

SB

128



May 6, 2005

To: Representative Olson, Co-Chair House Community & Regional Affairs
Representative Thomas, Co-Chair House Community & Regional Affairs
Representative Kott
Representative LeDoux
Representative Neuman
Representative Cissna
Representative Salmon

From: City of Valdez

CC: Representative John Harris, Speaker of the House

Re: Senate Bill 128

In August of 2004, the Whittier City Council passed a resolution requesting the Local Boundary Commission consider incorporation of the Prince William Sound Model Borough. Whittier's request by resolution was approved by the Local Boundary Commission and resulted in the allocation of State resources from within the Department of Commerce, Community & Economic Development, Division of Community Advocacy (DCA) to prepare a petition for incorporation of the Prince William Sound Borough.

This action was taken by Whittier with no prior consultation or discussion with other communities within the area proposed for borough incorporation (Tatitlek, Chenega, Cordova, Valdez). The Local Boundary Commission took action on the matter with virtually no public notice on the matter. Were it not for the fact that two staff members of the City of Valdez were on a pre-established email notification list, it is quite possible that no one from our community or any of the other Prince William Sound communities would have known about this action.

The current language within AS 44.33.812 is sufficiently unclear as to allow the Local Boundary Commission to take action on a borough incorporation request submitted by one of several stakeholder groups. In this specific instance, a request by the City Council representing only 2% of the residents in the area proposed for borough incorporation resulted in the petition preparation by DCA employees. Other than testimony given at the LBC meeting where action was taken on the Whittier resolution, no formal opportunity was provided for comment by other communities prior to the LBC vote.

Moreover, upset with their own lack of participation in the process, Whittier residents submitted a signature petition calling for a referendum on the resolution, the result of which may be to revoke the resolution. If this is the case, the State will have wasted precious staff time and resources on preparing a petition that a seven-member council requested without adequate input from their own citizens. This alone is cause to require greater resident input in the formation of boroughs.

The City of Valdez supports the change proposed in SB 128 confirming that a "boundary change" may not be construed to include borough incorporation. It would prohibit one municipality (political subdivision of the state) from initiating borough incorporation proceedings without the knowledge and support of other affected areas. In the case of Prince William Sound, the remaining 98% of the population would have an opportunity to participate in an equitable process regarding borough incorporation.

The City of Valdez respectfully urges House Community & Regional Affairs to pass SB 128 for action by the full House of Representatives prior to the end of the session.

Jennifer Gibbins
Post Office Box 2368
Cordova, Alaska 99574

Representative Bill Thomas, Jr.
State Capitol, Room 428
Juneau, Alaska 99801-1182

Re: Senate Bill 128

Dear Representative Thomas:

I support allowing residents to have a say in deciding whether their community joins a borough government. I understand that is what SB 128 does and therefore I support SB 128. Enclosed for your information is a comment published in the Cordova Times on May 5, 2005 that discusses these issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Gibbins', with a long horizontal line extending to the right.

Jennifer Gibbins

Enclosure

Cordovans deserve to vote on new PWS borough

Jennifer Gibbins

For the Cordova Times

As co-sponsor with Lyane Steen of the recent referendum petition requesting a public vote on the creation of the Prince William Sound Borough, I am compelled to respond to the article in the "Mayor's Minutes" of the April 21 edition of the Cordova Times as follows:

1. 187 signers applied for a petition for a referendum on the City Council's resolution seeking to create a borough. The application has been rejected by the city. The city is, therefore, taking the affirmative position that the residents of Cordova should not and cannot vote on a new form of government. This is and should be troubling to the whole community regardless of your views on the borough.

2. The mayor says that the City Charter is "quite clear" that the people of Cordova are denied the right to have a referendum on a resolution. The city sent Lyane and me a three-page legal opinion denying the petition. It is curious indeed that a City Charter that is so "clear" required an expensive three-page legal opinion to "justify" denial of a simple application for a referendum petition.

3. The purpose of the referendum petition is very clear. It simply requests that the residents of Cordova have the opportunity to

vote on the resolution passed by the council that begins the process of creating a borough without a public vote. The packets assembled for collection of signatures for the application each contained the simple statement:

This petition does not take a position for or against the proposed Prince William Sound Borough; it is only asking that the citizens of Cordova be allowed to vote on the issue.

It appears that the mayor believes that desiring a vote on the type of government we will have is the same as opposing the borough. This is not correct.

4. Seeking the right to vote on a new form of government is not, as wrongly implied by the mayor, an "extremist" issue or position. Voting is not, and should not be, in the United States of America at best, a partisan issue. The mayor has received a letter, dated March 22, 2005, from state Sen. Gene Theriault, R-North Pole, and House Speaker John Harris which states, among other things, "Through your recent passage of resolution 03-05-13 you have chosen a forced borough formation rather than working through a public process with citizens throughout the conceptual borough area."

5. If the government cannot con-

vince a majority of people, through the voting process, that another layer of government is beneficial, it raises serious questions.

6. The Constitution of Alaska provides that "the people" may have a referendum on "acts of the Legislature." Legislative acts, at the municipal level, include both ordinances and resolutions. The City of Cordova cannot deny by its procedures the right to referendum. This is what the city is attempting to do.

7. No borough has ever been formed through the process being attempted by the city of Cordova.

As noted by Sen. Theriault and Rep. Harris in their letter to the mayor, the "local method" process has been used for the formation of the last eight boroughs in the state and provides for maximum public input at the local level. Why does the mayor believe that the residents of Cordova should not be given the courtesy of an opportunity to take part in such decision making?

This issue has a shelf life beyond any other issue before this community. It will affect us, our children, their children and beyond. A public vote is very appropriate. I hope that Cordova

residents, regardless of where they find themselves on the political spectrum, will take a moment to seriously consider the great deal of effort that is being devoted to denying the people of Cordova the right to vote. For or against the borough, this is just wrong. Cordovans not only deserve the right to vote - any way we want to - we should be encouraged and expected to participate in the decision-making on this important community issue.

- Jennifer Gibbins is the director of the Eyak Preservation Society.

May 6, 2005 9:52PM

No. 1643 P. 4

The Community and Regional Affairs Committee will come to order.

Let the record reflect that it is _____am, May 7, 2005.

Let the record reflect we have a quorum. Members present are

- Representative Thomas
- Representative LeDoux
- Representative Kott
- Representative Neuman
- Representative Cissna
- Representative Salmon

Today we'll be taking up SB 128. (Dave Stancliff is apparently going to carry the bill) (We are not on teleconference) (in-house testimony, close testimony, committee discussion, will of the committee)

(If you don't get finished with the bill before 9:30 recess to the call of the chair, DO NOT adjourn)

Alaska State Legislature

SENATOR
GENE THERRIAULT

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119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
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Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
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SENATE DISTRICT F

Sponsor Statement for SB 128

Senate Bill 128 will help insure that petitions to create new boroughs receive a higher degree of local public participation.

The foundation for this legislation is Article I, Section 2 of the State Constitution, "All political power is inherent in the people. *All government originates with the people*, is founded upon their will only, and is solely for the good of the people as a whole."

The specific authority to make this statutory change is in Article X, Section 3 of the State Constitution. "*The entire state shall be organized into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law.*"

The Local Boundary Commission has acted against overwhelming objections of Valdez residents in directing an employee of the Department of Community, Commerce and Economic Development to originate a borough petition surrounding their community. The LBC is using a process that does not follow the typical Title 29 procedures for public involvement in the petition formulation process.

While the Constitution in Article X, Section 12 of the Constitution states: the Local Boundary Commission "may consider any proposed local government boundary *change*". It does not state, that a state agency or the LBC may create entirely new borough boundaries. In fact, the statutory language that once specifically recognized such authority was eliminated.

It is clear from the minutes of the Constitutional Convention that the founders did not intend a borough to be created by a state employee, or five unelected commissioners. The founders no doubt intended the phrase "*All government originates with the people*" to guide and temper the actions of the LBC and government agencies in their deliberations and actions.

SB 128 is based on Article I, Section 2, and affirms for the LBC and the Department of Community, Commerce and Economic Development that "*all government*" applies to boroughs, and the words "*originates with the people*" applies first and foremost to citizens within proposed borough boundaries.

NATIVE VILLAGE OF EAGLE
EAGLE VILLAGE IRA COUNCIL
P. O. BOX 19
EAGLE, AALASKA 99738

PHONE NO. (907) 547-2281
FAX NO. (907) 547-2318

March 7, 2005

Gene Therriault
Alaska State Legislature
Alaska State Senate
State Capital
Juneau, Alaska 99801-1182

RE: Senate Bill 128

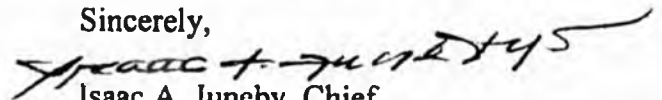
Dear Honorable Senator Therriault:

I am writing in references to Senate Bill 128, which you introduced ton March 3, 2005. After reviewing the synopsis of SB-128, I wanted to let you know that I support it. I like the intent of this bill, however, I do have a few questions? You quoted the "Alaska State Constitution" Article 1, Section 2, which states that all government originates with the people. I read and understands this to mean, if someone wants a borough, that it is up to the people who resides within the area to formulate, vote and introduce it as legislation.

The individual rights within our Bill of Rights, states we the people, for the people and by the people. The bill, which you are sponsoring, has all of these safeguards and merits. I do believe that we need a bill like SB-128 to safeguard all of our rights, especially in this case, the formation of boroughs or other forms of government.

Thank you for giving me the time to comment. I strongly support and recommend passage of this bill. If you have any questions or comments, feel free to call me at (907) 547-2271 (office) or (907) 547-3030 (home).

Sincerely,



Isaac A. Juneby, Chief
Eagle Village IRA Council

C/C

File

All Alaska State House of Representatives
All Alaska State Senators

FRANK H. MURKOWSKI
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 28, 2005

The Honorable Gene Therriault
State Capitol, Room 119
Juneau, AK 99801-1182

Dear Senator Therriault:

Thank you for your letter of April 22, regarding my position on the subject of forced formation of boroughs.

Since taking office I have been committed to improving the quality of life for Alaskans while maintaining the Alaskan lifestyle we all cherish.

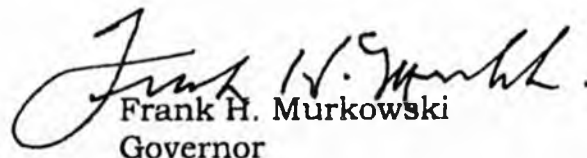
For many issues local control is the best way of ensuring new opportunities do not replace our Alaskan lifestyle or circumvent local priorities. The formation of Title 29 subdivisions, including boroughs, empowers local communities to make their own choices

I fully support local government.

The testimony of agencies supporting and advocating for the formation of Title 29 political subdivisions is not a deviation from earlier positions. I continue to favor the utilization of local control but will not force the imposition of local government. I have been, and remain consistent in this position.

I am encouraged by the numerous discussions on local government taking place in the Capitol and around Alaska. I hope to seize this enthusiasm and work with you on developing policies that promote borough formation around Alaska.

Sincerely yours,


Frank H. Murkowski
Governor

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB128
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Borough Incorporation RDU Comm Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor Therriault
 Requester Senate 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (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 AS 44.33.812(a) to require that the term "boundary change" may not be construed to include a borough incorporation. It would not create a fiscal impact on the operations of the department.

Prepared by: Michael Black, Director Phone 907.268.4580
 Division Community Advocacy Date/Time 3/21/05 10:19 AM
 Approved by: Edgar Blatchford, Commissioner Date 3/21/2005
 Agency Commerce, Community, and Economic Development