

SB

77

**<TARGET><BILL>SB 77</BILL><SUBJECT>SB
77</SUBJECT><COMM></COMM></TARGET>**

Senator Peter A. Micciche

Alaska State Legislature

Session Address:

Alaska State Capitol, Rm. 508
Juneau, Alaska 99801-1182
Phone: (907) 465-2828
Toll Free: (800) 964-5733



Interim Address:

145 Main Street Loop, Ste. 226
Kenai, Alaska 99611-7771
Phone: (907) 283-7996
Fax: (907) 283-8127

MEMORANDUM

To: Senator Mike Dunleavy
Senate State Affairs Committee

From: Senator Peter Micciche
Date: March 20, 2017
Re: Scheduling SB77

I respectfully request SB77 be scheduled for a hearing, pending referral, in your committee at your earliest convenience. If you have questions please feel free to contact Rachel Hanke at 465-4899.

Thank you for your consideration of this request.

Warm Regards,

A handwritten signature in blue ink that reads "Peter A. Micciche".

Peter A. Micciche

Senator Peter A. Micciche

Alaska State Legislature

Session Address:

Alaska State Capitol, Rm. 508
Juneau, Alaska 99801-1182
Phone: (907) 465-2828
Toll Free: (800) 964-5733



Interim Address:

145 Main Street Loop, Ste. 226
Kenai, Alaska 99611-7771
Phone: (907) 283-7996
Fax: (907) 283-8127

SB77: Second Class Borough Service Areas

Sponsor Statement

This legislation would expand the authority for second-class boroughs to exercise the local option of creating a non-taxable service area to provide emergency response along state highway corridors not covered by existing emergency services areas. In particular, this legislation would enable the Kenai Peninsula Borough to establish a service area for coordinated coverage for the almost 90 miles of the heavily traveled Seward and Sterling highways that are not within the boundaries of any established emergency services area.

Alaska Department of Transportation statistics for 2015 show the average traffic count on those unprotected stretches of the Seward and Sterling highways at between 3,000 and 4,000 vehicles a day – with summer peaks at three times that level. In addition, several miles of the Hope Highway would be included in the proposed corridor service area. There were 126 traffic accidents (injuring almost 180 people) on those sections of the highways in 2015-2016. This legislation would allow for consistent and coordinated response to roadway accidents, rather than the current practice of “borrowing” emergency services personnel from neighboring areas to fill the gap. The legislation’s intent is improved year-round public safety, covering the heavy traffic of summer recreational and fishing travelers to the dark and icy roadways of winter.

The bill proposes additional language in AS 29.35.490(a) Establishment of a Service Area, allowing second-class boroughs to create service areas along state highway corridors by ordinance, provided that no voters reside within the service area boundaries and no new taxes are levied for the service area. Under the current statute, approval by a majority of voters is required to create a new service area with residents – this legislation would not change that provision. The intent is to deal only with unpopulated highway right-of-way corridors.

In the case of the Kenai Peninsula, subject to borough assembly approval, the municipal government could use a portion of its federal payment-in-lieu-of-taxes (PILT) allocation to cover the costs. Every highway corridor traveler will receive these vital emergency response benefits with no additional cost to the state.

Staff Contact: Rachel Hanke 465-4899

Senator.Peter.Micciche@akleg.gov

Sec. 29.35.490. Service areas in second and third class boroughs.

(a) A second class borough may exercise in a service area any power granted a first class city by law or a nonareawide power that may be exercised by a first class borough if

(1) the exercise of the power is approved by a majority of the voters residing in the service area;
or

(2) all owners of real property in the service area consent in writing to the exercise of the power if no voters reside in the service area.

(b) If the exercise of the power is approved by a majority of the voters residing in the service area, a third class borough may exercise in a service area any power not otherwise prohibited by law.

(c) A second or third class borough may establish a service area that includes only vacant, unappropriated, and unreserved land owned by the borough. A second or third class borough may establish a service area, with the concurrence of the commissioner of natural resources, that includes only vacant, unappropriated, and unreserved land owned by the state and classified for disposal to individuals. By ordinance a second or third class borough may provide the services in a service area established under this subsection necessary to develop state or municipal land as required by the planning, platting, and land use regulations of the borough.

History -

(Sec. 10 ch 74 SLA 1985)

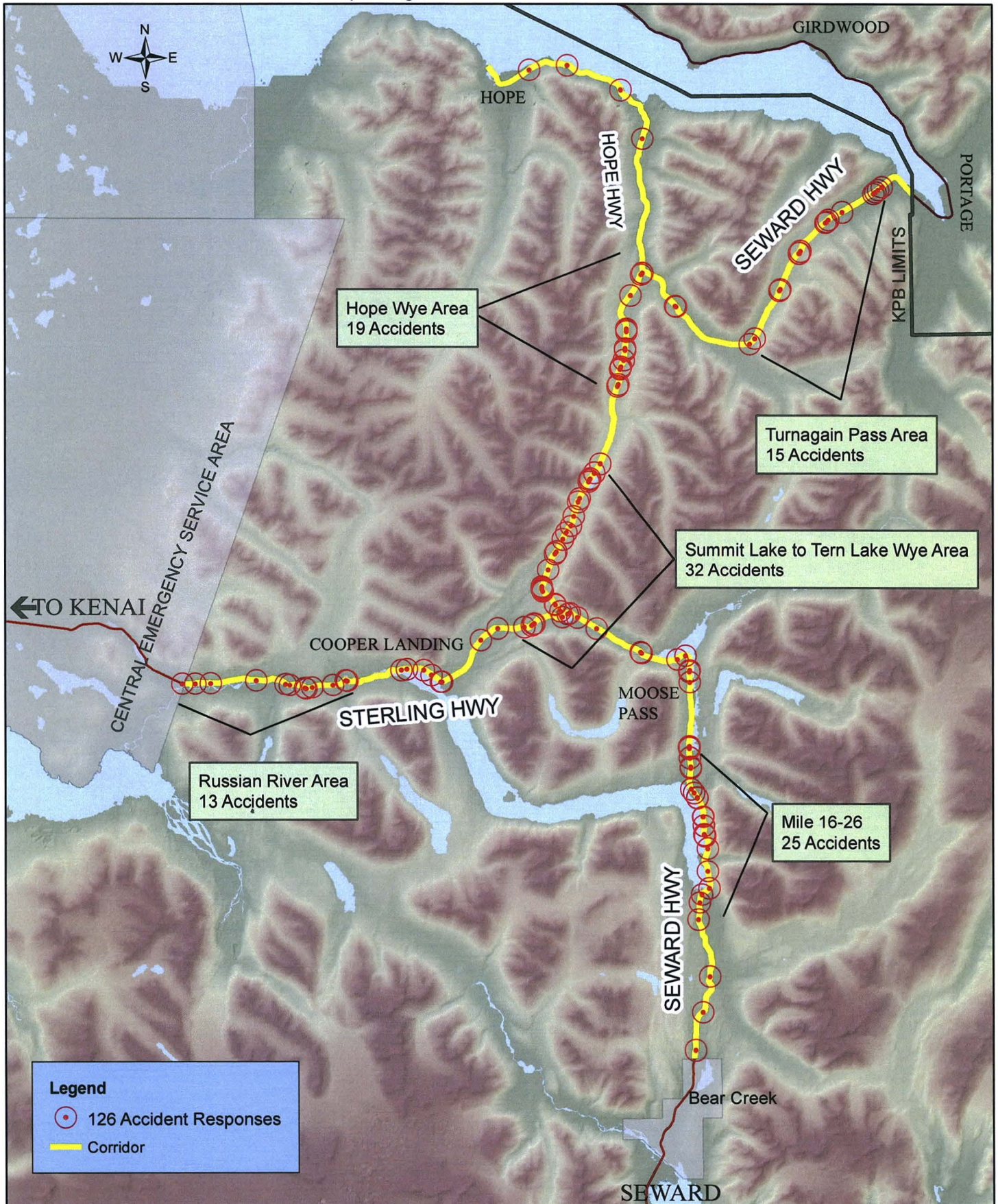
Decisions -

When voter approval not required. - Where a mayor and assembly are exercising the same powers within the same geographical area and are subject to the same constraints with respect to approval and appropriation that existed before the alteration, voter approval of an ordinance is not required. *North Kenai Peninsula Rd. Maintenance Serv. Area v. Kenai Peninsula Borough*, 850 P.2d 636 (Alaska 1993).

Road service tax. - Challenge to a road service tax was rejected because it was not a special assessment. It was calculated by applying a mill rate to the assessed value of the property; moreover, a borough has authority to tax for road services, and the validity of the tax does not depend upon whether the property owner receives a special benefit. *DeVilbiss v. Matanuska-Susitna Borough*, 356 P.3d 290 (Alaska 2015).

EMS HIGHWAY RESPONSES

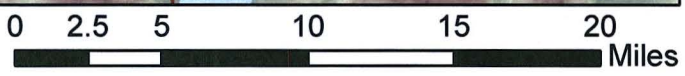
Reporting Period JAN 2015 - DEC 2016



Legend

- 126 Accident Responses
- Corridor

KPB EMS Workgroup
February 10, 2017



INCORPORATED CITIES WITHIN ORGANIZED BOROUGHS

Aleutians East Borough	Second Class	Lake & Peninsula Borough	Home Rule
Akutan	Second Class	Chignik	Second Class
False Pass	Second Class	Egegik	Second Class
Cold Bay	Second Class	Newhalen	Second Class
King Cove	First Class	Nondalton	Second Class
Sand Point	First Class	Port Heiden	Second Class
		Pilot Point	Second Class
Denali Borough	Home Rule		
Anderson	Second Class	Matanuska-Susitna Borough	Second Class
		Houston	Second Class
Fairbanks North Star Borough	Second Class	Palmer	Home Rule
Fairbanks	Home Rule	Wasilla	First Class
North Pole	Home Rule		
		North Slope Borough	Home Rule
Kenai Peninsula Borough	Second Class	Anaktuvuk Pass	Second Class
Homer	First Class	Atkasuk	Second Class
Kachemak	Second Class	Barrow	First Class
Kenai	Home Rule	Kaktovik	Second Class
Seldovia	First Class	Nuiqsut	Second Class
Seward	Home Rule	Point Hope	Second Class
Soldotna	Home Rule	Wainwright	Second Class
Ketchikan Gateway Borough	Second Class	Northwest Arctic Borough	Home Rule
Ketchikan	Home Rule	Ambler	Second Class
Saxman	Second Class	Buckland	Second Class
		Deering	Second Class
Kodiak Island Borough	Second Class	Kiana	Second Class
Akhiok	Second Class	Kivalina	Second Class
Kodiak	Home Rule	Kobuk	Second Class
Larsen Bay	Second Class	Kotzebue	Second Class
Old Harbor	Second Class	Noorvik	Second Class
Ouzinkie	Second Class	Selawik	Second Class
Port Lions	Second Class	Shungnak	Second Class

Petersburg Borough **Non-Unified Home Rule Borough**
 Kupreanof Second Class

Remainder of Alaska Boroughs That Do Not Contain Incorporated Cities

Municipality of Anchorage	Unified Home Rule
Bristol Bay Borough	Second Class
Haines Borough	Home Rule
City & Borough of Juneau	Unified Home Rule
City & Borough of Sitka	Unified Home Rule
Municipality of Skagway	First Class
City & Borough of Wrangell	Unified Home Rule
City & Borough of Yakutat	Home Rule



One Sealaska Plaza, Suite 200 • Juneau, Alaska 99801

Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

March 8, 2017

Representative Mike Chenault
Alaska State House
Alaska State Capitol
Juneau, Alaska

RE: HB 148: An Act relating to service areas in second class boroughs; and providing for an effective date.

Dear Representative Chenault,

The Alaska Municipal League stands in support of HB 148. This bill appears to address a real concern and actually comes up with a workable solution.

The Kenai Peninsula Borough finds itself with just under 100 miles of road through unoccupied land, which presently lacks consistent coordinated emergency service coverage. The Borough wishes to create a highway corridor service area funded by federal Payment in Lieu of Taxes (PILT) funds.

While the larger boroughs may have excellent coverage to specific areas, often there are gaps in that coverage due to uninhabited land masses. Accidents taking place in those areas are many times served based on specific availability during that particular incident. Obviously, consistent and planned response should be in place. This bill will allow that to happen. Current statutes require a service areal to be created through voter approval. This legislation, however, specifically deals those areas devoid of voters which may still require services.

We applaud your office for submitting a bill that addresses a real need in a community and one which can be used in many boroughs throughout the state.

Sincerely,

Kathie Wasserman
Executive Director



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Public Safety

DIVISION OF ALASKA STATE TROOPERS
Office of the Director

5700 East Tudor Road
Anchorage, Alaska 99507-1225
Main: 907.269.5511
Fax: 907.337.2059

March 3, 2017

The Honorable Mike Chenault
Alaska State Legislature
State Capitol Room 434
Juneau AK, 99801

RE: House Bill 148 Service Areas in Second Class Boroughs

Dear Representative Chenault:

As the Director of the Alaska State Troopers, I am writing to express my support for House Bill 148, allowing second-class boroughs to establish emergency service corridors via ordinance. The Kenai Peninsula Borough needs to ensure consistent coordinated coverage for the almost 90 miles of heavily traveled Seward and Sterling highways bordered predominately by unoccupied land. I fully support the efforts of the Kenai Peninsula Borough to identify and implement a local solution to this problem.

The proposal by the Kenai Peninsula Borough to create a highway corridor service area funded by federal PILT payments presents a unique solution with many benefits for communities and the state. This will allow the Kenai Peninsula Borough to provide resources, support, and coordination to supplement struggling volunteer agencies in sparsely populated areas, and will greatly improve the efficiency of the services that do exist.

Currently, local communities, nearby EMS service areas, and other response organizations respond to accidents in the region in an inefficient patchwork manner. Local communities have few volunteers, and those they do have are overtaxed with accidents on the highway that can require long transport times. When a local agency is unable to respond due to lack of resources, agencies as far as 60 miles away may be called on to respond. This can result in multi-hour waits for care, and the current system does not ensure a response. This legislation would allow for the borough to establish consistent and coordinated response to roadway accidents.

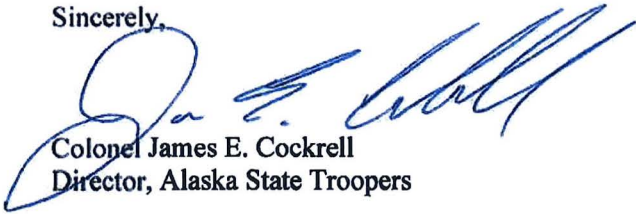
This also presents a solution that allows second-class boroughs to service a community gap without requiring a complete overhaul of long existing emergency response systems. Many service areas within the KPB - and throughout the state - have long histories of providing quality service to their region. Restructuring these organizations in order to address a specific gap creates unnecessary obstacles for municipalities attempting to ensure emergency care for the travelers on their roads. For the Kenai Peninsula Borough, this corridor solution would allow them to provide resources to a specific roadway without requiring a much larger change, such as the adoption of borough-wide powers. While the adoption of borough-wide powers may be technically possible, the complexities of such an overhaul would be extremely extensive with the potential for numerous roadblocks along the way.

Representative Mike Chenault
Page 2
March 3, 2017

The solution in HB 148 requires no obligation from the State of Alaska and allows local governments to determine the best solution for their communities. Improved emergency response along crucial highways in the state will benefit all Alaska residents.

I support the passage of HB 148, allowing second-class boroughs to establish emergency service corridors via ordinance. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "James E. Cockrell", is written over a printed name and title. The signature is fluid and cursive, with a large initial "J" and "C".

Colonel James E. Cockrell
Director, Alaska State Troopers

Cc: Walt Monegan, Commissioner
Bill Comer, Deputy Commissioner
Allison Hanzawa, Special Assistant to the Commissioner
Mayor Mike Navarre, Kenai Peninsula Borough

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 5, 2017

SUBJECT: Service area financing (SB 77; Work Order No. 30-LS0657\A)

TO: Senator John Coghill
Attn: Rynniva Moss

FROM: Susie Shutts *Susie Shutts*
Legislative Counsel

You asked whether a municipal service area could use its assets to provide services outside of its boundaries. Specifically, would it be legal for one service area to utilize services paid for by another service area without reimbursement?

I do not see how a service area would have the authority to provide a service or use its assets without reimbursement in another service area.

As described by the Alaska Supreme Court, "[a] service area is a specific geographical area *within which* a municipal service is furnished by a borough. Its powers derive from statute, charter and ordinance."¹ Service areas are authorized by art. X, sec. 5, Constitution of the State of Alaska,² and AS 29.35.450(a), which permits a borough or unified municipality to establish, operate, alter, or abolish a service area by ordinance.

Although the Alaska Statutes do not specifically prohibit a service area from using its assets in another service area,³ the provisions of Title 29 that concern service areas do not

¹ *N. Kenai Peninsula Rd. Maint. Serv. Area v. Kenai Peninsula Borough*, 850 P.2d 636, 639 (Alaska 1993) (emphasis added).

² Art. X, sec. 5, Constitution of the State of Alaska, provides:

Service areas to provide special services within an organized borough *may* be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

³ Note that the Alaska Statutes do limit the use of tax revenue in a differential tax zone. AS 29.35.470(b) specifies that "[t]axes levied within a differential tax zone that exceed

contemplate a service area using its assets or providing services in a service area outside its boundaries. Under AS 29.35.460, a borough assembly "may provide for an appointed or elected board to supervise the furnishing of special services *in a service area*."⁴ And AS 29.35.480, which concerns service areas in first class boroughs, and AS 29.35.490, which concern service areas in second and third class boroughs, authorize boroughs to exercise certain powers "*in a service area*."⁵ I could not, however, find any case law or attorney general opinions directly on point.

Some municipalities have provided more specific limitations on the authority of a service area to provide a service outside its boundaries. For example, the Municipality of Anchorage Office of Management and Budget states:

Taxes collected in one service area can't be used to pay for services in another service area. (i.e. taxes collected for roads can't be spent on police; taxes for Eagle River/Chugiak parks can't be used outside of Eagle River/Chugiak).⁶

Specifically, the Anchorage Municipal Code, at AMC 27.10.015(B) provides:

Extension of service beyond boundary of service area. If any governmental service, or different level of such service, is funded through one or more service areas, the boundaries of which do not encompass the entire municipality, the municipality shall not be authorized to extend such services beyond the boundaries of the service area except as provided in AS 29.35.020 or as a response to a public emergency. Any such extension of services in response to a public emergency is a discretionary function of the municipality and shall be deemed to be a gratuitous extension of services on an extraterritorial basis.

SLS:dls
17-297.dls

the amount that would have otherwise been levied may only be used for the services provided in that zone."

⁴ Emphasis added.

⁵ Emphasis added.

⁶ "A citizen's guide to city budget," available at <http://munibudget.org/budget-me/what-are-service-areas>.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version:	SB 77
Fiscal Note Number:	1
(S) Publish Date:	3/22/2017

Identifier: SB077-DCCED-DCRA-03-10-17
 Title: SECOND CLASS BOROUGH SERVICE AREAS
 Sponsor: MICCICHE
 Requester: (S) Community & Regional Affairs

Department: Department of Commerce, Community and Economic Development
 Appropriation: Community and Regional Affairs
 Allocation: Community and Regional Affairs
 OMB Component Number: 2879

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed? n/a

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Katherine Eldemar, Director	Phone:	(907)465-8249
Division:	Community and Regional Affairs	Date:	03/10/2017 10:30 PM
Approved By:	Catherine Reardon, Director	Date:	03/10/17
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

Analysis

SB 77 amends AS 29.35.490 by adding subsection (d) allowing second class boroughs to establish a service area for the provision of emergency services within a state highway corridor.

The Division of Community and Regional Affairs does not anticipate a fiscal impact from this legislation.