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FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SSSB 136
 (S) Publish Date: 4/18/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Municipal Road Service Areas RDU Community Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor Thomas
 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 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends AS 29.35.450 to add two exceptions to the law which requires a public vote before making certain changes to municipal service areas. The first exception states that a subdivision may be added to a service area without a public vote, if the roads provide the only access or are required by subdivision plat, regulation or ordinance. The second exception states that a subdivision may be excluded from a service area without a public vote, if the roads do not provide the only access or are required by subdivision plat, regulation or ordinance.

This legislation will have no fiscal impact on the operations of the division.

Prepared by: Mike Black, Director Phone 907.269.4535
 Division: Community Advocacy Date/Time 4/11/07 9:34 AM
 Approved by: Emil Notti, Commissioner Date 4/11/2007
 Agency: Commerce, Community, and Economic Development

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 4/13/07

FURTHER: Transportation

Date of 5-Day Notice: 3/29/07
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: April 17, 2007

Community & Regional Affairs Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136

SB 136 MUNICIPAL ROAD SERVICE AREAS

"An Act relating to certain municipal service areas that provide road services."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DCCED COM	4/11/07			✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	THOMAS	✓			
	WAGONER	✓			
	KOOKESH			✓	
CHAIR:	OLSON	✓			

ALASKA STATE LEGISLATURE
SENATE BILL NO. 136

HISTORY IN THE SENATE

2007
3/23 Read first time and referred to:
CRA, TRA
4/13 SPONSOR sub - CRA, TRA
4/18 CRA RPT CS() New Title
3 DP DNP 1 NR AM
 FN 1 OFN / Prev: FN OFN
To: TRA

 RPT CS() New Title
 DP DNP NR AM
 FN OFN / Prev: FN OFN
To:

 RPT CS() New Title
 DP DNP NR AM
 FN OFN / Prev: FN OFN
To:

Read second time

CS() Adopted New Title
 Amended
 Advanced / 3rd Rdg.

Read third time

Title Amendment
 Return to 2nd & amended

Passed Y N E A
 EFD same or Y N E A
 CBR same or Y N E A
 CRT same or Y N E A

Reconsideration

Reconsideration not taken up

Title Amendment
 Return to 2nd & amended

Passed/Rec Y N E A
 EFD same or Y N E A
 CBR same or Y N E A
 CRT same or Y N E A

Engrossed, signed by the President
Transmitted to the House

Secretary of the Senate

HISTORY IN THE HOUSE

20 Read first time and referred to:

 RPT HCS() NT: HCR
 DP DNP NR AM
 FN OFN / Prev: FN OFN

 RPT HCS() NT: HCR
 DP DNP NR AM
 FN OFN / Prev: FN OFN

 RPT HCS() NT: HCR
 DP DNP NR AM
 FN OFN / Prev: FN OFN

 RPT HCS() NT: HCR
 DP DNP NR AM
 FN OFN / Prev: FN OFN

Read second time

HCS() Adopted New Title
HCR No.
 Amended
 Advanced / 3rd Rdg.

Read third time

Title Amendment
 Return to 2nd & amended

Passed Y N E A
 EFD same or Y N E A
 CBR same or Y N E A
 CRT same or Y N E A

Reconsideration

Reconsideration not taken up

Title Amendment
 Return to 2nd & amended

Passed/Rec Y N E A
 EFD same or Y N E A
 CBR same or Y N E A
 CRT same or Y N E A

Engrossed, signed by the Speaker
Returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY (continued)

20

Version Received from the House:

Concur in House Amendment

Y ___ N ___ E ___ A ___

[] EFD same or Y ___ N ___ E ___ A ___

[] CBR same or Y ___ N ___ E ___ A ___

[] CRT same or Y ___ N ___ E ___ A ___

Failed concur in House amd., ask House recede

Y ___ N ___ E ___ A ___

House failed to recede from amendment

Y ___ N ___ E ___ A ___

CC appointed by Senate _____ Chair

CC appointed by House _____ Chair

(S) Granted Limited Powers of Free Conference

(H) Granted Limited Powers of Free Conference

20

(S) Adopted CC Rpt _____

Y ___ N ___ E ___ A ___

[] EFD same or Y ___ N ___ E ___ A ___

[] CBR same or Y ___ N ___ E ___ A ___

[] CRT same or Y ___ N ___ E ___ A ___

(H) Adopted CC Rpt _____

Y ___ N ___ E ___ A ___

[] EFD same or Y ___ N ___ E ___ A ___

[] CBR same or Y ___ N ___ E ___ A ___

[] CRT same or Y ___ N ___ E ___ A ___

Sent to enrolling

Received from Enrolling _____ Manifest Error

Sent to Governor

By Governor _____

Chapter Number _____

Filed with Lieutenant Governor

Sen. Kookesh



**SENATE TRANSPORTATION
COMMITTEE**

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-6828 (Senate)
907-465-3424 (House)

To: Senate Transportation Committee Members

From: Albert Kookesh, Chair, Senate Transportation Committee *AKookesh*
465-6828

Date: April 27, 2007

Re: Senate Transportation Committee Schedule for the week of
April 30 – May 4, 2007
1:30pm to 3:00pm – State Capitol, Room 205 (Butrovich Room)

Tuesday, May 1, 2007

SB 136: An Act relating to certain municipal service areas that provide road service.
Sponsor: Senator Joe Thomas.

HB 185: An Act relating to certain municipal service areas that provide road services.
Sponsor: Representative John Coghill

SJR 7: Opposing the enactment of the provisions in the Next Generation Air Transportation System Financing Reform Act of 2007 that impose air traffic control user fees, increase aviation fuel and aviation gas taxes, reduce airport funding, and reduce Congressional oversight of the FAA. **Sponsor:** Senator Donny Olsen

CS HJR 18: Opposing the enactment of the provisions in the Next Generation Air Transportation System Financing Reform Act of 2007 that impose air traffic control user fees, increase aviation fuel and aviation gas taxes, reduce airport funding, and reduce Congressional oversight of the FAA. **Sponsor:** Representative Kyle Johansen

Thursday, May 3, 2007

Bills previously heard or scheduled

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

BY SENATOR THOMAS

**Introduced: 4/13/07
Referred: Community and Regional Affairs, Transportation**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain municipal service areas that provide road services."**

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

3 *** Section 1. AS 29.35.450(c) is amended to read:**

4 (c) If voters reside within a service area that provides road, fire protection, or
5 parks and recreation services, abolishment of the service area is subject to approval by
6 the majority of the voters residing in the service area who vote on the question. A
7 service area that provides road, fire protection, or parks and recreation services in
8 which voters reside may not be abolished and replaced by a larger service area unless
9 that proposal is approved, separately, by a majority of the voters who vote on the
10 question residing in the existing service area and by a majority of the voters who vote
11 on the question residing in the area proposed to be included within the new service
12 area but outside of the existing service area. A service area that provides road, fire
13 protection, or parks and recreation services in which voters reside may not be altered
14 or combined with another service area unless that proposal is approved, separately, by
15 a majority of the voters who vote on the question and who reside in each of the service

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areas or in the area outside of service areas that is affected by the proposal. This subsection does not apply

(1) to a proposed change to a service area that provides fire protection services that would result in increasing the number of parcels of land in the service area or successor service area if the increase is not more than six percent and would add not more than 1,000 residents;

(2) [. THIS SUBSECTION DOES NOT APPLY] in a second class borough to abolishment of a road service area or consolidation of two or more road service areas if

(A) [(1)] taxes have not been levied in the service area for road maintenance or construction during the last 12 months and there is no balance in any account available to pay for these road services for the service area;

(B) [(2)] during the last 12 months, the service area board has not met with a quorum present and in accordance with law; or

(C) [(3)] there are no road maintenance contracts in effect for the service area or the existing road maintenance contracts fail to provide for minimum road standards required by law that are necessary to protect the borough from civil liability;

(3) to require approval by the voters residing in a subdivision or parcel proposed to be added to a road service area if roads maintained by the service area provide the only access to the subdivision or parcel or provide access to the subdivision or parcel that is required by the subdivision plat or by other regulation or ordinance;

(4) to a change in the boundaries of a road service area to exclude a subdivision or parcel that does not rely on the use of roads maintained by the service area for the subdivision's or parcel's only access or for access that is required by the subdivision plat or by other regulation or ordinance.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sponsor Statement

Senate Bill 136 - An Act relating to certain municipal service areas that provide road services.

Senate Bill 136 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas.

A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area.

State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. These state mandated annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

SB 136 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a vote by the owners of property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners.

SB 136 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sectional Summary – Senate Bill 136

Section 1 of the bill provides for (i) a service area to annex property that utilizes its roads for their sole or legally required access without a separate vote of the property to be annexed; and (ii) a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.



Alaska State Legislature

Please enter into the record my testimony to the Senate Transportation
 committee name
 committee on SB136- Service Areas dated 4-24-07
 bill/subject

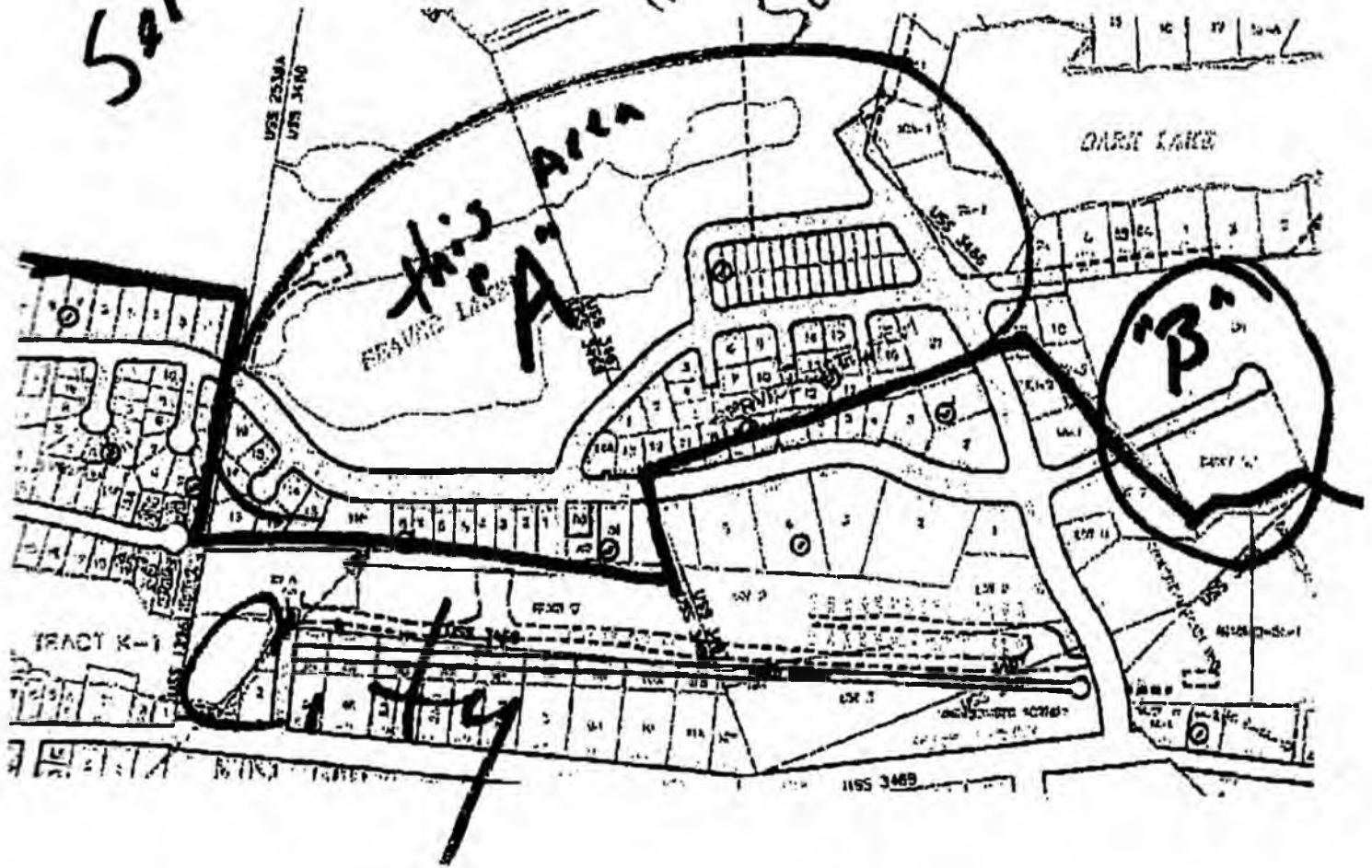
3 page to follow.

Please provide to all committee members.

Will be speaking on SB136 today and
will reference these in my testimony.

Signed: Ed Mahoney
 Testifier
Self
 Representing (Optional)
PO Box 2281 Kodiak 99615
 Address
907 486-1968
 Phone No.

Service Dist
 City Maintained
 Road Access to
 Subdivisions



Senate Transportation
 For Hearing on SB136 - April 24, 2007 - 1:30pm
 to each member of Committee

1 of 3

I will be referring to these
 in my testimony. Thank you Ed Mahoney

State Road
Access to Subdivision



2 of 3

Sec. 29.35.450. Service areas.

(a) A service area to provide special services in a borough may be established, operated, altered, or abolished by ordinance. Special services include services not provided on an areawide or nonareawide basis in the borough, or a higher or different level of service than that provided on an areawide or nonareawide basis. The borough may include a city in a service area if

(1) the city agrees by ordinance; or

(2) approval is granted by a majority of voters residing in the city, and by a majority of voters residing inside the boundaries of the proposed service area but outside of the city.

(b) A new service area may not be established if, consistent with the purposes of Alaska Const., art. X, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

this was state Statutes

Before Amended in 2001.

Should we go back to this?

3 of 3

Senator Donny Olson & Sen Community Regional Affairs
4.70.010-4.70.020 Memk

Regarding SB 136

Chapter 4.70

SERVICE AREA NO. 1

Sections:

- 4.70.010 Creation and powers.
- 4.70.015 Service area exemptions.
- 4.70.020 Board.

4.70.010 Creation and powers. Service area no. 1 is established pursuant to Ordinance No. 78-06-O and encompasses the area described in that ordinance. Road construction and maintenance powers shall be provided in service area no. 1. (Ord. 98-04 '2 (part), 1998; Ord. 96-03-O '3,4; Ord. 91-11-O '2 '5, 1991; Ord. 85-25-O, 1985; Ord. 80-29-O '(part), 1980; Ord. 78-6-O '1, 1978; Ord. 77-35-O, 1977; Ord. 68-24-O, 1968; Ord. 64-3-O, 1964.

4.70.015 Service area exemptions. Parcels abutting state-maintained roads whose only access is on a state-maintained road and there is no potential use of service area roads for access within described boundaries of the service area shall be excluded from road construction and maintenance and the rate of taxation to finance that service within the service area. The determination that the parcel receives no benefits from the service shall be made by the manager, or designee, and is appealable to the assembly. (Ord. 98-04 '2 (part), 1998; Ord. 97-28-O '3, 1997).

4.70.020 Board. The service area no. 1 board shall consist of seven (7) members. (Ord. 98-04 '2 (part), 1998; Ord. 91-11-O '2 '5, 1991).

Kodiak Island Board
Code AS it now
stands,

From
Ed Mahoney
Kodiak

ALASKA STATE LEGISLATURE
SENATE BILL NO. 136

HISTORY IN THE SENATE

2007
3/23
4/13
4/18

Read first time and referred to:

CRA, TRA
SPONSOR SUB - CRA, TRA

CRA RPT CS() New Title
3 DP 1 DNP 1 NR AM
FN 1 OFN / Prev: FN OFN
To: TRA

RPT CS() New Title
DP DNP NR AM
FN OFN / Prev: FN OFN
To:

RPT CS() New Title
DP DNP NR AM
FN OFN / Prev: FN OFN
To:

Read second time

[] CS() Adopted [] New Title
[] Amended _____
[] _____ Advanced / 3rd Rdg. _____

Read third time

[] Title Amendment
[] Return to 2nd & amended _____

[] Passed Y N E A
[] EFD same or Y N E A
[] CBR same or Y N E A
[] CRT same or Y N E A
[] _____

Reconsideration

Reconsideration not taken up

[] Title Amendment
[] Return to 2nd & amended _____

[] Passed/Rec Y N E A
[] EFD same or Y N E A
[] CBR same or Y N E A
[] CRT same or Y N E A
[] _____

Engrossed, signed by the President
Transmitted to the House

Secretary of the Senate

HISTORY IN THE HOUSE

20

Read first time and referred to:

RPT HCS() NT: HCR
DP DNP NR AM
FN OFN / Prev: FN OFN

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DP DNP NR AM
FN OFN / Prev: FN OFN

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FN OFN / Prev: FN OFN

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[] HCS() Adopted [] New Title
HCR No. _____
[] Amended _____
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Read third time

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Reconsideration

Reconsideration not taken up

[] Title Amendment
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Engrossed, signed by the Speaker
Returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY (continued)

20

Version Received from the House:

Concur in House Amendment

Y ___ N ___ E ___ A ___

[] EFD same or Y ___ N ___ E ___ A ___

[] CBR same or Y ___ N ___ E ___ A ___

[] CRT same or Y ___ N ___ E ___ A ___

Failed concur in House amd., ask House recede

Y ___ N ___ E ___ A ___

House failed to recede from amendment

Y ___ N ___ E ___ A ___

CC appointed by Senate _____ Chair

CC appointed by House _____ Chair

(S) Granted Limited Powers of Free Conference

(H) Granted Limited Powers of Free Conference

20

(S) Adopted CC Rpt _____

Y ___ N ___ E ___ A ___

[] EFD same or Y ___ N ___ E ___ A ___

[] CBR same or Y ___ N ___ E ___ A ___

[] CRT same or Y ___ N ___ E ___ A ___

(H) Adopted CC Rpt _____

Y ___ N ___ E ___ A ___

[] EFD same or Y ___ N ___ E ___ A ___

[] CBR same or Y ___ N ___ E ___ A ___

[] CRT same or Y ___ N ___ E ___ A ___

Sent to enrolling

Received from Enrolling _____ Manifest Error

Sent to Governor

_____ By Governor

Chapter Number _____

Filed with Lieutenant Governor

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR THOMAS

Introduced: 4/13/07

Referred: Community and Regional Affairs, Transportation

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain municipal service areas that provide road services."**

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

3 *** Section 1. AS 29.35.450(c) is amended to read:**

4 (c) If voters reside within a service area that provides road, fire protection, or
5 parks and recreation services, abolishment of the service area is subject to approval by
6 the majority of the voters residing in the service area who vote on the question. A
7 service area that provides road, fire protection, or parks and recreation services in
8 which voters reside may not be abolished and replaced by a larger service area unless
9 that proposal is approved, separately, by a majority of the voters who vote on the
10 question residing in the existing service area and by a majority of the voters who vote
11 on the question residing in the area proposed to be included within the new service
12 area but outside of the existing service area. A service area that provides road, fire
13 protection, or parks and recreation services in which voters reside may not be altered
14 or combined with another service area unless that proposal is approved, separately, by
15 a majority of the voters who vote on the question and who reside in each of the service

1 areas or in the area outside of service areas that is affected by the proposal. This
 2 subsection does not apply

3 (1) to a proposed change to a service area that provides fire protection
 4 services that would result in increasing the number of parcels of land in the service
 5 area or successor service area if the increase is not more than six percent and would
 6 add not more than 1,000 residents;

7 (2) [. THIS SUBSECTION DOES NOT APPLY] in a second class
 8 borough to abolishment of a road service area or consolidation of two or more road
 9 service areas if

10 (A) [(1)] taxes have not been levied in the service area for road
 11 maintenance or construction during the last 12 months and there is no balance
 12 in any account available to pay for these road services for the service area;

13 (B) [(2)] during the last 12 months, the service area board has
 14 not met with a quorum present and in accordance with law; or

15 (C) [(3)] there are no road maintenance contracts in effect for
 16 the service area or the existing road maintenance contracts fail to provide for
 17 minimum road standards required by law that are necessary to protect the
 18 borough from civil liability;

19 (3) to require approval by the voters residing in a subdivision or
 20 parcel proposed to be added to a road service area if roads maintained by the
 21 service area provide the only access to the subdivision or parcel or provide access
 22 to the subdivision or parcel that is required by the subdivision plat or by other
 23 regulation or ordinance;

24 (4) to a change in the boundaries of a road service area to exclude
 25 a subdivision or parcel that does not rely on the use of roads maintained by the
 26 service area for the subdivision's or parcel's only access or for access that is
 27 required by the subdivision plat or by other regulation or ordinance.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR THOMAS

Introduced: 4/13/07

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 26 service area for the subdivision's or parcel's only access or for access that is
 27 required by the subdivision plat or by other regulation or ordinance.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sponsor Statement

Senate Bill 136 - An Act relating to certain municipal service areas that provide road services.

Senate Bill 136 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas.

A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area.

State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. These state mandated annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

SB 136 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a vote by the owners of property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners.

SB 136 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sectional Summary – Senate Bill 136

Section 1 of the bill provides for (i) a service area to annex property that utilizes its roads for their sole or legally required access without a separate vote of the property to be annexed; and (ii) a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

ALTERATION OF ROAD SERVICE AREA BOUNDARIES TO ENSURE TAXPAYER FAIRNESS

Under existing law the Borough lacks any effective means to alter existing road service area boundaries even when necessary to ensure taxpayer fairness. Because only those properties within the service area boundaries can be required to contribute to the costs of the service area, the Borough's inability to adjust boundaries creates two taxpayer fairness issues that the proposed legislation attempts to resolve. Currently, resolution of both problems depends upon taxpayers' willingness to vote against their own financial interest.

1. Presently, state law permits Borough residents, living outside a road service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. This problem usually arises because of subsequent development near a service area which utilizes existing service area roads for access. While the Borough demands, through its subdivision laws, that owner/subdividers consent to annexation into the service area as part of the subdivision application, state law still requires an election if anyone resides in the area, including the subdivider. These annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

- The proposed change to state law would fix this problem by **allowing a service area to annex property that uses its roads for their sole or legally required access without a separate vote of the property to be annexed.**

2. The second problem is almost the direct opposite. Here, people find themselves, either because of the way the original boundaries were drawn or due to subsequent road development, paying into a road service area even though they do not utilize the service area roads for access onto their property. Service areas, however, are often reluctant to vote to remove property from the service area because that effectively raises taxes on the remaining property owners.

- The proposed change to state law would fix this problem **by allowing the assembly to exercise its judgment to alter, by ordinance, the service area boundary to exclude that property or properties that do not use service area roads.**

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB136-COM-DCA-04-11-07
 Bill Version: SB 136
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Municipal Road Service Areas

Dept. Affected: Commerce
 RDU Community Assist & Ec Dev (405)
 Component Community Advocacy

Sponsor Thomas
 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 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends AS 29.35.450 to add two exceptions to the law which requires a public vote before making certain changes to municipal service areas. The first exception states that a subdivision may be added to a service area without a public vote, if the roads provide the only access or are required by subdivision plat, regulation or ordinance. The second exception states that a subdivision may be excluded from a service area without a public vote, if the roads do not provide the only access or are required by subdivision plat, regulation or ordinance.

This legislation will have no fiscal impact on the operations of the division.

Prepared by: Mike Black, Director
 Division Community Advocacy
 Approved by: Emil Notti, Commissioner
 Agency Commerce, Community, and Economic Development

Phone 907.269.4535
 Date/Time 4/11/07 9:34 AM
 Date 4/11/2007



Fairbanks North Star Borough

Department of Law

809 Pioneer Road • PO Box 71267 • Fairbanks, AK 99707 - (907) 459-1318 FAX 459-1155

March 23, 2007

VIA FACSIMILE: 907-465-2819

Representative Anna Fairclough
State Capitol, Room 411
Juneau, AK 99801-1182

Representative Fairclough:

Thank you for the opportunity to comment on the questions posed by the Municipality of Anchorage, through Mr. Johnson's e-mail. After receiving a copy of the e-mail, I contacted Rhonda Fehlen Westover, Deputy Municipal Attorney for the Municipality of Anchorage. We agreed, after an extensive discussion of HB 185, including its impacts on our respective municipalities, to provide you with a joint response, and we are authorized on behalf of our respective governmental entities, to support HB 185.

We are both confident the new clause 3, at line 19, page 2, is constitutional. Alaska's Constitution provides that service areas "may be established, altered, or abolished" by the Assembly, subject to the provisions of law or charter. Thus, while state law could certainly add additional requirements, our Constitution only requires assembly approval. HB 185 preserves this constitutional requirement.

With respect to charter provisions, Alaska Statute 29.35.450 is one of the limitations on home rule powers, and supersedes charter provisions. A charter amendment is not necessary to implement HB 185 if approved by the legislature.

If you have any further questions, please feel free to contact either or both of us.

Sincerely,

FAIRBANKS NORTH STAR BOROUGH

MUNICIPALITY OF ANCHORAGE

A. René Broker
Borough Attorney

Rhonda Fehlen Westover
Deputy Municipal Attorney



Municipality of Anchorage


P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 <http://www.muni.org>

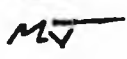
Mayor Mark Begich

Office of the Mayor

Memorandum

TO: The Honorable Anna Fairclough, Chair
Community and Regional Affairs Committee

THROUGH: Mayor Mark Begich 

FROM: Michael Johnson 
Mayor's Office

DATE: March 23, 2007

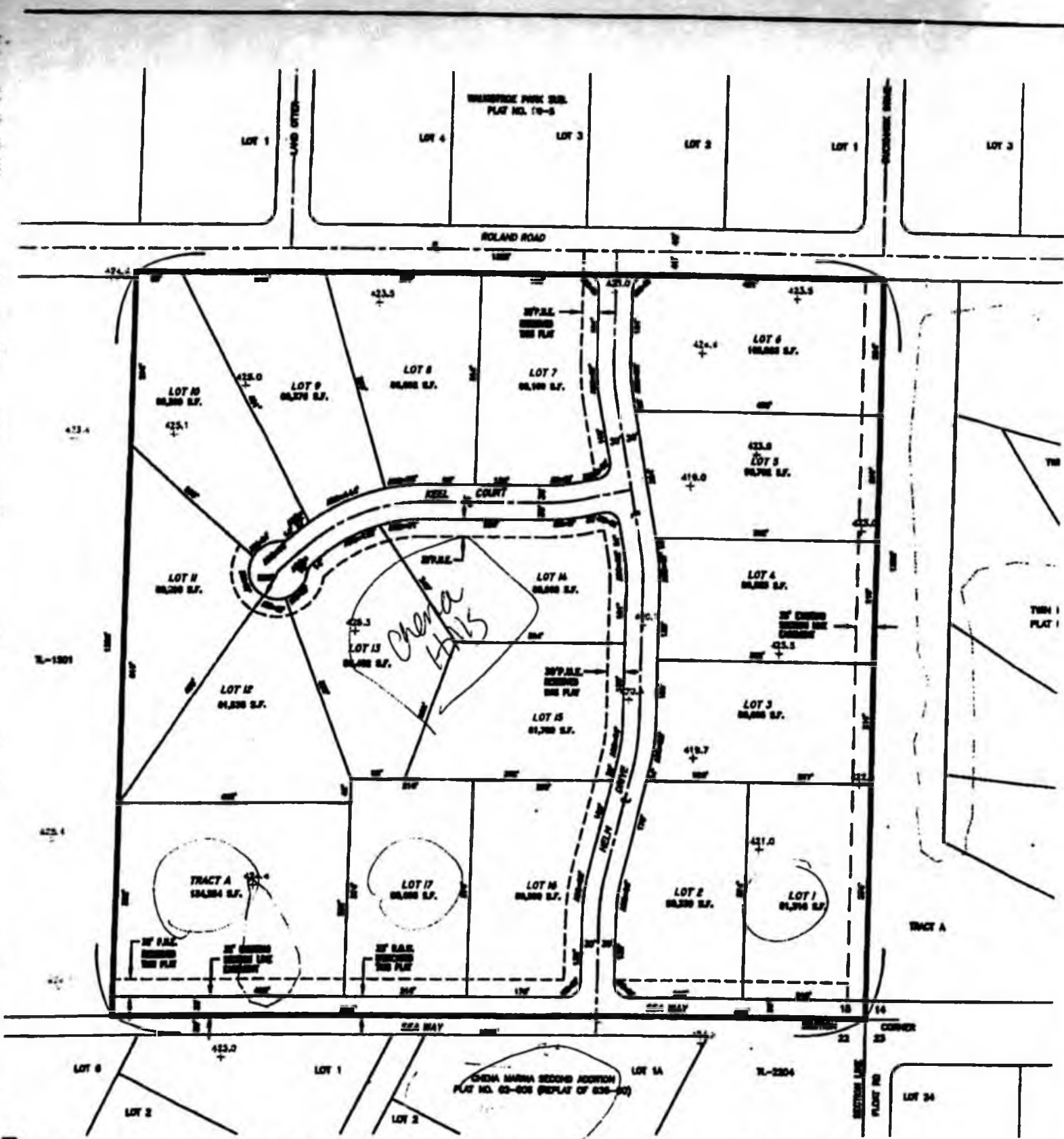
SUBJECT: House Bill 185

With the benefit of additional time to review the matter, I write to clarify Mayor Begich's position on House Bill 185 relating to service areas within a 1st Class Borough. Contrary to my email of Wednesday the 21st, Mayor Begich supports the passage of House Bill 185 with minor amendments.

As has been transmitted to you under separate cover, our Municipal Attorney's office, working with their counterparts in the Fairbanks North Star Borough, have resolved both our constitutional and charter concerns with this measure. With those items addressed, we wish only to suggest a minor amendment. In new section 3, beginning on line 19, we suggest the addition of the words "or parcel" immediately following the word 'subdivision' at the end of line 19, in the middle of line 21 and at the start of line 22.

Thanks again for the opportunity to comment on this legislation, and I regret any confusion caused by my previous email.

Community, Security, Prosperity



NOTES

DEDS FOR THIS SUBDIVISION ARE LENGTH POLE, DUNNAN SILT LOAM, AND SELDENHAM SILT LOAM, 6 TO 3 PERCENT SLOPES, PER WASH SOILS MANUAL, NO. 35, 1980 EDITION.

A PORTION OF THIS AREA IS WITHIN FLOOD ZONE "X", THE PORTION WITHIN ZONE "X" HAS A S.F.E. OF 426 FT. 1000 PER F.L.A.M. MAPPING DATED 1/2/82

A SEWER TRUNK AND ITS SOIL ABSORPTION SYSTEM MAY NOT BE PLACED WITHIN 10 FT. OF ANY PORTION OF ANY EXISTING OR 1000-YEAR FLOOD, STAGE, WINDING, SLUSH OR CORRAL WITHIN OF THE EDGE. THE SOIL ABSORPTION SYSTEM MUST BE A MINIMUM OF 4 FEET ABOVE THE SEASONALLY HIGH FLOOD STAGE WATER TABLE.

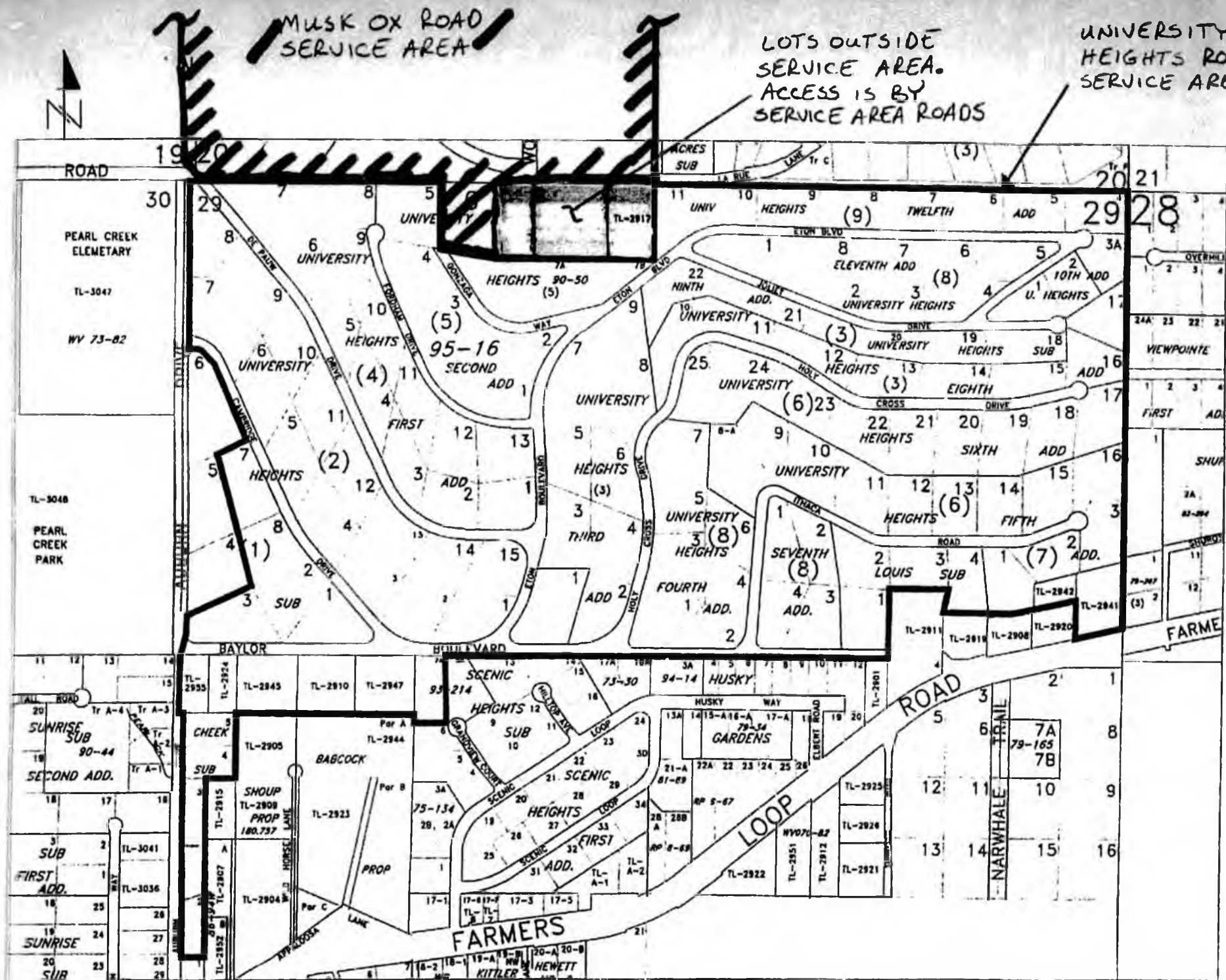
ALL ON-SITE WASTEWATER DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION. THE TERRAIN IN THIS AREA IS RELATIVELY FLAT WITH AN MEAN ELEV. OF 423.60'

UTILITY REQUIREMENTS

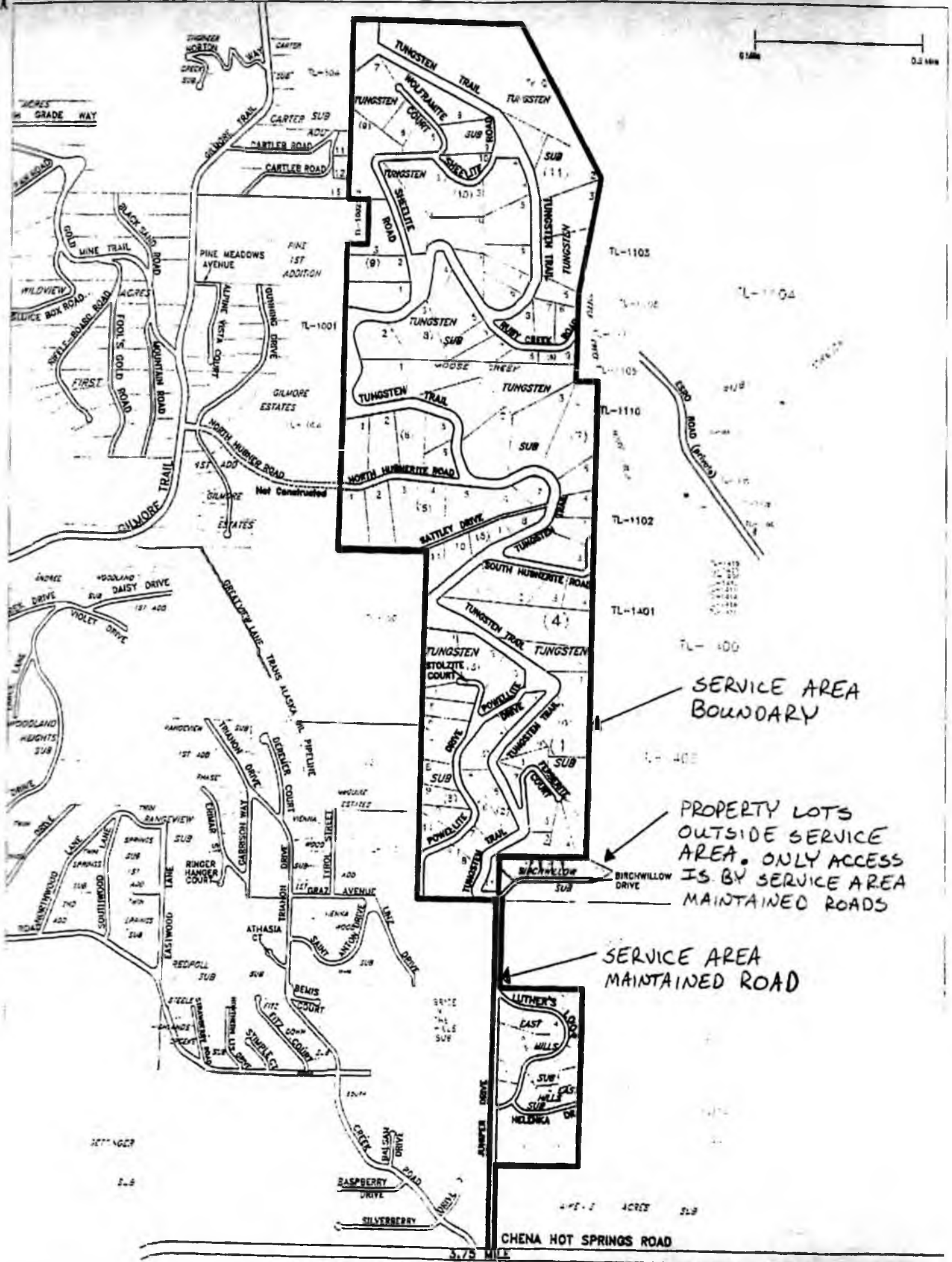
1. THERE WILL BE A 6" WATER SUPPLY AT EACH POLE LOCATIONS FOR SUMP, PUMPING AND OTHER SUPPORTIVE STRUCTURES.
2. A 1/2" OF THE SURF OF LAND AS DETERMINED BY THE UTILITY COMPANIES IS GRANTED FOR THE OVERLAP, UNDERPASS, LOWER OR REMOVAL OF UTD POLES.
3. THE UTILITY COMPANIES SHALL HAVE THE RIGHT TO SKIDWAY AND TRAIL REMOVE ANY SUMP, PUMP, OR STRUCTURE OR CONDUIT EXISTING THERE ADJACENT TO OR IN THE VICINITY OF THE STRUCTURE.
4. AN EASEMENT IS HEREBY GRANTED UPON ALL LOTS FOR SEWERAGE AREAL COVERAGE AS DETERMINED NECESSARY BY THE UTILITY COMPANIES.

AREA SUMMARY

LOTS 1-17	38.22 AC.
TRACT A	3.88 AC.
R.O.W.	3.88 AC.
TOTAL	46.11 AC.



Tungsten Road Service Area



Senator Donny Olson & Sen Community Regional Affairs
4.70.010-4.70.020 Memk

Regarding SB 136

Chapter 4.70

SERVICE AREA NO. 1

Sections:

- 4.70.010 Creation and powers.
- 4.70.015 Service area exemptions.
- 4.70.020 Board.

4.70.010 Creation and powers. Service area no. 1 is established pursuant to Ordinance No. 78-06-O and encompasses the area described in that ordinance. Road construction and maintenance powers shall be provided in service area no. 1. (Ord. 98-04 '2 (part), 1998; Ord. 96-03-O '3,4; Ord. 91-11-O '2 '5, 1991; Ord. 85-25-O, 1985; Ord. 80-29-O '(part), 1980; Ord. 78-6-O '1, 1978; Ord. 77-35-O, 1977; Ord. 68-24-O, 1968; Ord. 64-3-O, 1964.

4.70.015 Service area exemptions. Parcels abutting state-maintained roads whose only access is on a state-maintained road and there is no potential use of service area roads for access within described boundaries of the service area shall be excluded from road construction and maintenance and the rate of taxation to finance that service within the service area. The determination that the parcel receives no benefits from the service shall be made by the manager, or designee, and is appealable to the assembly. (Ord. 98-04 '2 (part), 1998; Ord. 97-28-O '3, 1997).

4.70.020 Board. The service area no. 1 board shall consist of seven (7) members. (Ord. 98-04 '2 (part), 1998; Ord. 91-11-O '2 '5, 1991).

Kodiak Island Board
Code AS it now
stands,

From
Ed Mahoney
Kodiak

Bill History/Action Display



BILL: SB 136

SHORT TITLE: MUNICIPAL ROAD SERVICE AREAS

BILL VERSION:

CURRENT STATUS: (S) CRA

STATUS DATE: 03/23/07

THEN TRA

SPONSOR(s): SENATOR(S) THOMAS

HEARING: (S) CRA Apr 17 3:30 PM BELTZ 211 TELECONFERENCE

TITLE: "An Act relating to certain municipal service areas that provide road services."

Bill Root: [Display Bill Root](#) [Next Bill](#)

[Full Text](#)

[Sponsor Statement](#)

[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
03/23/07	0637	(S) READ THE FIRST TIME - REFERRALS
03/23/07	0637	(S) CRA, TRA
03/23/07	0637	(S) REFERRED TO COMMUNITY & REGIONAL AFFAIRS

Similar Subject Match or Exact Subject Match

- [HIGHWAYS](#)
- [MUNICIPALITIES](#)
- [TRANSPORTATION](#)
- [ZONING](#)

Bill Root: [Display Bill Root](#) [Next Bill](#)

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[Return to Basis Main Menu \(25 Legislature\)](#)

[Return to Legislature Home Page](#)



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SENATE BILL NO. 136

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR THOMAS

Introduced: 3/23/07

Referred: Community and Regional Affairs, Transportation

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain municipal service areas that provide road services."**

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

3 *** Section 1. AS 29.35.450(c) is amended to read:**

4 (c) If voters reside within a service area that provides road, fire protection, or
5 parks and recreation services, abolishment of the service area is subject to approval by
6 the majority of the voters residing in the service area who vote on the question. A
7 service area that provides road, fire protection, or parks and recreation services in
8 which voters reside may not be abolished and replaced by a larger service area unless
9 that proposal is approved, separately, by a majority of the voters who vote on the
10 question residing in the existing service area and by a majority of the voters who vote
11 on the question residing in the area proposed to be included within the new service
12 area but outside of the existing service area. A service area that provides road, fire
13 protection, or parks and recreation services in which voters reside may not be altered
14 or combined with another service area unless that proposal is approved, separately, by
15 a majority of the voters who vote on the question and who reside in each of the service

1 areas or in the area outside of service areas that is affected by the proposal. This
 2 subsection does not apply

3 (1) to a proposed change to a service area that provides fire protection
 4 services that would result in increasing the number of parcels of land in the service
 5 area or successor service area if the increase is not more than six percent and would
 6 add not more than 1,000 residents;

7 (2) [. THIS SUBSECTION DOES NOT APPLY] in a second class
 8 borough to abolishment of a road service area or consolidation of two or more road
 9 service areas if

10 (A) [(1)] taxes have not been levied in the service area for road
 11 maintenance or construction during the last 12 months and there is no balance
 12 in any account available to pay for these road services for the service area;

13 (B) [(2)] during the last 12 months, the service area board has
 14 not met with a quorum present and in accordance with law; or

15 (C) [(3)] there are no road maintenance contracts in effect for
 16 the service area or the existing road maintenance contracts fail to provide for
 17 minimum road standards required by law that are necessary to protect the
 18 borough from civil liability;

19 (3) to require approval by the voters residing on property
 20 proposed to be added to a road service area if roads maintained by the service
 21 area provide the only access to the property or provide access to the property
 22 that is required by a subdivision plat or by other regulation or ordinance;

23 (4) to a change in the boundaries of a road service area to exclude
 24 property that does not rely on the use of roads maintained by the service area for
 25 the property's only access or for access to the property that is required by a
 26 subdivision plat or by other regulation or ordinance.

Sponsor Statement

Senate Bill 136 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas.

A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area.

State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. These state mandated annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

Senate Bill 136 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a separate vote of the property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners.

Senate Bill 136 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

Sectional Summary

Section 1 of the bill provides for (i) a service area to annex property that utilizes its roads for their sole or legally required access without a separate vote of the property to be annexed; and (ii) a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.



Fairbanks North Star Borough

Department of Law

809 Pioneer Road • PO Box 71267 • Fairbanks, AK 99707 - (907) 459-1318 FAX 459-1155

March 23, 2007

VIA FACSIMILE: 907-465-2819

Representative Anna Fairclough
State Capitol, Room 411
Juneau, AK 99801-1182

Representative Fairclough:

Thank you for the opportunity to comment on the questions posed by the Municipality of Anchorage, through Mr. Johnson's e-mail. After receiving a copy of the e-mail, I contacted Rhonda Fehlen Westover, Deputy Municipal Attorney for the Municipality of Anchorage. We agreed, after an extensive discussion of HB 185, including its impacts on our respective municipalities, to provide you with a joint response, and we are authorized on behalf of our respective governmental entities, to support HB 185.

We are both confident the new clause 3, at line 19, page 2, is constitutional. Alaska's Constitution provides that service areas "may be established, altered, or abolished" by the Assembly, subject to the provisions of law or charter. Thus, while state law could certainly add additional requirements, our Constitution only requires assembly approval. HB 185 preserves this constitutional requirement.

With respect to charter provisions, Alaska Statute 29.35.450 is one of the limitations on home rule powers, and supersedes charter provisions. A charter amendment is not necessary to implement HB 185 if approved by the legislature.

If you have any further questions, please feel free to contact either or both of us.

Sincerely,

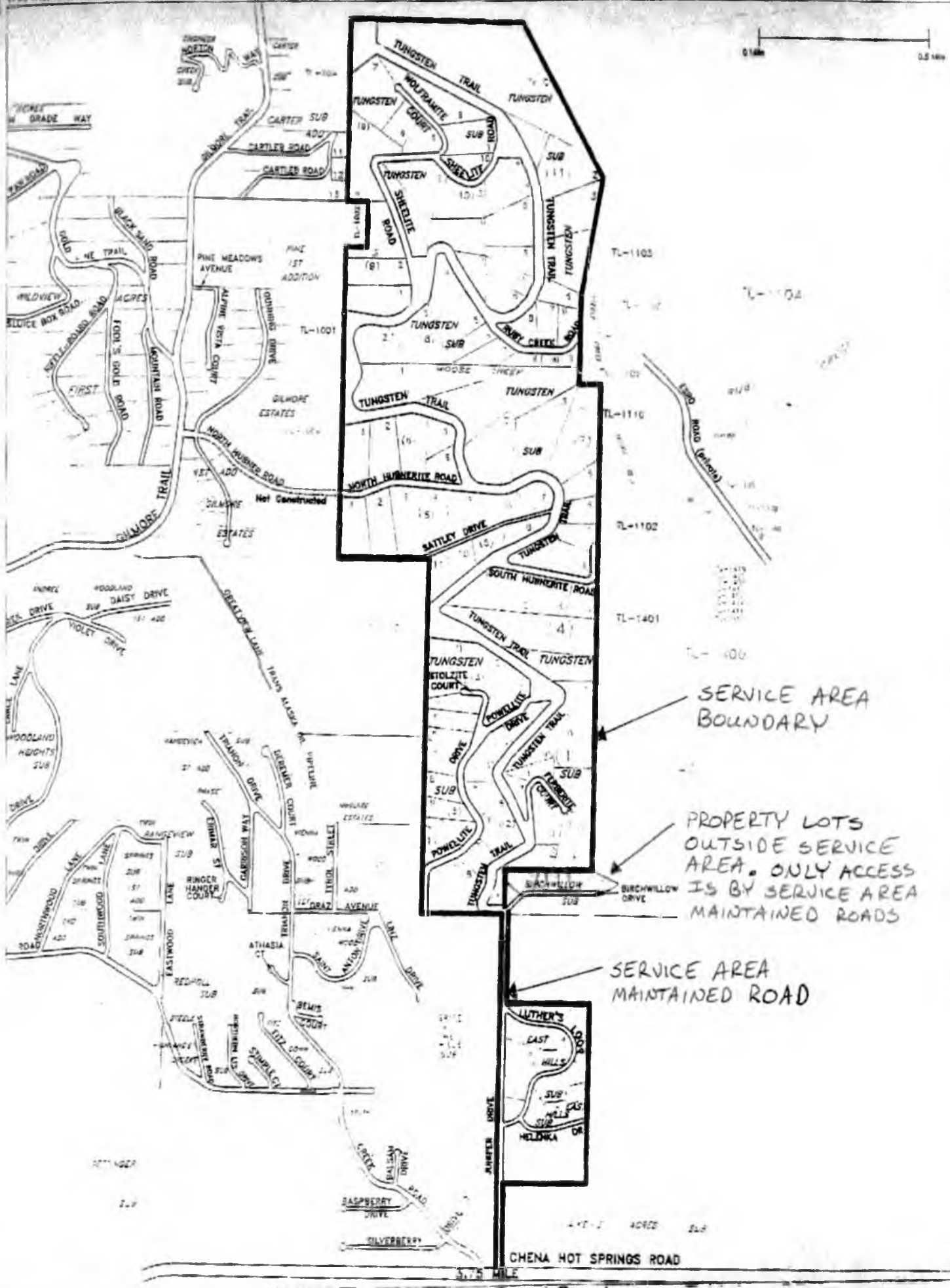
FAIRBANKS NORTH STAR BOROUGH

MUNICIPALITY OF ANCHORAGE

A. René Broker
Borough Attorney

Rhonda Fehlen Westover
Deputy Municipal Attorney

Tungsten Road Service Area



SERVICE AREA BOUNDARY

PROPERTY LOTS OUTSIDE SERVICE AREA. ONLY ACCESS IS BY SERVICE AREA MAINTAINED ROADS

SERVICE AREA MAINTAINED ROAD

CHENA HOT SPRINGS ROAD

3.75 MILE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR THOMAS

Introduced: 4/13/07

Referred: Community and Regional Affairs, Transportation

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain municipal service areas that provide road services."**

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

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10 question residing in the existing service area and by a majority of the voters who vote
11 on the question residing in the area proposed to be included within the new service
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14 or combined with another service area unless that proposal is approved, separately, by
15 a majority of the voters who vote on the question and who reside in each of the service

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4 services that would result in increasing the number of parcels of land in the service
5 area or successor service area if the increase is not more than six percent and would
6 add not more than 1,000 residents;

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9 service areas if

10 (A) [(1)] taxes have not been levied in the service area for road
11 maintenance or construction during the last 12 months and there is no balance
12 in any account available to pay for these road services for the service area;

13 (B) [(2)] during the last 12 months, the service area board has
14 not met with a quorum present and in accordance with law; or

15 (C) [(3)] there are no road maintenance contracts in effect for
16 the service area or the existing road maintenance contracts fail to provide for
17 minimum road standards required by law that are necessary to protect the
18 borough from civil liability;

19 (3) to require approval by the voters residing in a subdivision or
20 parcel proposed to be added to a road service area if roads maintained by the
21 service area provide the only access to the subdivision or parcel or provide access
22 to the subdivision or parcel that is required by the subdivision plat or by other
23 regulation or ordinance;

24 (4) to a change in the boundaries of a road service area to exclude
25 a subdivision or parcel that does not rely on the use of roads maintained by the
26 service area for the subdivision's or parcel's only access or for access that is
27 required by the subdivision plat or by other regulation or ordinance.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sponsor Statement

Senate Bill 136 - An Act relating to certain municipal service areas that provide road services.

Senate Bill 136 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas.

A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area.

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SB 136 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a vote by the owners of property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners.

SB 136 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sectional Summary – Senate Bill 136

Section 1 of the bill provides for (i) a service area to annex property that utilizes its roads for their sole or legally required access without a separate vote of the property to be annexed; and (ii) a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.