cities are also in serious decline. For example, according to the AML Joint Insurance Association that covers a large number of small cities, approximately 33 more cities are on month-to-month payment plans.

### General Rural Alaska Conditions

- Extremely High Costs** e.g. Gas at \$5.15 a gallon
- Extremely High Unemployment** e.g. Unemployment at 50% or more
- Virtually No Property Tax Base** e.g. All of Ambler is assessed at \$3.5 million (i.e. low values and much non-taxable land.)
- Low revenue from sales tax** e.g. Despite the fact more cities have sales tax and many are raising it, it won't save them. Each 1% of sales tax in Ambler nets \$7500/year.
- Very Strong Stable Communities** Most rural communities have existed from hundreds to thousands of years.

### Impacts of the loss of State support

- State impacts of loss of insurance** It appears that the State is the logical "deep pocket" for losses of uninsured cities in the Legislature's Unorganized Borough. One loss could exceed the cost of a revenue sharing program.
- Statewide economic impacts** Rural residents are moving to urban areas in accelerating numbers while urban jobs serving rural Alaska are declining. Currently an estimate<sup>d</sup> one out of five urban jobs directly or indirectly serve other regions in Alaska. Rural communities attract a large amount of federal and foundation resources that cycle through urban economies.

### Statistics to date

Per State DCCED,

- 9 cities no longer functioning
- 17 cities in deep debt
- 39 cities have terminated key local services this year (e.g. police, road/utility/facility maintenance)

Per AML Joint Insurance Association:

- 10 cities insurance canceled
- 33 cities on month to month payment plans due an inability to pay

### Conclusion

Alaska faces the loss of half its city governments. Unlike an occasional western U.S. boom town that becomes a ghost town, this represents a growing widespread loss of historically stable and culturally rich communities.

MAR 02 2005

From  
Fax  
L10

File  
HB 133

Written Testimony HB 133

This hearing is about borough organization but it is about annexation only. This is the only issue I would like to address is the aggregate vote regulation.

I would like to thank the members of the Community and Regional Affairs Committee for acting in a timely manner in holding this public hearing on HB 133.

Mr. Coghill and Mr. Harris have realized the un-fairness in the Aggregate vote section of the Local Boundary Commission regulations. Recent statements made by Mr. Jim Whitaker, Mayor of Fairbanks North Star Borough, that he use the Aggregate vote section as a method to annex a relatively low populated area, in order to generate \$8-9 million in real estate taxes mainly from the oil, gas, and mining industries while showing complete disregard for the actual residents of this area, is truly un-fair. This aggregate vote method truly represents fraud by allowing a densely populated borough to annex any low populated area deemed as a "target".

The population of any target area must be allowed to vote if they wish to be annexed: to vote yes or no and that vote must count and must not only be part of an aggregate vote which greatly out numbers the area to be annexed.

The current "aggregate vote" regulation of the Local Boundary Commission is quite similar to pre-war Germany's annexation of Czechoslovakia and Poland, i.e.: we want that territory, so we'll just take it!

We're supposed to have a government "of the governed", not a government that dictates to the governed. Let those in an area proposed to be annexed; vote yes or no to be annexed or not!

The aggregate vote method is not fair, moral or right.  
Please vote yes on HB 133.

Bob Kallio  
PO Box 73731  
Fairbanks, AK 99707

This hearing is not about Borough Organization But  
It is about Annexation Only This is the only Issue

Start

would like to thank the members of the  
Community and Regional Affairs<sup>Committee</sup> for acting  
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hearing on AB 133<sup>#</sup>. <sup>the only issue I wish to address is the</sup>  
Aggreate Vote Regulation

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of the local Boundary Commission Regulations  
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would use the Aggreate Vote section as a  
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ie: we want that Territory, so we'll just  
take it! <sup>we suppose to</sup>

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Let those in an area preposed to be  
Annexed; Vote Yes or No to be Annexed  
or Not!

The Aggreate Vote method is not fair,  
~~unusual~~ <sup>un-right</sup>

Please vote yes on HB 133<sup>#</sup>

Bob Kaller

Box 73731

FBKS AK 99707

~~Retention vs Aggreate Vote~~

1 of 1 DOCUMENT

## OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF ALASKA

File No. 366-084-85

1984 Alas. AG LEXIS 166; 1984-2 Op. (Inf.) Atty Gen. Alas. 361

November 9, 1984

TYPE: INFORMAL OPINION

SYLLABUS:

[\*1]

SUBJECT: Federal Voting Rights Act of 1965

REQUESTBY:

Hon. Emil Notti, Commissioner  
Department of Community and Regional Affairs

OPINIONBY:

Norman C. Gorsuch, Attorney General; Virginia B. Ragle, Assistant Attorney General, Governmental Affairs-  
Juneau

OPINION:

## MEMORANDUM

You have requested advice concerning the federal Voting Rights Act of 1965. n1 You have stated that this advice is needed in connection with the department's provision of assistance to the Local Boundary Commission and local governments.

n1 Pub. L. 89-110, August 6, 1965, 79 Stat. 437, as amended by the Voting Rights Act Amendments of 1970, Pub. L. 91-285, June 22, 1970, 84 Stat. 315, as amended by the Voting Rights Act Amendments of 1975, Pub. L. 94-73, August 6, 1975, 89 Stat. 400, as amended by the Voting Rights Act Amendments of 1982, Pub. L. 97-205, June 29, 1982, 96 Stat. 131, codified as 42 U.S.C. § 1973, et seq.

## 1. Federal Voting Rights Act of 1965

The State of Alaska and all of its political subdivisions are subject to the "preclearance" requirements of the federal Voting Rights Act. n2 Under that requirement, no change of voting qualification, prerequisite, standard, practice, or procedure may be enforced [\*2] by the state or political subdivision until the change has been precleared. Two methods of preclearance are set out in the Act. First, the state or political subdivision can preclear the change by instituting in the U.S. District Court for the District of Columbia an action for declaratory judgment that the change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority. Until the judgment is entered, the change may not be enforced.

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n2 Section 5 of the Voting Rights Act, codified at 42 U.S.C. § 1973c.

The second and more commonly-used method of preclearance is to submit the change to the U.S. Attorney General. If the Attorney General affirmatively states that the change is not objectionable or interposes no objection within 60 days after the submission (or within 60 days after submission of any additional information requested by the Attorney General), the state or political subdivision may enforce the change. Under either method, it is the burden of the state or of the political subdivision to initiate and support the preclearance action or submission.

## 2. [\*3] Changes that Must be Precleared

The U.S. Supreme Court has recognized that the preclearance provisions of section 5 of the Voting Rights Act were intended by Congress to "reach any state enactment which altered the election law of a covered State in even a minor way." *Allen v. State Board of Elections*, 393 U.S. 544 (1968). Changes that require preclearance include reapportionment plans, relocation of polling places, a change making an elective office appointive, change in candidate filing deadlines, change in the number of signatures required for petitions or the amount of information that petitioners must provide, changes in qualifications for candidacy, and a change from district to at-large voting. This is not an exhaustive list.

Most significant to the boundary commission is the fact that the Supreme Court has held:

Changing boundary lines by annexations which enlarges the city's number of eligible voters also constitutes the change of a "standard, practice, or procedure with respect to voting."

*Perkins v. Matthews*, 400 U.S. 379, 388 (1970). The Court reasoned that revision of boundaries affects voting in two ways:

(1) by including certain voters within the [\*4] city and leaving others outside, it determines who may vote in a municipal election and who may not;

(2) it dilutes the weight of the votes of the voters to whom the franchise was limited before the annexation, and "the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."

*Id.* (citing *Reynolds v. Sims*, 377 U.S. 533, 555 (1964)).

Since boundary changes are changes that require preclearance before they may be enforced, the boundary commission should include consideration of compliance with the Voting Rights Act in the standards and procedures it is required to develop under AS 44.47.567. Although it is the burden of the political subdivision to initiate an action or submission to preclear the change, the Local Boundary Commission should require that the annexation not be given effect until preclearance is obtained. n3

n3 This is so notwithstanding the provisions of article X, section 12, of the Alaska Constitution and AS 44.47.583 that boundary changes are effective 45 days after presentation to the legislature unless disapproved by resolution, because provisions of the federal Voting Rights Act supercede contrary provisions of state law. U.S. Const. art. IV, cl. 2.

[\*5]

The boundary commission and a municipality that proposes an annexation should first determine whether the boundary change has an objectively verifiable legitimate purpose under state law. *City of Richmond, Virginia v. United States*, 422 U.S. 358 (1975). We understand that this determination is already included in the boundary commission's consideration of an annexation proposal. If the proposal is discriminatory in purpose, it is invalid.

If the boundary change has a legitimate purpose, it must be considered whether the change has a discriminatory effect. The boundary commission and municipality should determine whether there is a history of racial bloc voting in the municipality. If there is, an annexation that results in a reduction in the percentage of minority voters in the

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municipality may have a discriminatory effect. The proposal may only be acceptable if the municipality adopts an apportionment system that fairly reflects the strength of the minority community as it exists after the annexation. At-large elections of city council members may be unacceptable, since Alaska law requires runoff elections if no candidate receives more than 40 percent of the vote for [\*6] a given office. AS 29.28.040; City of Port Arthur v. United States, U.S. , 74 L.Ed.2d 334 (1982). Council members should be elected by districts or by a combination of district and at-large seats that assures that minority voters will not be underrepresented on the council.

### 3. Preclearance Submission Requirements

The procedure that should be followed by a municipality in submitting a change for preclearance is set out in regulations adopted by the U.S. Department of Justice, 28 C.F.R. part 51, subparts B and C. A copy of those regulations is attached.

### 4. Incorporation

We have found no case law that establishes that the incorporation of municipalities in the unorganized borough constitutes a change in voting qualification procedure, standard or practice that must be precleared before enforcement. If incorporation does constitute such a change, it would be the state's burden to preclear the change, since the proposed municipality would not yet be a political subdivision capable of submitting the change. Considerations of the Local Boundary Commission would be similar to those for annexation proposals. We are requesting written advice from the U.S. [\*7] Department of Justice on this matter. Until that advice is received, we recommend that the Local Boundary Commission consider incorporation proposals as if the preclearance provisions do apply. The department should consider the requirements of 28 C.F.R. part 51 and be prepared to make a preclearance submission to the U.S. Department of Justice.

Please let us know if you need further advice.