

SB

128

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
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.



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gene Therriault
Current Version: SB 128
Contact: Dave Stancliff, 465-4797

Fact Sheet for: Senate Bill 128

Short Title: BOROUGH INCORPORATION

Summary:

- Amends AS 44.33.812 to clarify that the authority of the Local Boundary Commission (LBC) does not include borough incorporation when the LBC considers a local government "boundary change."

Benefits:

- Ensures a higher degree of local public participation in the petition process.
- Resolves a potential constitutional conflict.
- Clarifies state law regarding the formation of boroughs to reflect the intentions of participants in Alaska's Constitutional Convention.

Background:

- SB 128 clarifies that agency personnel of state government cannot create a new borough. The bill is in response to a recent action of the LBC and the Department of Commerce, Community and Economic Development to draft a petition that would surround the community of Valdez with a new borough. The action is against overwhelming objections of Valdez residents, does not follow typical Title 29 procedure allowing for public involvement, and can be interpreted as unconstitutional. Validation for SB 128 comes from 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 for the statutory change made in SB 128 comes from Article X, Section 3, "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." Minutes of the Constitutional Convention clearly indicate that the founders did not intend borough creation by a state department or five unelected commissioners.



February 22, 2005

Governor Frank Murkowski
State of Alaska
Office of the Governor
P. O. Box 110001
Juneau, Alaska 99811
Fax: (907) 465-3532

Dear Governor Murkowski:

The City of Valdez respectfully requests your attention to the development of a petition for the incorporation of the Prince William Sound Borough that follows the model borough boundaries in the Prince William Sound area. In August of 2004, the City of Whittier passed a resolution asking the Local Boundary Commission to have the State act as the petitioner for the incorporation of the Prince William Sound Borough through the Legislative Review Process. The Local Boundary Commission voted favorably to grant Whittier's request. Subsequently, staff time within the Division of Community Advocacy was allocated for preparation of the petition. A number of issues relating to this process are cause for alarm.

First, the petition process has been assigned to a very accelerated schedule. The Division of Community Advocacy has informed stakeholders that the petition will be submitted by the end of March, 2005. This submission date does not guarantee, but positions the petition to be submitted by the LBC within the first ten days of the 2006 Legislative session. The timeline virtually prohibits the affected communities from completing their own analysis of alternative borough boundaries. The model borough boundaries were drawn up more than a decade ago. Much has changed in that time. There very well may be alternative boundary options that make more social and economic sense for the individual communities within Prince William Sound. The "fast-tracked" petition provides no opportunity for different options to be explored.

Secondly, the City of Whittier passed and submitted its resolution to the Local Boundary Commission with no forewarning to the other four impacted communities. The population of Whittier is approximately 172 people. Based on information we have received, not all of the residents are in favor of borough incorporation. This means that less than 2% of the population in Prince William Sound is driving a borough petition process for the other 98% of the residents in the impacted area.

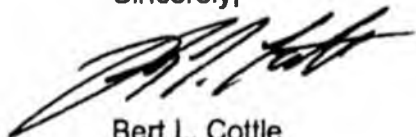
Finally, it is the stated policy of the Administration that Alaska residents will not be forced into new local government. Much of the push behind borough formation is to ensure that Alaskans are paying "their fair share." We see that as a reasonable goal. However, in Prince William Sound, 95% of the population is currently paying for schools, land use

planning. An even higher number (98%) are paying taxes for services that far exceed those provided by most borough governments in Alaska.

With this in mind, it begs the question, "Why the rush?" All five communities within Prince William Sound should be given the dignity and time to determine which boundaries make the most sense for the social and economic well being of our citizens for this generation and those to come.

The City of Valdez urges you to review the State's role and process in preparation of the petition for incorporation of the Prince William Sound Borough.

Sincerely,

A handwritten signature in black ink, appearing to read "Bert L. Cottle", written in a cursive style.

Bert L. Cottle
Mayor

CC: Representative John Harris, Speaker of the House
Senator Gene Therriault

For Immediate Release

Bill Redirects LBC in Borough Action

(JUNEAU)—Senator Gene Therriault has introduced a bill to clarify that new boroughs are not to be created by agency personnel of state government.

Senator Therriault, (R-North Pole), sees a constitutional conflict in recent action by the Local Boundary Commission and the Department of Community and Economic Development to draft a petition that would surround the community of Valdez with a new borough.

“The residents in the Valdez area feel they have been totally disenfranchised, and rightfully so. Such petitions should originate with maximum local involvement. The LBC and agency have made a wrong move here and we must correct the course a bit,” Therriault said.

“The Alaska Constitution states, *“All government is to originate with the people and is founded upon their will only.”* I interpret that to include borough governments. The role of the Local Boundary Commission is to review proposed changes, not to create boroughs. If we are to have a government by the people, those proposed changes should emanate from the local level up, not from the top of the government pyramid down,” Therriault said.

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

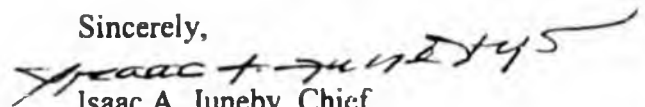
Dear Honorable Senator Therriault:

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



State of Alaska
Local Boundary Commission

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

March 21, 2005

The Honorable Gary Stevens, Chair
Senate Committee on Community and Regional Affairs
State Capitol, Room 103
Juneau, AK 99801-1182

RE SB 128

Dear Senator Stevens:

I regret that I am unable to testify in person or by teleconference at this afternoon's hearing regarding SB 128. Please accept this letter and attachment as my written testimony.

Time constraints did not allow the LBC to convene in public session to address SB 128. However, the views expressed here are consistent with the policy positions reflected in the LBC's 2005 report to the Legislature.

Senate Bill Number 128 would impede efforts to form organized boroughs. As former Alaska Constitutional Convention delegate Victor Fischer recently testified concerning somewhat similar legislation (HB 133), this "would be a big step backward from where we are today – and today we are not where we should be."

The observation that "today we are not where we should be" reflects the struggles by the executive and legislative branches over the past 46 years to implement the concept of borough government. We still have a long way to go in that regard.

SB 128 would make achievement of the framers' vision regarding local government all the more difficult. That was reflected in the words of one community leader in the unorganized borough who quipped earlier this month regarding the similar HB 133, "If that happens, our troubles are over."

Please take a few moments to consider the several observations regarding SB 128 outlined in the attachment. Because SB 128 would impede efforts to form boroughs, I urge you to carefully consider and reject SB 128.

Sincerely,

Darroll Hargaves
Chair

Attachment: Observations Concerning SB 128

cc: Members of the Local Boundary Commission



State of Alaska Local Boundary Commission

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

March 21, 2005

OBSERVATIONS CONCERNING SB 128

SB 128 would allow the LBC to ignore a request from legislature itself to consider borough incorporation.

- SB 128 would remove the decades old requirement that the LBC consider borough incorporation of specific areas requested by the legislature.
- In 2004, the Alaska Senate approved a measure (SCR 12) requesting the LBC to consider incorporation of boroughs in four regions of the unorganized borough that were deemed to have the fiscal and administrative capacity to operate boroughs.
- In 2001, the Alaska Senate approved a measure (SB 48) which required the LBC to review unorganized areas and make formal recommendations to the Legislature for incorporation of areas that meet borough standards.

SB 128 would prohibit certain local efforts to form boroughs.

- SB 128 is intended to ensure that borough incorporation proposals "emanate from the local level." (See March 3, 2005, Press Release, Office of Senator Therriault.) Yet, it would remove the requirement that the LBC consider such proposals initiated by a local government. Moreover, it would effectively nullify pending requests by the City of Cordova (Resolution 03-05-13) and City of Whittier (Resolution 745-04) that the LBC consider incorporation of a Prince William Sound borough.

A number of areas in the unorganized borough have fiscal and administrative capacity to operate boroughs, yet opposition to boroughs exists in many unorganized areas.

- The 2002 Legislature directed the LBC to examine areas of the unorganized borough that meet borough incorporation standards. The LBC identified a number of such areas. (See *Unorganized Areas of Alaska That Meet Borough Incorporation Standards*, February 2003.)
- One example is the Delta Greely REAA portion of the unorganized borough. Following a lengthy effort involving many hundreds of hours, the State Assessor recently estimated that the value of taxable property in the Delta Greely REAA is \$130,585 per capita. That figure is nearly 31 percent greater than the figure for all sixteen existing boroughs (\$99,948).
- The above figures include the value of oil and gas property taxable under AS 43.56. If that property is excluded, the value of taxable property in the Delta Greely REAA is estimated to be \$79,947 per capita. That figure is virtually identical to the average for all existing organized boroughs (\$80,061).

Observations Concerning SB 128

March 18, 2005

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- The Department of Labor and Workforce Development recently estimated that in FY 2004, average monthly employment in the Delta Greely REAA was 1,169. Total wages paid in the Delta Greely REAA during FY 2004 were estimated to be \$54,340,020.
- Despite the fiscal capacity of the Delta Greely region, a recent letter filed with the LBC regarding the prospective Delta-Greely borough proposal provided the results of a survey taken in the area regarding borough formation. From the 193 returns, 87 percent were against the creation of a borough.
- A recent poll from the Copper River Basin reveals a similar outcome, 76 percent of those voting opposed the creation of a borough for the area.

SB 128 removes the requirement that the LBC consider borough incorporation proposals by the local government agency.

- SB 128 would remove the requirement that the LBC would have to consider a borough incorporation proposal requested by the Commissioner of the Department of Commerce. The Commerce Commissioner has used authority to initiate boundary changes in the past, one such action (a borough detachment) was critical to the formation of the Northwest Arctic Borough in 1986.

SB 128 would rely on an ineffective method for incorporation of new boroughs.

- The 2004 State Senate approved SCR 12, which stated, "the local option method of borough incorporation, first enacted in 1961 and currently codified in AS 29.05.060 - 29.05.150, has been generally ineffective."
- In 2004, three-quarters of the boroughs formed under the 1963 Mandatory Borough Act endorsed SCR 12.
- The 1963 Legislature and then-Governor Egan (former President of the Constitutional Convention) recognized that the local option method was ineffective when they approved mandatory incorporation of boroughs encompassing 84 percent of Alaskans.
- In 46 years of statehood, the local action method of borough incorporation (AS 29.05.060 - 29.05.150) favored by SB 128 has resulted in the creation of boroughs in which fewer than 4 percent of Alaskans live.
- Cordova officials stated that the local option method "renders any local initiative to form a borough impractical." (See December 29, 1999, letter from then-Mayor Ed Zeine.) Additionally, like SCR 12 approved by the Senate in 2004, City of Cordova Resolution 03-05-13, adopted March 8, 2005, states, "the local option method of borough incorporation, first enacted in 1961 and currently codified in AS 29.05.060 - 29.05.150, has been generally ineffective."
- City of Whittier Resolution 745-04, adopted August 2, 2004, also finds that the local option method has been ineffective.
- City of Wrangell officials have been thwarted for years in attempts to pursue borough incorporation because of restrictions in the local option method.

- For five decades, experts have repeatedly recognized that an effective policy of voluntary borough incorporation requires adequate incorporation incentives. Such incentives have never been provided. (See pages 85 – 132, LBC Report to 2005 Legislature.)
- Lacking borough incentives, the 1963 Legislature instituted a policy compelling formation of boroughs in regions with fiscal and administrative capacity. Eight boroughs, encompassing 84 percent of Alaskans, were formed by that Legislature. Boroughs were formed in regions encompassing:
 1. Greater Ketchikan area,
 2. Kenai Peninsula,
 3. Kodiak Island,
 4. Greater Anchorage area,
 5. Greater Fairbanks area,
 6. Matanuska-Susitna Valleys,
 7. Greater Sitka area,
 8. Greater Juneau area.

The framers of Alaska's Constitution distinguished between the concept of organized and unorganized boroughs in terms of fiscal and administrative capacity.

- "[W]e allow for the boroughs remaining unorganized until they are able to take on their local government functions. . . . The boundaries, we think, are quite an important question and should be under some agency which can **establish** them along the proper lines. They **should not be left to the local community**; they should be established by a higher authority." (John Rosswog, Chair of the Local Government Committee, *Alaska Constitutional Convention Proceedings*, p. 2612, emphasis added.)
- "[W]hen 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." (Victor Fischer, Secretary of the Local Government Committee, *Alaska Constitutional Convention Proceedings*, Alaska Legislative Council, pp. 2673 - 2674.)

Definition of the term "boundary change".

- SB 128 would, in effect, define "boundary change" to exclude borough incorporation. Beginning with Alaska's Constitutional Convention and through 46 years of statehood, the term has been broadly construed to include borough incorporation.
- One example of the broad definition of the term was expressed in a 1964 State Attorney General's opinion. That opinion stated, "Those who drafted the Constitution clearly intended that such vital changes as incorporation and dissolution of local government units be considered boundary changes subject to the Commission's authority."

Observations Concerning SB 128

March 1st, 2005

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- On March 1, 2005, the Director of Legal Services for the Legislative Affairs Agency of the State of Alaska concluded that, "The formation of a borough certainly involves a boundary change"

Use of Legislative Review Method.

- The legislative review method to change municipal boundaries in Alaska has been used more than 125 times since Statehood. The Constitution establishes the LBC and grants it broad powers. SB 128 would limit those powers.
- The Prince William Sound region is the focus of much debate over methods for borough incorporation. It is noteworthy that each of the three city governments in the Prince William Sound region has utilized the legislative review method to "incorporate" new areas into the existing cities by annexation.

The will of the people is reflected in Alaska's Constitution.

- SB 128 is intended to ensure that governments are founded only upon local will. Alaska's Constitution, ratified by the People of Alaska on April 24, 1956, in a record turnout by a margin greater than two to one, also reflects the will of the people.
- Multiple constitutional principles were expressly cited by the 1963 Legislature when it mandated formation of boroughs that today encompass 84 percent of Alaskans.
- The 1972 Legislature affirmed the 1963 policy by mandating that each second-class city with 400+ residents reclassify as a first-class city. First-class cities in the unorganized borough are required by State law to provide the same services as boroughs.
- Alaska's Constitution requires a rational basis for disparate treatment of Alaskans. The LBC is unaware of any rational basis for compelling certain areas that possessed the fiscal and administrative capacity to organize boroughs, but not doing so now for others with such capacity.
- Areas within boroughs and home-rule and first-class cities in the unorganized borough are subject to State mandates to operate municipal school districts; make local contributions in support of schools; and exercise planning, platting, and land use regulation. Other areas of Alaska – without regard to fiscal and administrative capacity – are not required to do so.

March 19, 2005

Box 192
Tok, Alaska 99780

My fax: 907-883-4601

Senator Gary Stevens, chair
State Capitol, Juneau, Ak 99801-1182

To: Fax 907-465-3517
Senate C R & A Committee

Dear Senator Stevens:

My name is Glen Marunde and I am a 45 year resident of the Tok Area. My wife, Dorothy and I have raised 5 children here in Alaska. I make my living as an electrical and mechanical contractor. I also teach construction classes for the U of A. My work has taken me all over Alaska from Juneau, to Barrow, to Border and to Adak..

I am writing you in support of SB128. "An Act relating to consideration by the Local Boundary Commission of a requested borough incorporation." I have studied our State Constitution and I believe that the framers never intended for the LBC, the Legislature, and/or the courts to initiate the establishment of a new borough or an annexation to an existing borough. I believe I am a reasonable man making a reasonable interpretation of the Constitution. I believe the Borough Act of 1961, as amended, is the current law of the land and is today's only valid authority for establishing or annexing boroughs.

The Mandatory Borough Act of 1963 was a one-time-only act and does not establish any precedence for mandating boroughs.

In November of 2000, the DCED published a booklet entitled "Background on Boroughs in Alaska". The booklet was written by Mr. Dan Bockhorst, a DCED local government specialist who acts as a facilitator for the LBC. On page 14, under the heading of Borough

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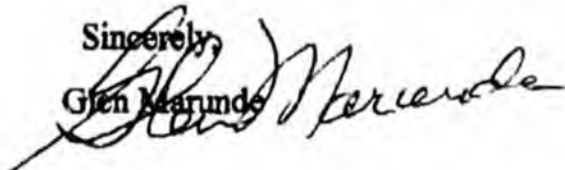
Incorporation Procedures, Mr. Bockhorst clearly states, "Current law expressly provides that borough incorporation proposals may only be initiated by voters." The process states that incorporation proposals are initiated by at least 15% of those who voted in the last State General Election. Mr. Bockhorst then goes on to present a rather lengthy process of hearings, including the presentation of briefs and comment periods, and finally the last step, "Submission of a proposition of the vote of the proposed borough which requires approval from a majority of the area wide vote."

The Borough Act of 1961, as amended, and passed by the 2nd Legislature is the current law of Alaska regarding the formation of borough government. This law dictates that borough proposals may only be initiated by 15% of the those who voted in the last State General election, and that submission of a proposition of the vote of the proposed borough which requires approval from a majority of the area wide vote.

Please vote to pass SB 128 out of your committee. It is needed to clarify the intent of the current law pertaining to borough formation.

Sincerely,

Glen Magunde



PS I am attaching 3 articles I have written which have appeared in the Tok and Delta newspapers.



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• **A VOICE FOR THE BUSH**

Commentary by Glen Marunde, Tok Resident

This article may be downloaded at www.avoiceforthebush.com

"Just how organized is the Unorganized Borough?"

There are 144 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, 8 first class cities, and 34 2nd class cities for a total of 48 cities.

In the Unorganized Borough there are home rule cities, 13 first class cities and 77 2nd class cities for a total of 95.

Most Alaskans are very surprised to learn that there are nearly twice as many cities in the Unorganized borough as there are in the Organized Borough. And then there are the large number of native villages that are organized as tribal governments under federal law. In truth, there already is a lot of organized government in the Unorganized Borough.

Now along comes a group of State Senators who are co-sponsoring Senate Concurrent Resolution No. 12 which requests that the Local Boundary Commission consider borough incorporation for certain unorganized boroughs. The sad thing is that these Senators are not promoting borough government because it is the best and most logical government for communities in the Bush. Clearly, city government is the best initial government for bush communities. City government, not borough is closest to the people. These bureaucracy loving State Senators are using the mandatory borough government issue simply as a vehicle to tax the bush with nary a concern for what is best, most effective, and most efficient for the small communities in the Bush.

Let us assume that those who want wall-to-wall government for our Great State achieve their goal. This would mean that all 95 cities now in the Unorganized Borough would be saddled with an unneeded and unwanted layer of government overnight! And since most cities already have local taxes, there would be two layers of taxing authority. The establishment of of an unneeded layer of borough government would be in direct conflict with State Constitution Article X, Local Government, section 1, Purpose and



Construction which states, " 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 and other organized local governments in the Unorganized Borough stands as proof that Article 10, LOCAL GOVERNMENT, is working as the framers of our State Constitution intended. C'mon you politicians. It ain't broke—so please don't fix it!

⑤

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

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"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 99780
March 2-2005



Lt Gov Jack Coghill Addresses Delta Citizens Regarding Alaska's Constitution

By Glen Marunde

A group of about 75 Delta and Tok citizens were privileged to listen to and interchange ideas with Lt Gov Jack Coghill at a meeting held at the Delta Russian Church Tuesday evening, May 4th. Lt Gov Coghill was invited to the meeting called by an old friend, Delta resident Jack Knight. The purpose of the meeting was to get a clear view of what the framers of Alaska's Constitution intended regarding the formation of local governments. At the center of the evening's discussion was Senate Concurrent Resolution 12, which would force a layer of borough government on the Delta/Tok areas, the Glennallen Area and two other areas in Southeast Alaska without the consent of those living in the areas and without the vote of anyone answerable to an electorate.

Lt Gov Coghill said, "Nobody, not the legislature, not the Governor, not the Local Boundary Commission --nobody can force local government on people without their consent. It's all in our constitution in Art X, section 2 Source of Government." Then, reading from the Constitution, he stated, "All power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted for the good of the people as a whole"

Lt. Gov Coghill said the framers felt that very large parts of Alaska would remain unorganized forever. Those in the Legislature who want more and more government are just creating "government for rabbits" according to Coghill. He also explained that the framers envisioned boroughs to be local, not regional governments. Some of the existing boroughs are far too large, and he used the huge North Slope Borough as an example of a borough that includes large areas that the local people never used, just to get at resources.

"If and when the people of Delta or Tok want to form a borough they should be able to choose what they want according to law and vote for or against it" he pointed out.

Coghill ended by saying that his life's accomplishment of which he is most proud is having served as a framer of Alaska's Constitution.

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Attending the meeting from Tok were Glen Marunde, Sally Young, and Mary and Wally Hinkley. Marunde and Young are Chairman and treasurer of the WOLFPAC organization and the Hinkleys are on the steering committee.

LR/L

24-LS0512/F

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 133(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/4/05

Referred: State Affairs

Sponsor(s): REPRESENTATIVES COGHILL, Harris, Salmon

*diff. w/ HB
2/19/05
draft of statute
not filed in law
committee
ability to
draft*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to incorporation of boroughs and to regulations of the Local Boundary
2 Commission to provide standards and procedures for municipal incorporation,
3 reclassification, dissolution, and certain municipal boundary changes; and providing for
4 an effective date."

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

6 * **Section 1.** AS 29.05.100(a) is amended to read:

7 (a) The Local Boundary Commission may not amend the petition or [AND
8 MAY] impose conditions on the incorporation. If the commission determines that the
9 incorporation [. AS AMENDED OR CONDITIONED IF APPROPRIATE.] meets
10 applicable standards under the state constitution and commission regulations, meets
11 the standards for incorporation under AS 29.05.011 or 29.05.031, and is in the best
12 interests of the state, it may accept the petition. Otherwise it shall reject the petition.

13 * **Sec. 2.** AS 29.05 is amended by adding a new section to read:

14 **Sec. 29.05.115. Incorporation with legislative review.** (a) If the Local

1 Boundary Commission submits a proposal for borough incorporation to the legislature
 2 under art. X, sec. 12, Constitution of the State of Alaska, AS 29.05.060 - 29.05.110 do
 3 not apply. However, before the proposal is submitted to the legislature, the Local
 4 Boundary Commission shall hold at least two public hearings in the area proposed for
 5 incorporation and shall notify the director of elections of the incorporation proposal.
 6 Within 30 days after notification, the director of elections shall order an election in the
 7 proposed borough area to determine whether the voters desire incorporation. Only if
 8 the voters approve the incorporation may the Local Boundary Commission submit the
 9 proposal to the legislature.

10 (b) This section may not be construed as granting authority to the Local
 11 Boundary Commission to propose a borough incorporation under art. X, sec. 12,
 12 Constitution of the State of Alaska.

13 * Sec. 3. AS 44.33.812(a) is amended to read:

14 (a) The Local Boundary Commission shall

15 (1) make studies of local government boundary problems;

16 (2) adopt regulations providing standards and procedures for municipal
 17 incorporation, annexation, detachment, merger, consolidation, reclassification, and
 18 dissolution; the regulations providing standards and procedures are subject to
 19 AS 29.04 - AS 29.10;

20 (3) consider a local government boundary change requested of it by the
 21 legislature, the commissioner of commerce, community, and economic development,
 22 or a political subdivision of the state; and

23 (4) develop standards and procedures for the extension of services and
 24 ordinances of incorporated cities into contiguous areas for limited purposes upon
 25 majority approval of the voters of the contiguous area to be annexed and prepare
 26 transition schedules and prorated tax mill levies as well as standards for participation
 27 by voters of these contiguous areas in the affairs of the incorporated cities furnishing
 28 services.

29 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 APPLICABILITY. A municipal incorporation, annexation, detachment, merger,

1 consolidation, reclassification, or dissolution proposal that has not taken effect on or before
2 the effective date of this Act and that has been initiated or considered under regulations that
3 do not meet the requirements of AS 44.33.812(a)(2), as amended in sec. 3 of this Act, or
4 under procedures that do not meet the requirements of AS 29.05.115, added by sec. 2 of this
5 Act, is void. The proposal may be initiated again under regulations that do meet the
6 requirements of AS 44.33.812(a)(2) or under procedures that do meet the requirements of
7 AS 29.05.115.

8 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

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)

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: 00
 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 907.269.4580
 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