

HB

133

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

Interim Address:

**3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271**

Session

**(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: May 1, 2006

To: Senator Therriault, Chair
Senate State Affairs

From: Representative John Coghill *JCO*

Re: HB 133 – Local Boundary Commission

Please schedule this bill for a hearing in Senate State Affairs at your earliest convenience.

Thank you.

**Statement to the Senate State Affairs Committee
Regarding *CSSHB 133(JUD)am*
By Darroll Hargaves, Chair, Local Boundary Commission
May 2, 2006**

The Local Boundary Commission (LBC) as a whole has not had the opportunity to express its position on the version of the bill before this committee. Prior to yesterday's hearing before the Senate Community and Regional Affairs Committee, the bill had been dormant for nearly one year.

Last year, however, the LBC unanimously opposed an earlier version of House Bill 133 (*CSSHB 133(STA)*) for "fundamental policy and legal concerns." I trust that the prior written statements of the LBC regarding this bill are available to committee members.

Current laws provide substantial opportunity for public input on matters before the LBC (at least seven weeks to file briefs and written comments on a petition, at least four weeks to file comments on the Department of Commerce's report to the LBC, and the opportunity to testify and comment at a hearing of the LBC). Section 1 of the bill would provide further opportunity for input in the case of a city or borough incorporation. Inexplicably, however, it would not provide the same opportunity for any of the other 11 types of proceedings that come before the LBC (city annexation, borough annexation, city dissolution, borough dissolution, city merger, borough merger, city consolidation, borough consolidation, city reclassification, city detachment, and borough detachment). If the additional measures are warranted for city or borough incorporation, why would not similar measures be warranted for all other types of actions that come before the LBC? Moreover, it should be recognized that the requirement in Section 1 will extend the time it takes for a city or borough incorporation.

Section 3 of the bill seems to be ambiguous in terms of its construction. I have heard the testimony as to the intent of Section 3; however, I am uncertain that the bill would accomplish that intent. Moreover, even if it does accomplish the intent, here again, the bill would extend requirements to certain proceedings before the LBC but not others. In particular, in this case, it is purported that the bill would require, for a local action annexation, approval of the voters of the annexing municipality and, separately, approval of the voters of the area proposed for annexation. If such is appropriate public policy, why would it not then be appropriate, for example in the case of a local action detachment, to require voter approval in the area proposed for detachment and, separately, the remainder of the municipality?

I wish to note further that due to the additional LBC hearings required under this bill, I have asked the Department of Commerce to reflect this fiscal impact in a fiscal note that was prepared yesterday.

Thank you for considering these concerns.

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CSSSHB 133 (CRA) Local Boundary Commission SPONSOR STATEMENT

Committee Substitute for Sponsor Substitute for House Bill 133 makes four 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 two public meetings 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.

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.

HB 133 requires a majority approval of the voters residing in the area to be annexed and a majority approval of voters residing in the existing municipality.

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.

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CSSSHB 133(STA)
Sectional

Section 1. Eliminates Local Boundary Commission's ability to amend petitions or impose conditions on petitions approved by a vote of the people. Article 10, Section 12 of the Alaska State Constitution provides that the local boundary commission "may consider any proposed local boundary change." It does not give power to amend proposals or place additional requirements on the petitioners. This Section requires the commission to consider the proposal and vote it up or down.

Sec. 2. When a proposal is to be submitted to the legislature for approval, the proposal would still be required to have two public hearings in the area of the proposed action and voter approval of the voters in the proposed area. This language strengthens the constitutional provisions in Article I, section 2: "Source of Government ~ All political power is inherent in the people. All government originates with the people..."

Sec. 3. This section requires two separate votes for an annexation and both elections separately must be approved by a majority of the voters. One election is a vote of the people to be annexed and the other election is a vote of the people in the existing municipality.

Sec. 4. Makes it very clear that regulations cannot extend requirements beyond those requirements set in statute and clears up the conflict of aggregate votes. The aggregate vote regulation adds to the statutory requirements and way to annex property that is inconsistent with the constitutional provision of Article 12, section 11: "Law-Making Power ~ As used in this constitution, the terms "by law" and "By the legislature," or variations of these terms, are used interchangeably when related to law-making powers. Unless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI. (Article XI deals with initiatives, referendums, and recall)

Sec. 5. This applicability clause directs the existing applications before the LBC that have not been finalized before the enactment of HB 133 to be processed by the conditions of HB 133.

Sec. 6. This is an effective date clause.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSSHB 133(JUD) am
 () Publish Date: _____

Revision Date/Time (Note if correction): 5/01/06 Dept. Affected: Commerce
 Title: Municipal Boundary Changes/Commission RDU: Comm Assist & Ec Dev (405)
 Component: Community Advocacy
 Sponsor: Coghill et al
 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 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	1.0	1.0	1.0	1.0	1.0	1.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	11.0	11.0	11.0	11.0	11.0	11.0

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	11.0	11.0	11.0	11.0	11.0	11.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	11.0	11.0	11.0	11.0	11.0	11.0

Estimate of any current year (FY2006) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would require the Local Boundary Commission (LBC) to provide public notice and an opportunity for public comment for each municipal incorporation petition that was proposed to be amended or have conditions imposed by the Commission. This fiscal note assumes one city or borough incorporation petition with proposed amendments and/or conditions each year.

The travel projections assume the Commission would travel back to the area affected by the incorporation petition to resume the initial public hearing and decisional session after taking further comment on each proposed amendment or condition. The projected costs are for travel, overnight accommodations, and per diem for 5 members of the LBC (one member appointed from each of four judicial districts), one member of the LBC staff, and a court reporter.

Contractual costs are for public notice of opportunity for public comment on each proposed amendment or condition.

Prepared by: Michael Black, Director Phone: 907.269.4578
 Division: Community Advocacy Date/Time: 5/1/06 2:14 PM
 Approved by: William C. Noll, Commissioner Date: 5/1/2006
 Agency: Commerce, Community, and Economic Development

AML Borough Formation Task Force Recommendation

Amendments to Title 29

AS 29.05.031 Amendment: Add new subsection (c) as follows:

(c) In setting boundaries of a proposed borough or unified municipality, consideration shall be given to existing administrative or corporate boundaries and to drainage basins or other regional geographic features. However, while corporate and administration boundaries may be considered, such boundaries shall not be entitled to any presumption in the determination of the appropriate boundaries under subsection (a) of this section. The following apply:

(1) Absent a specific and persuasive showing to the contrary, the Local Boundary Commission shall, while acting in the best interest of the State, strive to preserve maximum flexibility, local preference, and areas of common interests when approving petition boundaries.

(2) All boundaries approved under subsection (a) of this section shall be structured such that all bordering areas have a reasonable potential to form viable political subdivisions. If the proposed boundary of a new borough would leave an enclave or a non-viable area between it and an existing borough, and the standards for establishing borough boundaries would call for annexation of that area to the existing borough rather than the proposed borough, the Local Boundary Commission shall extend the boundaries of the existing borough to include that area. Petitions will not be approved that would leave enclaves or non-viable areas between boroughs. Existing boroughs affected by potential boundary changes shall be given notice and have the opportunity to offer input prior to the determination of final boundaries.

(3) The Local Boundary Commission will not consider incorporation of a proposed borough containing more than one home rule and/or first class city unless its petition includes resolutions of support from each city council.



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
(committee name)

committee on HB 133, dated 5/2/06
(bill # / subject)

Signed:

_____ Testifier

_____ Representing (optional)

_____ Address

_____ Telephone

24-LS0512\I.A

AMENDMENT # _____

OFFERED IN THE SENATE STATE AFFAIRS BY

TO: CSSSHB 133(JUD)

- 1 Page 2, line 16:
- 2 After the word "annexation"
- 3 Insert:
- 4 **or detachment**
- 5
- 6 Page 2, line 17:
- 7 After the word "annexing"
- 8 Insert:
- 9 **or detaching**
- 10

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Regarding CSSHB 133(JUD)am
By Darroll Hargraves, Chair, Local Boundary Commission
May 2, 2006**

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STATE OF ALASKA
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Prepared by: Michael Black, Director
 Division: Community Advocacy
 Approved by: William C. Noll, Commissioner
 Agency: Commerce, Community, and Economic Development

Phone 907 269 4578
 Date/Time 5/1/06 2:14 PM
 Date 5/1/2006