

SCOMM

10: 79

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter
LGAD Staff

DATE: June 25, 1976

FILE NO:

TELEPHONE NO:

FROM: Pat Poland
Local Government Specialist

SUBJECT: Third Class Cities

The following is a first draft of a proposed bill to establish third class cities.

Section 1. Title 29 is amended by adding the following chapter.

Chapter 20. Village Incorporation Act.

Article

1. Incorporation (§29.20.010 - 29.20.120)
2. Transitional assistance (§29.20.130 - 29.20.140)
3. Council (§29.20.150 - 29.20.180)
4. Chief executive and administrator (§29.20.190 - 29.20.220)
5. Other officers and employees (§29.20.230 - 29.20.250)
6. Elections (§29.20.260 - 29.20.270)
7. Initiative and referendum (§29.20.280 - 29.20.290)
8. Recall (§29.20.300)
9. Powers (§29.20.310 - 29.20.350)
10. Taxes (§29.20.360 - 29.20.380)
11. General provisions (§29.20.390)

Article 1. Incorporation.

Section

10. Purpose of chapter
20. "Incorporated village" defined
30. Villages authorized to incorporate
40. Petition
50. Contents of petition
60. Review
70. Time and place of hearing
80. Hearing and decision
90. Nominations for office of city councilman
100. Election
110. Limitation in holding incorporation election
120. Challenge of legality

Sec. 29.20.010. Purpose of chapter. It is the purpose of this chapter to provide for limited self-government through the establishment of incorporated villages in rural areas where the local residents are unable to bear the financial burden of supporting a more comprehensive form of government. It is the purpose,

too, to recognize the social and cultural difference between rural and urban areas and to provide a vehicle of government which meets the social and cultural needs of rural Alaska.

Sec. 29.20.020. "Incorporated Village" defined. "Incorporated village" means and is synonymous with the term "city of the third class."

Sec. 29.20.030. Villages authorized to incorporate. A village that has 25 or more permanent inhabitants residing within it may incorporate if:

1) the services proposed to be provided by the incorporated village ~~may~~ not be provided by annexation to an existing city; and

2) ~~if located within an organized borough~~, the services proposed to be provided by the incorporated village ~~can~~ not be provided by the borough on an areawide or nonareawide basis. *in which it is located*

Sec. 29.20.040. Petition. (a) Incorporation of a village is proposed by filing a petition with the Department of Community and Regional Affairs.

(b) The petition shall contain the signature and resident address of at least 10 permanent resident voters of the village.

(c) Notwithstanding the provisions of (b) of this section, if there are less than 20 registered voters in the village, only 50% of the registered voters need sign the petition.

Sec. 29.20.050. Contents of Petition. In addition to the signatures required by AS 29.20.040 a petition for incorporation of a village shall include :

(1) class;

(2) name;

(3) boundaries;

(4) composition and apportionment of the council if other than at an at large basis;

(5) maps, documents, and other information required by the Department of Community and Regional Affairs.

Sec. 29.20.060. Review. The Department of Community and Regional Affairs shall review petitions for content and signatures and shall return deficient petitions for correction or completion.

Sec. 29.20.070. Time and place of hearings. (a) Within 30 days of the date a petition is determined sufficient the commissioner of the department, in consultation with the Chairman of the Local Boundary Commission, shall issue an order *shall be issued* scheduling a public hearing on the petition. The public hearing shall be held in the village proposed for incorporation not less than 20 nor more than 60 days after the date of the order.

(b) Copies of the order shall be posted in at least three public and prominent locations in the village.

Sec. 29.20.080. Hearing and decision. (a) The Local Boundary Commission shall conduct the public hearing and shall hear all interested persons. If the commission is satisfied that it is in the best interests and welfare of the village to incorporate, it shall, by order, so declare.

(b) If the commission determines that it is in the best interests of the community to amend the boundaries of the area proposed for incorporation it may do so.

(c) For purposes of this section, two or more commission members may conduct the hearing and enter a decision.

Sec. 29.20.090. Nominations for office of city councilman. (a) If the Local Boundary Commission accepts the petition for incorporation it shall adjourn the hearing and convene a village meeting. The chairman of the commission shall act as chairman of the meeting and shall receive nominations for the council from the floor. The meeting shall be conducted, substantially, in compliance with Robert's Rules of Order.

(b) The lieutenant governor shall furnish the commission with a current list of registered voters prior to the hearing.

Sec. 29.20.100. Election. (a) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a petition and the names of those individuals nominated to serve on the city council. Within 30 days after notification the lieutenant governor shall order an election on the question of incorporation and council membership.

(b) The election shall be conducted in accordance with AS 29.18.110 - 120.

Sec. 29.20.110. Limitation on holding incorporation election. No election on the question of incorporation shall be presented to the voters of a village more than once in any six month period.

Sec. 29.20.120. Challenge of legality. No person may challenge the incorporation of a village except within six months of the date of its incorporation.

Article 2. Transitional Assistance

Section

- 130. Organization grants
- 140. State land

Section 29.20.130. Organization grant. Incorporated villages are entitled to an organization grant equal to the amount which would have been provided by AS 29.18.180 if the village had incorporated as a second class city.

Section 29.20.140. State land. Incorporated villages are eligible to select state lands on the same basis as if they had incorporated as a city of the second class.

Article 3. Council.

Section

- 150. Composition, eligibility, election and term
- 160. Procedure
- 170. Filling a vacancy
- 180. Increase in council

Sec. 29.20.150. Composition, eligibility, election and term. The provisions of AS 29.23.200 apply to incorporated villages except that the council is composed of five members.

Sec. 29.20.160. Procedure. The council shall adopt rules governing its body.

Sec. 29.20.170. Filling a vacancy. If a vacancy occurs in the council, the council by vote of a majority of its remaining members shall designate a person to fill the vacancy until the next regular election, and until a successor is elected and has qualified.

Sec. 29.20.180. Increase in council. The council may by ordinance increase the number of councilmen from five to seven.

Article 4. Village Executive and Administrator.

Section

- 190. Mayor
- 200. Election and term of mayor
- 210. Mayor's vote
- 220. Filling a vacancy

(b) The election^c ordinance shall specifically address the issues of election administration, nominations for council, election dates, majority elections and contest and appeal of elections. The elections ordinance may contain provision for elections to be held by other than secret ballot.

Sec. 29.20.270. Voter qualification. The provisions of AS 29.28.030 apply.

Article 7. Initiative and Referendum

Section

- 280. Reservation of power
- 290. Exercise of power

Sec. 29.20.280. Reservation of power. The powers of initiative and referendum are reserved to the residents of incorporated villages except the powers do not extend to matters restricted by § 7, art. XI, of the state constitution.

Sec. 29.20.290. Exercise of power. Exercise of the initiative or referendum power shall be in the manner specified at AS 29.28.062 - 110.

Article 8. Recall.

Section

- 300. Recall

Sec. 29.20.300. Recall. An elected official of an incorporated village may be recalled by the voters in accordance with the provisions of AS 29.28.130 -250.

Article 9. Powers.

Section

- 310. General powers
- 320. Facilities and services
- 330. Regulatory powers
- 340. Extraterritorial jurisdiction
- 350. Construction of powers

Sec. 29.20.310. General Powers. The provisions of AS 29.48.010 apply to incorporated villages.

Sec. 29.20.320. Facilities and Services. An incorporated village may exercise

Sec. 29.20.190. Mayor. The chief executive and administrator of an incorporated village is the mayor who shall preside at council meetings, act as ceremonial head of the city and sign documents on the city's behalf upon council authorization.

Sec. 29.20.200. Election and term of mayor. The provisions of AS 29.23.200 as they apply to second class cities apply to incorporated villages.

Sec. 29.20.210. Mayor's vote. (a) The mayor of an incorporated village is a council member and may vote on all matters.

(b) The mayor of an incorporated village has no veto power.

Sec. 29.20.220. Filling a vacancy. A vacancy in the office of the mayor is filled by and from the council.

Article 5. Officers and Employees².

Section

- 230. Appointment of officers
- 240. ~~Village~~ attorney
- 250. ~~Village~~ clerk-treasurer

Sec. 29.20.230. Appointment of officers. The village clerk-treasurer and attorney are appointed by the council and serve at ~~their~~ pleasure.

Sec. 29.20.240. ~~Village~~ attorney. The provisions of AS 29.23.370 apply.

Sec. 29.20.250. ~~Village~~ clerk-treasurer. The duties of a ~~village~~ clerk-treasurer are the same as those set forth at AS 29.23.380 and AS 29.32.390 except that the office of the clerk and the office of the treasurer are combined unless the council provides otherwise by ordinance.

Article 6. Elections.

Section

- 260. Rules governing elections
- 270. Voter qualification

Sec. 29.20.260. Rules governing elections. (a) Within 120 days of the date the initial council members of an incorporated village are sworn in, the council shall adopt a comprehensive elections ordinance governing regular and special elections.

Article 11.

Section

390. Extension of other provisions of law

Sec. 29.20.390. Extension of other provisions of law. To the extent that they are consistent with the purpose of this chapter, other provisions of law applicable to second class cities apply to incorporated villages.

Section 2. AS 29.08.030 is amended to read:

Sec. 29.08.030. Classes of general law. General law municipalities are of [five] six classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) third class boroughs;
- (4) first class cities;
- (5) second class cities [];
- (6) third class cities.

Section 3. AS 29.08.040 is amended to read:

(g) A third class city may reclassify as a first or second class city, in the manner provided for incorporation by Chapter 18 of this Title except that the petition need not address the issue of boundaries.

Section 4. AS 29.78.010. is amended to read:

Sec. 29.78.010. In this title, unless otherwise provided, or the context otherwise requires.

- borough;
- (1) "borough" means a general law first or second class organized
 - (2) "city" means a general law first, [or] second or third class city;
 - (3) ...
 - (8) "municipality" means a general law municipal corporation and

the powers necessary to provide the following public facilities and services:

- (1) cemeteries;
- (2) community centers;
- (3) libraries;
- (4) recreation facilities;
- (5) garbage and solid waste disposal service and facilities subject to AS 29.48.033;
- (6) fire protection service and facilities;
- (7) preservation, maintenance and protection of historic sites, buildings and monuments;
- (8) trails.

Sec. 29.20.330. Regulatory powers. The provisions of AS 29.48.035 apply to incorporated villages.

Sec. 29.20.340. Extraterritorial jurisdiction. To the extent that they are consistent with this title the provisions of AS 29.48.310-330 apply to the construction and interpretation of powers conferred upon incorporated villages.

Article 10. Taxes.

Section

- 360. Sales and Use Tax
- 370. Property Tax
- 380. Combining sales tax with incorporation

Sec. 29.20.360. Sales and use tax. Incorporated villages may levy and collect a sales or use tax in the manner provided for boroughs subject to the restriction of AS 29.53.415 -420.

Sec. 29.20.370. Property tax. Incorporated villages may not levy ad valorem taxes.

Sec. 29.20.380. Combining sales tax with incorporation. The provisions of AS 29.53.460 apply to a petition proposing incorporation of a village.

political subdivision, which is a first or second class borough or city, or a third class borough or city, incorporated under the laws of the state;

(9) ...

Section 5. AS 29.08.050 is amended by adding a new section to read:

AS 29.08.050(d) on July 1, 1977, the current classification of existing home rule cities, first class cities and second class cities having 250 or more permanent residents is not affected by this act. Second class cities having less than 250 permanent residents are subject to reclassification under the provisions of (e) of this section. The city council shall certify by resolution the number of permanent residents within the city. Upon failure to certify, or if the certification reports a permanent resident population less than 250, the Local Boundary Commission shall hold a public hearing and make a determination as to classification as provided in (e) of this section.

(e) The Local Boundary Commission shall, within two years of July 1, 1977, hold a public hearing in each city which was second class before that date and whose population is under 250 permanent residents. The commission shall determine in each case whether the city should be classified as second or third class under the new classification. The commission's decision must be published at least once. Unless objections are filed with the Local Boundary Commission by at least five percent of the permanent residents of the city within 60 days, the classification recommended by the commission becomes effective on the 61st day. If objections are filed by at least five per cent of the permanent residents of the city, the commission shall submit its recommendation to the legislature in the manner provided for submission of boundary changes in § 12, art. X of the state constitution.

100

Sec. 29.03.230. VOTERS, ELECTIONS AND COSTS. (a) A person is qualified to vote in a borough election authorized in this chapter if he is qualified to vote in state elections and if he is a resident of the borough.

(b) The lieutenant governor shall supervise elections under this chapter as provided for supervision of other borough elections under AS 07.10.120(d).

(c) The state through the office of the lieutenant governor shall assume the costs of elections and charter preparation under this chapter.

*Sec. 2. Nothing in this act may be construed to affect any organization petition pending on the effective date of this act. All such petitions shall be acted upon in the manner provided by law in effect prior to the effective date of this act.

* Sec. 3. AS 29.03.010 and AS 29.03.020 are repealed.

* Sec. 4. This act takes effect immediately in accordance with AS 01.10.070(c).

* Sec. 5. In each unorganized borough, the lieutenant governor, within not less than 60, nor more than 90 days after the establishment of the unorganized borough, shall provide for election of an advisory assembly.

PKP: ljd

ASSEMBLY

Personal Services	\$ 5,000
Travel	10,000
Contingency	<u>50,000</u>

TOTAL ASSEMBLY \$ 65,000

Personal services includes payments to assembly members attending meetings. The contingency amount is to be used to meet extra-ordinary operating expenditures not anticipated.

ADMINISTRATION

General

Personal Services	\$ 40,000
Materials & Supplies	2,000
Equipment	3,000
Travel	2,000
Contractual	<u>35,000</u>

TOTAL ADMINISTRATION \$ 87,000

Personal services includes an administrator and secretary. Materials and supplies are necessary paper goods and other office items. Office furniture and machines are included in the equipment figure. Travel expenditures are predicated on some regional and statewide travel. All legal and other necessary services are listed on the contractual line item.

FINANCE

Personal Services	\$ 45,000
Materials & Supplies	3,000
Equipment	3,000
Travel	1,000
Contractual	<u>5,000</u>

TOTAL FINANCE \$ 57,000

An accountant and clerical support are included in personal services. Contractual includes professional services required for the maintenance and audit of the entire administrative financial structure.

PLANNING

Personal Services	\$ 39,000
Materials & Supplies	3,000
Equipment	2,500
Travel	2,000
Contractual	<u>10,000</u>

TOTAL PLANNING \$ 56,500

Personal services includes one planner and secretary. Contractual includes money to be used to purchase professional planning advice on selected topics.

PUBLIC SAFETY

TOTAL PUBLIC SAFETY \$150,000

HEALTH

TOTAL HEALTH -0-

TOTAL EXPENDITURE
PER BOROUGH \$415,500

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Bob LeReshe, Director
Division of Planning and Policy
Development

DATE: July 21, 1976

FILE NO:

TELEPHONE NO:

FROM: Lee McAnerney, Commissioner
Community & Regional Affairs

SUBJECT: Regional Government in the
Unorganized Borough

In response to my June 21 memorandum to Governor Hammond, you have asked that I expand upon our ideas relative to the above subject. The following is in response to that request and, basically, presents the alternatives (at least as we view them) together with a brief discussion of each; preliminary conclusions are offered in the final pages.

As noted in my previous memorandum, we feel that any legislation dealing with regional government in the unorganized borough must address three major subject areas: structure, financing and intergovernmental relations. Our presentation of alternatives follows that format.

STRUCTURE

Five alternative forms of government appear to be workable in the unorganized borough; they include:

1. Establishment of organized boroughs;
2. Creation of unorganized boroughs;
3. Creation of service areas in the unorganized borough;
4. Continuation of the Regional Educational Attendance Area (REAA) trend; i.e. delegation of municipal functions to independent boards and councils;
5. The status quo.

In reverse order, the above are discussed.

THE STATUS QUO

We feel strongly that the existing system of government in the unorganized borough is both inequitable and inefficient. Inequitable in the sense that residents are not, generally, afforded the opportunity to participate directly in the decision making process nor do they participate on an equal basis in terms of financing local services; inefficient in that existing service delivery mechanisms (cities and state regional offices) often lack the necessary expertise, be it professional or otherwise, to provide services on an efficient and responsive basis.

Being a department with extensive field contact, we have been made very much aware of many unorganized borough residents' dissatisfaction with existing municipal and state services--not necessarily with programs but with the manner in which those programs are administered. That the legislature, too, is receiving this message is evident from such legislation as HB 665 proposing health districts in the unorganized borough, SB 398 (Ch. 57. SLA 76) allowing for public works planning in the unorganized borough, HB 657 dealing with platting authority in the unorganized borough, SB 614 providing for taxation in the unorganized borough, HB 49 providing for organized boroughs in the unorganized borough and a number of other pieces of legislation dealing with service delivery problems in the unorganized borough.

Too, we hear non-profit regional native corporations talking about or actually providing such services as health, housing, electricity and comprehensive planning. While their efforts are commendable, they do not, in my opinion, fit into the scheme of local government provided for in our constitution. Nor, because of their own charters, may the corporations provide services to all residents of an area; on the contrary they are, by and large, limited to serving natives only and consequently can act as a service delivery mechanism for state and federal programs relating to services for Alaska natives.

Essentially, there are two major problems with the status quo. First, service delivery mechanisms established and those proposed are operated by independent boards or commissions acting totally without coordination. Additionally, this method of service delivery generates a much greater need for human and financial resources from areas that are in short supply of both. Second, it promotes a trend contrary to establishment of borough government in the unorganized borough--a course in direct conflict with the local government article of our constitution.

CONTINUATION OF THE REAA TREND

In our view, continuation of the REAA trend is going to be the status quo of tomorrow.

There is one very positive aspect about the concept of REAA's: it provides for decision making at the local level--one of the main purposes of providing for government in the unorganized borough. However, as presently constituted residents of REAA's literally "have their cake and eat it too"--100% plus funding is provided by the state, yet total local control is allowed. While this may be a desirable situation for residents of REAA's, it is certainly not equitable in comparison to a resident of a municipal school district who must pay local taxes. I would suspect that residents of urban areas--the bulk of the state's population--would not tolerate extension of this particular form of service delivery beyond its existing state.

It should be noted, too, that the two major concerns expressed under the "status quo" section apply equally, if not more so, to the REAA concept. Especially real-

izing that with the REAA concept of 100% plus funding, any incentive for a region to move toward regional government is destroyed.

One thing further should be said about REAA-type boards; they are so exclusively single purpose (usually attracting board membership concerned only with its particular responsibility) that development of a number of boards could actually lessen the level of service being provided; primarily because of lack of interboard coordination and restricted use of financial and, particularly, human resources. Moreover, when boundaries are drawn to define districts and the only criteria used are those relevant to the particular service to be provided overlapping boundaries are likely to result. With overlapping boundaries comes confused residents (who do we go to? where do we go to?) and, consequently, dissatisfaction with the services being provided.

Of concern, too, is the lack of flexibility associated with the REAA's. Because they are not units of local government they cannot be given taxing authority nor can they provide "local government" services. While the legality of the current REAA's has not been challenged on the grounds of Article X, Section 2, of the Constitution (proponents of the REAA's argue that they are really service areas authorized under Article X, Section 6), there is good reason to believe that if additional REAA type boundaries are established they will be challenged and may very well end up being declared unconstitutional. Through establishment of REAA-type entities we, at best, guarantee a long court battle, at worst, an entity without legal standing.

CREATION OF SERVICE AREAS:

There are a number of features of the service area concept that make it a fairly attractive alternative. Leading the list is the fact that it is an existing, recognized mechanism for delivery of municipal services. The legislature is given constitutional authority to provide for service areas in the unorganized borough thereby negating any legal challenge. But, probably most important of all is the service area's flexibility. A service area could provide any municipal service and, if the legislature so elected, a tax could be levied within the service area for services provided. Of significant benefit, too, is that one service area board could be responsible for provision of all services within a given area.

Probably the biggest drawback to the service area concept is that service areas would be dependent upon the legislature, sitting as the assembly for the unorganized borough, to add or delete powers, change levels of funding, acquire taxation authority, etc. A lesser drawback of a service area is that the service area board, at least in the legal sense, would be advisory as a dependent agency of the assembly of the unorganized borough (legislature). Depending upon the language in the enabling legislation, the latter might not be a problem.

DIVISION OF THE UNORGANIZED BOROUGH

In many ways establishment of a number of unorganized boroughs would be much the same as establishment of service areas with one overshadowing exception: the unorganized boroughs could have local autonomy. Because of the lack of constitutional constraints placed upon unorganized boroughs, their establishment could yield a tailor made form of regional government. More specifically, the legislature could delegate any municipal power to an unorganized borough, grant it taxing authority, etc.

We feel, too, that the term unorganized borough has significant advantages. First, it implies what is intended to be--an interim step in the long range development of regional government in rural Alaska. Second, it is a recognized and accepted term--most residents of rural Alaska know they live in the unorganized borough. In our opinion, residents would be more receptive to division of a governmental organization that already exists rather than establishment of a new form of government.

As with an organized borough, unorganized boroughs would have specific boundaries, powers, and a governing body responsible for more than one municipal service. All, in our opinion, positive results.

ESTABLISHMENT OF ORGANIZED BOROUGHS:

Because it is a proven form of regional government, organized boroughs offer some obvious advantages (or disadvantages depending upon your view point). Their method of operation is basically understood; they have taxing authority and an ability to acquire additional municipal powers in response to resident requests; they may establish service areas to provide different levels of service and they have a maximum degree of local autonomy. Additionally, organized boroughs could represent a final, rather than an interim, step in regional government. Too, establishment of organized boroughs would provide a sense of equity among all residents of the state with regard to receipt of municipal services.

However, the organized borough is not without its disadvantages. One of the biggest, of course, is a product of the 1964 Mandatory Borough Act which made the term borough a "dirty" word in many an Alaskan's vocabulary.

There are structural disadvantages too: organized boroughs are locked into rigid methods of adding powers, levying a sales tax, changing class or unifying with the cities within them. Also, they must have separate assemblies, planning commissions and school boards. Depending upon the amount of activity of the borough this may or may not be a disadvantage.

FINANCING

At this stage our thoughts are very tentative in terms of generating the funds

needed to pay for regional government in the unorganized borough. The following appear to be workable alternatives:

1. existing mechanisms, i.e. sales and property taxes levied and collected by and within the boundaries of each jurisdiction;
2. increase levels of funding of existing programs to cover all costs;
3. an ad valorem tax on property associated with the development of natural resources with distribution to regional governments, based on an equalization formula;
4. a sales or property tax throughout the unorganized borough with distribution to individual regional governments, based on an equalization formula;
5. levy of an additional income tax on wages earned in the unorganized borough with distribution to individual regional governments, based on an equalization formula.

1. Existing mechanisms: In our view, authority to levy sales and property taxes should continue to be an option available to organized municipalities. Although the constitution permits extension of taxing authority to unorganized boroughs, doing so does, in fact, create another class of organized borough. This is not, in our opinion, a viable, alternative structure.

The advantage, at least from the state's view, of a local property or sales tax is that it would be administered at the local level. However, the disadvantages appear to outweigh any advantage. First, a local sales or property tax reflects only the local economy; advantageous for those located along the pipeline; not so for those located on the lower Kuskokwim. Second, property taxes are, relatively speaking, regressive and expensive to collect. It is entirely possible that it might cost as much to levy and collect a tax in certain areas as the tax itself would generate. While a local sales tax would not be as expensive to levy and collect, an assessment and collection department in each taxing jurisdiction would need to be established.

2. Increase levels of funding: Basically, this approach is an extension of the funding mechanism provided for the REAA's. We oppose this method of funding because of its gross inequity. It is unpalatable for us to ask residents of one region to pay for municipal services while providing those services to another region at no cost to the residents. Additionally, such a method of funding totally discourages the formation of regional government; why pay if services can be received at no cost?

Of course, one means of alleviating the question of equity is to provide the same level of funding to all jurisdictions. However, at that point the costs seem to outweigh any advantage to be realized.

3. A "resources" tax: A fresh approach to funding local government services might be implementation of a resource tax. Essentially, the tax would be an ad valorem tax levied upon all property used for the exploitation of natural resources. The primary advantage of this tax is that administration of it would be relatively simple in that you would be assessing and collecting taxes on a fairly limited amount of property with a high dollar value. As we envision a resource tax, it would be levied and collected by the state throughout the unorganized borough and then redistributed to individual regional governments based on an equalization formula.

Optionally, the tax could be levied upon all resource related property throughout the state and redistributed on an equalization formula to all areas of the state. This would not only provide a source of funding for new regional governments in the unorganized borough but would also provide new revenues for existing regional governments.

The major disadvantages of a resource tax appears to be that it is an unknown quantity and, probably most important, an encroachment upon and placing under state taxing jurisdiction a tax base that, in the past, has been considered the exclusive tax base of local governments. Perhaps the latter problem, at least to some degree, could be relieved by allowing a local taxing jurisdiction having resource related property within its boundaries the right to levy a tax up to a certain limit and then "piggybacking" the state tax on top of the local. The resource tax would be similar to the present oil and gas tax of the state but would additionally apply to all other natural resources.

4. Unorganized borough sales or property tax: The advantages and disadvantages of a property or sales tax have been defined in the preceding discussion of alternatives. The change we are suggesting here is that the tax be levied throughout the unorganized borough and be collected by the state, thereby minimizing administrative costs. Tax proceeds would be redistributed to individual regional governments based on an equalization formula.

While levy of a property tax would undoubtedly yield sufficient revenues to cover the cost of regional government, it would seem that the additional net revenues received from extending the tax to all property, rather than just resource related property, would be so minimal as to hardly justify its levy.

An unorganized borough sales tax would yield sufficient revenues to cover the costs of regional government and would be much more simple and, accordingly, less costly to administer. We estimate a 2% sales tax levied and collected in the unorganized borough would generate in excess of \$10 million annually.

5. An additional income tax: As with the sales tax, the primary advantage of an income tax appears to be ease of administration. Collection could be accomplished by the state at the same time that state income taxes are collected and then redistributed to regional governments, based on an equalization formula.

A product of this tax is that you extend taxing jurisdiction previously restricted to the state to local governments, thereby strengthening the tax base of all local governments. (As a practical matter, if the income tax is established as a system of local government finance in the unorganized borough, it would have to also be extended, at least on an optional basis, to organized boroughs.)

Of the above, we tend to favor either the resource tax or a sales or income tax. The administrative burden imposed by a comprehensive property tax would, in our opinion, create more problems that it would solve. We also favor levy of a tax at the state level with redistribution to individual regional governments based upon an equalization formula. Administration of the tax in this manner would minimize costs and provide for consistent administration throughout the state.

Presently, we estimate that an additional \$7 million will be required to fully fund the program (see attached budget). This figure does not include existing shared revenues that might be made available to new regional governments. Preliminary calculations show that a 1.5% sales tax or a 2 mill (or less) resource property tax could generate this amount of revenue. Data needed to estimate the percentage for an income tax is not yet available.

INTERGOVERNMENTAL RELATIONSHIPS

Without doubt one of the major factors that will determine the success, or lack of it, of a regional government proposal is the relationship between a new regional government and the cities and other service mechanisms located within it. While a detailed discussion of intergovernmental relationships is not possible until the form of regional government to be used is specified, there are certain key elements that should be present regardless of the form of government. Those elements are:

1. promotion of regionalism: any form of government should encourage regional provision of services; that is not to say that services could not be provided at the local level but rather, that policy development and overall control should rest at the regional level;
2. certain services should mandatorily be at a regional level; these services should include at a minimum, planning, health, education and public safety;
3. if any form of regional government less than an organized borough is established, home rule cities should not be forced to relinquish any authority to the region;
4. an alternative to second class city government should be established (see attached memorandum) relieving many villages of the obligation to provide

municipal services;

5. any form of regional government established should, to the maximum degree possible, be free from state and federal control.

CONCLUSIONS

Based on the above discussion and several in-house work sessions on the subject, we think that the following would be the best method of establishing and operating regional governments in the unorganized borough.

STRUCTURE

Establishment of unorganized boroughs with boundaries that would meet organized borough standards. Each unorganized borough would have the mandatory powers of:

Education
Health
Planning
Public Safety (fire and police protection)

Home rule cities located within an unorganized borough would continue to exercise all of the above powers unless they elected to participate on a regional basis. The assembly of the unorganized borough would have absolute authority, subject to state and federal law, over the exercise of the above powers. Additional powers could only be added by a process requiring state approval and voter ratification in the region.

The unorganized borough would be governed by an assembly with separate boards for school and planning functions. The assembly could assume the responsibilities of the school board and planning commission upon voter approval. The unorganized borough would be required to employ a professional manager.

FINANCING

Unorganized boroughs would not have taxing authority. A resource tax as previously described would be the recommended source of funding; as an alternative, a sales or income tax would be levied and collected, by the state, in all of the unorganized boroughs and then redistributed based on an equalization formula. Unorganized borough assemblies would have full budget authority.

INTERGOVERNMENTAL RELATIONS

The unorganized borough would be the regional government for the area; state and federal agencies would be obligated to treat it as we currently do an organized borough.

Bob LeReshe

-9-

July 21, 1976

As noted the unorganized boroughs would have mandatory responsibility for certain services. They could, also, contract with cities for provision of certain services.

This is obviously a very complicated subject and these are only our preliminary conclusions. I would like to discuss this matter further.

LMcA:PP:jg

Attachments

The following sample budget is very tentative at this time. Several assumptions have been made. They include:

1. that health programs provided will be those transferred from the state; accordingly, it is anticipated that no significant additional cost will be incurred.

2. public safety costs are estimated at \$150,000. However, until the level of service is clearly indentified an actual cost is not calcuable

SUMMARY OF COSTS

Assembly	\$ 65,000
Administration & Finance	144,000
Planning	56,000
Health	-0-
Public Safety	150,000
Education (same funding as with REAA's)	-0-
	<hr/>
Total additional cost	\$415,500

New Boroughs 15	=	\$6,232,500
10% items not covered		<u>623,250</u>
TOTAL COST		\$6,855,750

	EDUCATION	SALES TAX	PROPERTY TAX	PLANNING	ADDITIONAL POWERS
FIRST CLASS BOROUGH	Is a school district: shall provide and bear the portion of the costs for schools inside borough boundaries. This would include salaries or wages of school teachers, fringe benefits, hiring of school teachers, upkeep of schools such as janitor, payment of utility bills such as lights, fuel for school building, etc. State of Alaska pays at least 30% of basic operating costs. AS 29.33.050	Not required by law but can be voted in by voters; not to exceed 3%. AS 29.53.415	May levy & collect property taxes. Taxes not to exceed 30 mills or 3% of assessed valuation. AS 29.53.010	Shall serve as planning authority. AS 29.33.070	May assume additional area-wide powers by transfer from a city or cities or by vote of the people. AS 29.33.250
SECOND CLASS BOROUGH	Same as first class borough. AS 29.33.050	" AS 29.53.415	" AS 29.53.010	" AS 29.33.070	" AS 29.33.250
THIRD CLASS BOROUGH	AS 29.33.050	" AS 29.33.415	" AS 29.41.010	No authority to undertake planning. AS 29.41.010	Service area authority is granted. AS 29.41.010

Alaska Statutes 29.12.030. Organized boroughs. An area may incorporate as an organized borough if it conforms to the following standards:

- | | |
|---|--|
| <p>(1) The population of the area is interrelated and integrated as to its social, cultural and economic activities, and is large and stable enough to support organized borough government.</p> <p>(2) The boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of local services.</p> | <p>(3) The economy of the area includes the human and financial resources capable of providing local services; evaluation of area's economy includes land use, property valuations, total economic base, total personal income, resource and commercial development, anticipated functions, expenses and income of the proposed borough.</p> <p>(4) Land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated local government.</p> |
|---|--|

Question: We then ask what are the differences between the first and second class borough?

Answer: According to Alaska Statutes 29.08.020, we have five general law municipalities which are as follows:

- | | |
|---------------------------|-------------------------|
| (1) First class boroughs | (4) First class cities |
| (2) Second class boroughs | (5) Second class cities |
| (3) Third class boroughs | |

Question: What then is a general law municipality?

Answer: Alaska Statutes 29.08.020. General law. A general law municipality is a municipal corporation and political subdivision and is an unchartered borough or city. It has legislative powers conferred by law.

Question: That still doesn't answer the basic question - "What's the difference?"

Answer: Yes, there is a difference. The first class borough can adopt a home rule charter status while a second class borough cannot.

Alaska Statutes 29.08.010. Home rule. A home rule municipality is a municipal corporation and political subdivision and is a borough of the first class or city of the first class which has adopted a home rule charter. It has all legislative powers not prohibited by law or charter.

Question: What then is a charter?

Answer: A charter is a document that lists the powers granted to the city or borough. It is framed by an elected charter commission. The completed charter is submitted to the voters for their adoption. The charter upon adoption becomes the organic law of the municipality.

	MINIMUM POPULATION REQUIREMENTS	CITY'S EDUCATION RESPONSIBILITY	CITY SALES TAX	CITY PROPERTY TAX	ZONING	COUNCIL	MAYOR	AREA-WIDE POWERS
<p>SECOND CLASS CITY</p> <p>General Law Municipality AS 29.08.030</p>	<p>25 permanent residents & over. AS 29.18.020</p>	<p>None. If located in borough, borough assumes educational responsibility. AS 29.33.050</p>	<p>Choice of city residents. Can be voted in up to 3% or 1-3c on a dollar. AS 29.43.020 AS 29.53.415</p>	<p>Can be voted in by city voters, 1/3 of 1% or 50c for every \$100. AS 29.53.410</p>	<p>May. Don't have to. AS 29.43.040</p>	<p>7 members. AS 29.23.200(a) Are elected up to 3 yrs. or 4 yrs. by ordinance.</p>	<p>Council member. AS 29.23.250(c) Is elected up to 3 yrs. or 4 yrs. by ordinance. Mayor votes.</p>	<p>None. However, has extra territorial jurisdiction. AS 29.48.037</p>
<p>FIRST CLASS CITY</p> <p>General Law Municipality AS 29.08.030</p>	<p>400 permanent residents & over. AS 29.18.010</p>	<p>Have to provide for education. AS 29.43.030 If located in borough, the borough assumes educational responsibility. AS 29.33.050</p>	<p>Choice of city residents. Can be voted in up to 3% or 1-3c on a dollar. AS 29.43.020 AS 29.53.415</p>	<p>Not compelled, but may have property taxing powers. AS 29.43.020 (Outside boroughs.) Cities within boroughs may levy property tax. AS 29.53.400 May tax up to 3% on a dollar on assessed valuation of property in one year. AS 29.53.050</p>	<p>Have to. AS 29.43.40</p>	<p>6 members. AS 29.23.200(a) Are elected up to 3 yrs. or 4 yrs. by ordinance.</p>	<p>Runs for office of mayor and is elected at large for term of 3 yrs. or 4 yrs. by ordinance. AS 29.23.250(b) Is not council member and can only vote in case of a tie. AS 29.23.260(a) Has power to veto. AS 29.23.270(a)</p>	<p>May elect to be a home rule city by adopting a charter but only by election of voters. AS 29.13.010-AS 29.13.100 Charter: Charter is a document that lists the powers granted to the city or borough. It is framed by an elected charter commission. The completed charter is submitted to the voters for their adoption. The charter upon adoption becomes the organic law of the municipality.</p>

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

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3/13/74

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SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS--MINUTES

MARCH 13, 1974
1:35 pm

PRESENT: RADER MILLER, SILIDES

1. SENATE BILL 390

Mr. R.D. STEVENSON, Commissioner of Revenue testified briefly before the committee and handed out historical background on the subject. He is also Secretary of the State Bond Committee.

Mr. Emmitt WILSON, Commissioner of Commerce and also Chairman of the State Bond Committee, testified briefly. He said under the concept we now have there has been nothing that would imply that being an advisor for the state and an investor is advantageous. He said he believed he supported the concept in SB 390. It eliminates any possibility of the financial advisor providing additional information to an investor. With the state bond act we are prohibiting the financial advisor from bidding on the bonds. Mr. Wilson pointed out a discrepancy in the bill as to the bond anticipation notes. He said we do support this legislation.

SENATOR RADER said he appreciated Mr. Wilson's calling the bond anticipation note to the committee's attention and he said that would be amended to be proper. He said we would probably report this out later this afternoon.

2. IMPACT

Mr. Fischer of the Attorney General's office said Section 2 line 14 page 1, the statement "the Department of Community and Regional Affairs shall make grants" compels the department to make grants and there is an inconsistency with the Budget and Audit Committee for authority over them.

COMMISSIONER MALLOTT said he was anxious to see the dollars figures put into this bill. He said this was a far-cry from the legislation originally sent down. This legislation at least attempts to respond to the needs he said. He was concerned about mandatory grants that says we "shall" make grants. He would like it to say they could turn down an application if eligibility standards were not met.

SENATOR SILIDES said actually the people making the loan in this bill would be the Budget and Audit Committee.

COMMISSIONER MALLOTT seemed to disagree and said they have the responsibility to approve or disapprove but not to initiate it.

He said it gives flexibility that we don't see in other legislation. Regarding dollar figures, our recommendation was a \$10 million dollar program in the nature of a discretionary grant program. Under this bill formula grants based upon the eligibility standards somewhere in the neighborhood of \$8 million, to be used probably by Fairbanks, Anchorage, Valdez, Delta Junction, etc. Discretionary grants \$2,000,000. He said he had no recommendation for the amount of capital improvement loan funds. Total package between \$15 and \$20 million. The way they read the bill, they are obliged with the local government when they meet the standards to make the grant. He said he would like to have some discretion in that area. He wanted it worded "may" make grants. A municipal bond bank bill is before both house in the legislature. He said the legislature needs to take a long look at that type of legislation.

SENATOR RADER said he went into that several years ago in detail with many people here and almost no one could see the merit of that bill.

COMMISSIONER MALLOTT said he just mentioned it because it is an important area of need.

SENATOR RADER said unless circumstances have changed, I wouldn't optimistic about it passing.

COMMISSIONER MALLOTT said he would like to see a carefully spelled out committee report as to the intentions because it makes it easier for them in making proper grants.

SENATOR RADER explained to Senator K. Miller the we tried to take the formula provision submitted by the administration, the discretionary grants as submitted by Rettig's committee and we added a capital improvement loan program so we would not be expected to build such things as sewer systems, etc. We have tried to cut out a great deal of verbage. He said we will wait until we have a committee and report it out as a do pass recommendation.

COMMISSIONER MALLOTT said until we run the dollar figures through here he can't say whether he recommends it or not.

3. They discussed SB 455 enough to sign a recommendation only on it.

4. VICTOR FISCHER, University of Alaska professor testified on creation of boroughs, etc.

SENATOR RADER introduced Mr. Fischer to the group and said he has ideas on local government and what we should and should not do about it.

MR. FISCHER said basically his hope was that the Legislature would do something this session to get the State to the point

where in 3 or 4 years Alaska would have a functional state-wide borough system. He said there wasn't any need to establish boroughs this year but there is a constant movement to bring us closer to decision points. There is no state policy as to what type of a borough system we are going to have in the State. He said during the Special Session on the ad valorem tax bill this committee report indicated some more governments may be established; some may be rational, some may not be rational. To get a borough system established is going to take a lot of money. You will have to provide incentives to get people to provide or assume government functions. The state doesn't have that money at this time but now would be a very good time to start moving toward the time when the State will have the money. Decentralization of education is coming about. He said his hope was that the Legislature would take steps to rationalize the system of establishing boroughs in the State. He said we ought to try to figure out what we want the borough to be. Due to lack of policy you get establishment of a structure that is going to cause a lot of problems.

SENATOR THOMAS asked if the Department of Community and Regional Affairs doesn't have the tools to do that.

MR. FISCHER said he wouldn't say that. The problem is the department has responsibilities, crisis, etc. and some of the things they want to do don't get done. The Boundary Commission is already overburdened. They have not undertaken the job.

SENATOR KEITH MILLER asked if Mr. Fischer's concept of borough government that the entire State should be divided into boroughs covering the whole State by the Legislature?

MR. FISCHER said yes, established by the Legislature but not necessarily organized.

SENATOR K. MILLER asked what would be the function of a regional unorganized borough.

MR. FISCHER said it is conceived in the constitution to provide for a regional focus. It would be a State administered region. Provides for gradual assumption of responsibilities.

SENATOR K. MILLER said it would be a step toward being an organized borough?

MR. FISCHER said they would eventually be organized.

SENATOR K. MILLER said for instance if the Bristol Bay region had an unorganized borough there but the people in two communities might feel they would want to form a western Bristol Bay borough.

MR. FISCHER said you need a careful analysis of what would be appropriate. It may be more appropriate to have several regions. Advisory Commission on Intergovernmental Relations came out with reports and they propose that future federal programs try and

coordinate their impacts within self-set regions (which in our case would be boroughs); the idea being to try and eliminate the dissipation of efforts.

SENATOR K. MILLER said his concept of the borough is that Alaska was unique; that it could serve a need in a smaller area.

MR. FISCHER said the decision of one effects another. If your freedom eliminates somebody else's, you need to stop and look into this and through laws such as the ad valorem tax bill . . .

SENATOR RADER said he would like to set up a hearing for tomorrow afternoon with Mr. Fischer to pursue the matter. He said this problem has come up a number of times and it is important. If we are going to pursue this we must have the input of the bush people. He said will continue this matter until 1:00 pm tomorrow.

5. IMPACT

SENATOR RADER said they need to make a decision before we adjourn. Under the Formula Grants, shall we say Community and Regional Affairs Department "may" or "shall" make the grant.

SENATOR THOMAS said he hadn't heard the arguments on that yet.

(HENSLEY ARRIVED)

COMMISSIONER MALLOTT said his concern was there may be instances where the local governments meet the population requirement but would not really meet other reasonable judgments that might be made to receive that money or not.

SENATOR THOMAS said "shall"
SENATOR RADER said "shall"
SENATOR MILLER said "shall"
SENATOR HOHMAN said "may"
SENATOR HENSLEY said no recommendation

SENATOR MILLER asked if this bill addresses itself to negative impact.

SENATOR RADER said no it doesn't. Maybe it could come up under Discretionary Grants. He said he didn't know whether it would meet the purpose clause. Senator Rader said what would the individual recommendations be for this bill so that he could prepare a committee report.

SENATORS RADER, HENSLEY, THOMAS voted DO PASS.
SENATOR K. MILLER voted no recommendation
SENATOR HOHMAN voted do not pass or no recommendation

SENATOR RADER said he would prepare the report and have it circulated to the members for their signatures.

FUNDING:

SENATOR RADER said he preferred to see the Discretionary Grants larger and Formula Grants smaller. He suggested \$25,000,000 on Capital Improvement Loans, \$10,000,000 on Discretionary Grants ; and \$5,000,000 on Formula Grants. He said he didn't know that they would ever use the \$25 million or the \$10 million on Discretionary Grants. It was pretty certain they would disburse the \$5 million on the formula.

SENATOR HENSLEY said we are just dealing for about one year or until the Legislature returns. Right? He said he did not object to the recommendation.

SENATOR MILLER said he would support it.

SENATOR THOMAS said he would support it too as long as it was understood all that money does not necessarily have to be spent.

SENATOR HOHMAN questioned the alternatives; said no recommendation on that.

COMMISSIONER MALLOTT said he viewed the Formula Grants as having a real capacity to respond quickly to the local government needs. He thought they needed more for them than the \$5 million. The difficulty with the Discretionary Grants is by making one you set the precedent that opens up the whole business.

SENATOR RADER asked the commissioner to prepare a schedule to go with our committee report. He said it would be attached to the committee report.

ADJOURNED 3:15 pm

SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS -- MINUTES

MARCH 14, 1974 1:00 pm

PRESENT: Miller, Thomas, Rader, Hensley, Hohman

SENATOR RADER called the meeting to order and announced that Dr. Victor Fischer has supplied material to be passed out to the committee.

DR. FISCHER said he suggests that the State needs to take steps now to organize itself and establish state policy for the regionalization of Alaska for dividing the existing unorganized borough, that would be decentralization of state services, to provide a basis for local participation and to provide a basis for local and regional taxation for local needs and to provide a mechanism for redistribution of wealth. He said since 1970 each Legislature had bills before it to divide Alaska into boroughs introduced by legislators, administration and other sources. He explained the material passed out. He said bills have been introduced going from unorganized regions to home rule which he said he thought was a very good idea. He said the North Slope has established several school areas within the borough. There are different combinations that may be appropriate to different regions.

SENATOR RADER said we would have to draw a mandatory line.

DR. FISCHER said that is right. It is a state responsibility to draw the lines. It would be mandatory in terms of where the boundary is. The process would involve going out and talking with the people in the communities so there is an acceptance and a logic to the legislation. His suggestion with respect to statute is to set up a process that would say what these boroughs would do. His recommendation was that you by law ask the Department and the Boundary Commission to give you their plan on what the boundaries should be. He said his conclusion at this time is there is no quick answer to an awfully difficult question. If this committee and the Legislature doesn't do anything, you will be going through the same process each year.

SENATOR RADER said what he wanted to know was how to decentralize state government for better distribution. There are going to be a lot of people who will not want to be in a boundary. It is going to have to be a mandatory thing. Secondly, you will have to delegate them authority. Do you take away a city's right to run their schools when they are inside a borough? How about police protection? These are the type of problems you need to get into and so far it comes up to an unreal thing. They have no ties with one another many times.

DR. FISCHER said now is not the time to establish boroughs throughout Alaska. He said he thought you have 2 or 3 years except in some areas that they are ready now. He said he thought these questions need to be turned over to a group or agency that can report back and study the situations. He said he can't tell the committee how to right this legislation. He recommended that they do it through an established agency or an interim committee or a temporary commission on local government. They would ask the type of questions the committee is asking now and answer them with "price tags" on them. Then you would have these answers.

SENATOR RADER said he agreed with Dr. Fischer that we don't have the answers and he said maybe appointing a committee would be the answer.

DR. FISCHER said the Calista Region met with the University and they discussed the establishment of a borough and one thing for sure was no one knew enough about it. 3rd class boroughs have education powers only then someone said service areas come in and give more power than a first class city. . . there needs to be further analysis on what the State position ought to be and where we want to be 10 years from now instead of jumping into this year by year.

SENATOR THOMAS said maybe there are too many options now and you are suggesting we ought to knock out this service area for example. You are saying we ought to have more say about what they want to do out there. Are you saying we ought to narrow it down more?

DR. FISCHER said no, I am not. We ought to develop options that make sense. We have a 3rd class borough to resolve a very irrational problem at Haines. What I am suggesting is we ought to look in the total situation and give the people tools that are appropriate. If anything, I would give them more options. Let them design the system that meets their needs. So long as basic standards are met and so on. Don't leave options that don't mean anything or that can cause problems in the long run. Such as a few villages around Ambler. Once you have a borough, it is hard to change no matter how bad it is.

SENATOR THOMAS said he doesn't see how we are going to figure out what these areas should have.

DR. FISCHER said he suggests that we can't do it but it will take a very intensive effort and time and money, etc., analysis of the implications, look not just at education but all the other functions but we ought to try and avoid the problems throughout the United States that don't fit the bills. We have an opportunity to do better here. Set a specific schedule, targets for making a system of central government that will still make sense 10 years from now.

SENATOR RADER said the home rule borough is available to any community. The difficulty with the suggestion is the people most concerned here are not interested in going into this at this time. He said he was not opposed to appointing a committee.

DR. FISCHER said we should have learned something from 1959-60-61 there was no overall looking at Alaska. We have never taken a look at the totality of Alaska. He said he didn't think this was going to threaten anyone. Boundaries would provide people with the option of organizing. With respect to home rule, areas wouldn't have the option of going to home rule unless they establish a first class city with powers.

SENATOR RADER said that would be easy to change.

DR. FISCHER said no one has to knock themselves out to do it now but you need to start the ball rolling.

SENATOR RADER said he was not opposed to a committee but that is pretty vague.

SENATOR HENSLEY said there is merit in the idea of having additional regional government in the unorganized borough for the standpoint of planning and zoning. He said we haven't had any hearings at all on this subject. There ought to be some move in that direction. He said he thought most of the leadership out there would like to have a government entity dealing with their problems. He said they have to come to him now for those things.

SENATOR HOHMAN said he thought people were interested in this now. He said he thought what Dr. Fischer has suggested is what is needed. He said he sees it as a substantial move in the right direction.

REPRESENTATIVE PHILLIP GUY said the lack of knowledge of the concept is the deterrent. Local governments should be brought closer to the people. He said he agreed with Dr. Fischer's suggestions.

COMMISSIONER MALLOTT said he was concerned about the proposals Dr. Fischer makes. He said he felt there was nothing wrong with the structure; some modifications are required but it is good. We can talk about form but until the Legislature begins to address the service needs out in the rural areas and builds incentives, he said he thought these were the basic issues. He disagrees that we need a 3rd-party look. He said he thought you would be freezing into posterity what the local governments could do. He said we have a very responsive mechanism. We need to spend more time looking at the substance rather than the form. The State is going to have to pump millions of dollars out there. He said his department is in the process of an analysis of everything that we can see presently and in the future of local government need. They have asked for \$100,000 to do a study of what the fiscal resources are in the unorganized

borough. He said he thinks there is room for fine tuning but we don't need to agonize over the existing structure.

SENATOR HENSLEY said one of the reasons it was possible to organize what we did organize was because it was very simple and it didn't give them a substantial amount of responsibility. It was a very simple structure. He said he thought there needs to be some consideration of the problems now. The only way to organize more boroughs are the ones with property with finances. If we can get a start on borough formation without moving into complicated areas. . . if we sit here and wait, we will not be able to fight the giants the North Slope has been able to fight.

COMMISSIONER MALLOTT said the structure should be reviewed but the point you make illustrates my point he said. He said those 2nd class cities do essentially nothing. The State has never given them the kinds of tools to respond to service needs., sewer, water, housing, police, fire, etc. The emphasis should be to look at what they need to make the existing structure work. Money is the principal need. Information to the people is necessary. The Local Boundary Commission needs its own staff.

SENATOR RADER asked Senator Hohman if he was funded by the State or Federal Government when he was organizing rural areas.

SENATOR HOHMAN said they were funded by both and that program is still in effect now.

SENATOR RADER told Commissioner Mallott that he believed the importance of his agency has been ignored.

SENATOR HENSLEY said they have a bill in committee to remedy that situation.

COMMISSIONER MALLOTT said they are trying to take a long range look now and he has asked for funding. He said they have reviewed the state's revenue sharing in terms of how needs in the smaller communities can be met.

MR. BILL THOMPSON, Department of Education, said he concurred with the Commissioner; the structure is there. Education and information is the biggest thing. As to what their options are without the existing structure, what does it entail other than education that they have to provide. I agree that the problem is money, he said. He said there have been three of them that go out to explain things to the rural areas.

SENATOR RADER asked if that should be an activity concentrated in one department.

MR. THOMPSON said it should be in the Department of Community and Regional Affairs because education is only one service.

MR. ROBERT VAN HOUTE, President NEA said he felt there is a strong feeling of democratic representation. Every village needs to have means of being represented. Most villages want water, electricity, schools, health services, etc. this comes down to \$\$\$\$. There is an element of time. We can't wait too long. Galena is 1st class with their own school district. 4 or 5 of the villages around Galena should be included in the Galena service area. If you take a major part out of a community area you destroy both. They all have to be included. You need projected planning. He said after 1980 all the area which is not organized should be mandated into boroughs. School funding should be done 100% foundation level. You are going to have to pump in money. 3rd class boroughs do not have any taxes mandated on them. He said he would like to go to the map and say these are the boundaries and let the people come and say we don't want to be in there and reorganize the map until you get it the way everyone likes it. He said there is a great desire for some kind of control by them for what goes on in their region. Time is of the essence.

MR. OVERSTREET, Alaska School Board Representative: He said we have overly consolidated rather than too much decentralization. He said he didn't find alarming 2 or 300 school districts. There are going to have to be a lot of small districts. Pelican runs K-10 with 45 kids under the existing structure. With whom might they consolidate is an impossible situation. Representatives of Education and Community and Regional Affairs should get out to these communities and let them know a way to provide more services without assuming responsibilities that they don't feel they can handle. He said he favored full State funding for education.

DR. FISCHER said he was glad to hear these views and he said he agrees with all. What is brought out here underlines the needs to go at this more systematically than we have been. He said we can draw 15 boroughs, 15-25 or 200 school districts, are they cities, boroughs or what? What are we talking about? He said in their report they had a long discussion over a relationship between form and function. Juneau is a borough but it is a city; it will perform urban functions. The same thing with Anchorage. The Kenai borough is a totally different creature. The functions performed in each would be totally different. There is a link between form and function. It is necessary to not only look at function. He said he thought we should hold down the size of central government as much as possible. We ought to put as much responsibility at the local level as possible. Schools need not be area wide functions. The financial aspect is really important not only for providing money for functions and for these two departments. It is important when the State is going to have a few billion dollars for oil alone that might be spent for state government--the alternative is to give the money to the people, to the cities, etc. This is going to be very important. We need a governmental structure that would be suited to representing the people and the areas of Alaska effectively. It is time to act. If you

have a commission that were made up of the 2 commissioners (of the Community and Regional Affairs and Education) and the Boundary Commission, etc. and a few legislators and citizens; members that could be of the executive branch but also of the people, give it a 2 year life and go out and talk to the people; deal with it objectively once and for all. This is not to demean the existing departments. It is one alternative but he said he hoped SOMETHING would be done.

SENATOR THOMAS asked what Dr. Fischer thought about the idea of a foundation program along the lines of the Education Act.

DR. FISCHER said he thought it was a very good idea.

SENATOR THOMAS asked if 2 years wasn't too much time.

DR. FISCHER said if it were only for one year instead of two it wouldn't take on any life until July and that would really be only a 6 month effort. It would be too early to report back. The support of regional groups can make real contributions. He said he had been impressed with Calista representatives. There could be an interim report to the Legislature. It would take a good solid year of work.

SENATOR THOMAS asked if Dr. Fischer suggested education could go along at its own pace and in its separate way?

DR. FISCHER said he thought some things may need to go in the interim. He said if you do establish a commission of this sort and these questions came up, they would be coordinated in this group. You can't have a large regional district here, and two little districts. He said he is not saying one is better than the other for education. And he said he knows the world cannot stand still while somebody is making studies.

SENATOR HOHMAN asked Mr. Overstreet if he was suggesting reducing teachers salaries.

MR. OVERSTREET said yes. We need to stop doing things just because we have always done them.

REPRESENTATIVE GUY said whenever the concept of a municipality is brought up people immediately think of taxation. This leads to the question of whether the 3rd class borough is valid. He said maybe it would be better for the area to go 1st class. The benefits of being a 1st class city would be available to the region.

COMMISSIONER MALLOTT said he thought the notion of taking a look at what is and what is happening and what ought to be is necessary otherwise his department wouldn't be engaged in that effort now. He said it can't be a presupposed, prejudged effort that goes out there with a policy objective. He said if you can corral that effort into the kind of thing Victor Fischer is talking about, he said he would support that kind of concept.

ADJOURNED 2:45 pm.

INTRODUCTION

Regional government... a choice of the people.

The following is a presentation of the Department of Community and Regional Affairs, Local Government Assistance Division.

What you are about to see is, or will soon be, of concern to a great many Alaskans.

As Alaska grows, the need for the development of regional forms of government in the Unorganized Borough will grow. There are many opinions as to the kinds of regional government that should be established and how they should operate.

The purpose of this presentation is to explore some of the different types of regional government and consider which might best help your community.

NARRATIVE

The history of Alaska is one of constant and dramatic change. The change has not occurred evenly though. Some areas of the State have changed dramatically, producing large cities. Other regions have changed much less, and in many of the villages some of the old ways are still an every day way of life.

Major changes have been caused by growth, and much of the growth has resulted from the discovery and development of natural resources. The early development of trade, the discovery of gold, money coming into the State from the Federal Government, the development of industries, and the individual efforts which Alaskans have made to improve their lives, have all been a part of making change happen.

Change can be seen almost everywhere. Transportation systems have improved and expanded, communication systems have been enlarged to include a majority of the remote areas, new schools have been built and more are proposed, medical care has been extended to serve more residents, and new businesses developed, to name just a few.

Change is continuous. Things that happen, not only in the State but, throughout the world affect the entire State and cause change. For example, the discovery of oil in Prudhoe Bay created thousands of jobs and provided money to the State Treasury, which in turn is being used to meet the peoples needs. The Alaska Native Claims Settlement Act is bringing money and land title to the Native people and their village and regional corporations. It will also create new concepts and practices of land ownership and land management.

Let's examine the role of government and how it can respond to the kinds of changes that are taking place and look at the ways in which people, especially those in the smaller communities of rural Alaska, can have a stronger voice within their communities and regions.

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Government is a way in which people organize to provide services, and make decisions beneficial to the entire community. Through government, communities can determine how services will be provided and how money is to be raised to pay for services.

Government is very different from private corporations such as the Native Regional Corporations. Government has official powers and responsibilities which have come from the people. Its function is to serve people and provide for the needs. Government, whether a city or a state is administered by representatives elected by the people, and employees who are appointed or hired by elected representatives.

Private organizations serve their owners or stockholders and are not responsible for providing services to an entire community. Private corporations obtain their authority from the State and decisions are made by a board of directors elected by the shareholders.

Some villages have elected village councils, or have councils, as provided in the Indian Reorganization Act. These councils can in a sense, be called local governments because they can make certain kinds of decisions for the community.

However, there are many powers which a local government can use only if it is officially incorporated as a city. The laws of Alaska say that there can be two kinds or classes of cities, called first class and second class. The difference between them is that first class cities have more responsibilities than second class cities; and that first class cities require a larger population before they can incorporate.

The incorporation of a city gives the people of that community official status in dealing with the state and federal governments, and other agencies. Also, cities have the authority to make rules and regulations, in the form of ordinances, and the authority and responsibility for providing services to the people of the community.

In many cases, problems and issues affect several communities in a region. As an example residents of a region may wish to have local control over police protection. This would mean that police officers could be hired locally and be totally responsible to an elected governing body.

Another example could be found when several communities want to create and finance their own school districts so that together they can provide a higher level of education for their children.

These are all regional problems and issues that can be solved by a regional form of government.

This map of Alaska shows the present division of the State into cities and boroughs. Currently, there are one hundred and thirty nine cities in Alaska, there are eleven organized boroughs in the State, and the remaining area is called the unorganized borough.

The way in which our forms of government are organized was decided originally by the Alaska Statehood Convention of 1955-56. This convention was made up of delegates from many parts of what was then the Territory of Alaska.

The delegates of the convention determined how the State government would be organized. They decided on three branches. .the executive branch, which is the governor and the agencies working under him; the Legislative branch, which is the Senate and the House of Representatives, which make the laws and appropriate the money necessary for the government to provide services and the Judicial Branch, which interprets the laws, and operates the system of justice in Alaska.

The delegates to the Constitutional Convention decided that all government powers and responsibilities would first be given to the State, and that certain of these powers could then be transferred to cities and boroughs. Thus, the delegates

left it up to the people of villages and communities to decide for themselves when they wanted to become cities, and when they wanted to join together to create borough government. It was determined that those areas not incorporating as boroughs would become the unorganized borough, and that the State Legislature would provide as many services as possible to the unorganized borough.

We've seen that most of the State is still in the unorganized borough, and that 11 boroughs have been created so far. Let's briefly take a look at the history of how these boroughs were formed.

The first borough to be formed after Statehood was the Bristol Bay Borough, shown on the map. Other larger communities of the State could have joined together to create Boroughs but they did not. The State Legislature in 1963 passed the Mandatory Borough Act, which said that the State would incorporate other Boroughs if the people did not do it themselves. After that four regions voted to become Boroughs. These were the Kodiak Island, Sitka, Ketchikan and Juneau Boroughs, shown on the map.

The State Legislature then took the step of incorporating four additional boroughs in the regions of Anchorage, Matanuska-Susitna, Fairbanks and the Seward-Cook Inlet election districts.

After these Boroughs were incorporated by the State through the Mandatory Borough Act, two other Boroughs have been voluntarily formed. They are the Haines Borough and the North Slope Borough.

Many communities in Alaska are still in the unorganized borough. Some residents of the unorganized borough, have expressed interest in the possibility of creating some form of regional government. Other people have felt that regional governments should not be created in their region.

There are serious pro's and con's to be considered in thinking about any form of regional government. Let's look at some of the alternatives that are, or could be available to residents of the unorganized borough.

Borough government is one mechanism for solving regional problems. In some ways it is a bridge between the State and local government. Boroughs are regional forms of government which provide services to communities within an area having similar physical, social and economic conditions.

A region must meet certain requirements in order to be eligible to form a borough.

1. The population must be interrelated and integrated as to its social, cultural and economic activities. It must also be large and stable enough to support organized government.
2. The boundaries should conform to natural geography.
3. The economy of the area should include the human and financial resources capable of providing local services.
4. Transportation facilities must be adequate to allow the communication and exchange necessary to develop integrated government.

The most attractive aspect of borough government is that it takes some of the power away from the legislature and puts it in the hands of the people of the borough, allowing them to do their own regional decision making. Unlike other forms of regional governments which have advisory powers only, organized boroughs are truly self-governing with clearly established powers. First and second class borough governments have the powers of; education, planning, and may levy

Pages

that first and second class boroughs may exercise include:

*health services and hospital facilities

*Fire protection service and facilities

*Provide for sewage and garbage disposal

*Make plans and regulations for water pollution control

*Community centers

*Police protection and jail facilities

*Cold storage plants

*Telephone systems

*Light, power and heat

*Transportation systems

*Libraries

*Recreation facilities

*Airport and aviation facilities

*Housing programs for new construction and rehabilitation

*Preservation, maintenance and protection of historic sites, buildings and
Monuments.

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dvantage of service areas is that they are dependent on the legislature to
ake away services, authorize taxing powers, or change the level of funding.
more, the service area board would be advisory only.

Another form of regional government would be service areas patterned after the Regional Education Attendance Areas concept. There is one very positive aspect about the REAA's: it allows decision making at the local level--which is one of the main purposes of providing for government in the unorganized borough. At present though, the REAA's receive 100% state funding and still have local control. While this may be a good arrangement for the REAA residents, it really isn't very fair when compared to residents of boroughs and first class cities in the unorganized borough who must pay local taxes. REAA type boards have the disadvantage of being so exclusively single purpose that the level of service could actually be lessened if several boards were formed. Another disadvantage is that overlapping boundaries are very likely to result...promoting even more confusion.

REAA's are not units of local government, so they cannot be given taxing authority. Furthermore, the REAA concept has not yet been tested in court, but there is reason to believe that if more REAA type service areas are established they will be challenged and may be declared unconstitutional.

Let's take a look at the status of the unorganized borough today. The legislature is the governing body of this vast area...approximately 75% of the State.

While at least some municipal type services are being provided to the unorganized borough, they are being given without input from any locally elected representatives. The rural residents have recognized the shortcomings of the unorganized borough and are beginning to demand that other forms of regional government deliver these services. The creation of REAA's was a direct result of the rural resident's frustration with the unorganized borough. These residents are also asking for more and more municipal services and for the authority to provide these services

Rose

on a regional level. The Association of Village Council Presidents has shown a strong interest in creating substate planning agencies. The Native Regional Corporations would like to form areawide non-profit health corporations. With increased development of natural resources in the unorganized borough, we can be certain there will be an increase in population. More people will mean greater demands for municipal services.

The options for development of regional government in rural Alaska are numerous. We have examined four possibilities. Let's review them briefly:

The organized borough - this form of regional government contains three positive features:

- (1) Much of the power to make decisions at a regional level is placed with the people. This power is clearly established and the people become truly self governing,
- (2) A wide variety of services can be delivered due to increased freedom in decision making and vested powers.
- (3) The authority to levy and collect taxes. The tax money will then be used in that region specifically as opposed to being collected by the Legislature and dispersed statewide.

Disadvantages to the organized borough form of regional government are:

- (1) Even though a borough might have the authority to levy and collect taxes, some areas of the State do not have taxable resources as in the Bethel area.
- (2) Organized boroughs are locked into rigid methods of adding powers, levying a sales tax, changing class or unifying with the cities within them.

A second form of regional government is the unorganized borough. The most positive aspect of this form of government is that a regionally elected governing body acting on issues concerning education, planning, etc.

The principal disadvantage is that the legislature still retains the power to make the final decision concerning performance of services and the ability to levy taxes.

It must also be remembered that the unorganized borough form of government would be only temporary in nature.

The third form of regional government discussed was service areas. This concept contains two positive aspects:

(1) A service area could provide any municipal service and local taxes could be collected to provide a higher level of service.

(2) One service area board could be responsible for providing all services within a given area. There are two distinct disadvantages to the service area concept:

(1) Service areas are dependent on the Legislature to add or take away services, authorize taxing powers or change the level of funding.

(2) A service area board would be advisory only. The fourth type of regional government discussed was the service area modeled after the Regional Education Attendance Areas concept.

The principal advantage of this concept is that it would allow decision making at the local level.

There are several disadvantages:

- (1) This REAA boards are so exclusively single purpose that the level of service could actually be lessened if several boards were formed.
- (2) Overlapping boundaries are likely to result, promoting even more confusion.
- (3) The REAA's do not have taxing authority.
- (4) If tested in court, REAA's may be proved unconstitutional.

Today we have looked at the problems of the Unorganized Borough, and four possible forms of regional governments that could help solve these problems.

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MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter
Bruce Aronson
Rebecca Burch

DATE: September 10, 1976

FILE NO:

TELEPHONE NO:

FROM: Patrick K. Poland
Local Government Specialist

SUBJECT: Regional Government Study

For the record and so that we might have something to measure our progress against, the following is a "laundry list" of items that have yet to be accomplished in our pursuit of completing the regional government study.

1. A memorandum to Bob LeResche updating (status report) our original memorandum of July 21, 1976. Major changes that have been agreed upon by all staff and should be included in that memorandum include:
 - a. Expanding the category of cities not subject to exercise of authority by an unorganized borough to include first class cities.
 - b. Deleting the provisions making public safety and health powers mandatory for unorganized boroughs and rewriting the section to provide for optional exercise of these powers by unorganized boroughs. The revisions should, most probably, state that exercise by an unorganized borough precludes exercise by a second class city.
 - c. The memorandum should reflect the fact that we have decided to withhold further action on our proposed third class city legislation until the shape and relationship of regional governments are firmly identified.
 - d. Amending the distribution formula to a simpler method; most likely providing a minimum amount plus a cost-of-living allowance plus a per capita distribution.
 - e. The draft legislation needs to more clearly substantiate the fact that the relationship between regional education attendance area school boards and unorganized borough assemblies would be identical to that between municipal school boards and borough assemblies.
 - f. Amend the proposed legislation to more clearly state that unorganized boroughs will have the authority to contract with other municipal corporations, private corporations or other governmental agencies for the provision of services or to provide services on behalf of those agencies.

2. We need to investigate the possibility of:
 - a. Funding regional education attendance areas in the same manner as municipal school districts are funded; i.e., they would receive P. L. 874 and many 874 funds but would lose the gratis state-local contribution. Additionally, they would be permitted to use a portion of the sales tax revenues they receive as local effort.
 - b. Combining assemblies and school boards on an optional basis.
 - c. Automatic incorporation of an unorganized borough as an organized borough once it reaches a certain assessed property valuation.
 - d. The feasibility of allowing service areas within unorganized boroughs.
3. Items that must be accomplished in conjunction with the Department of Revenue include:
 - a. Completing projections of sales and use tax revenues.
 - b. Determining the amount of shared taxes that is collected within the existing unorganized borough and might be made available to unorganized boroughs.
 - c. Determining the basis on which they calculated their existing fiscal note for administration of an unorganized borough sales/use tax.
4. A "skull" session needs to be set up with the Department of Law to determine whether, in fact, unorganized boroughs actually may exercise municipal powers, whether they may make expenditures and whether, since the sales tax is, in a technical sense, a municipal tax, it may be expended upon collection rather than having to deposit it in the general fund and await a legislative appropriation annually.
5. We need to prepare a fact sheet for the Commissioner by Tuesday, the 14th, outlining major provisions of our study and its conclusions.
6. A working model of an unorganized borough (my suggestion is the Bering Straits or NANA region) needs to be prepared detailing how the unorganized borough would work and what its relationships with other governments would be. Hopefully, the model would include a sample budget.

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter, Director
Local Government Assistance

DATE: September 10, 1976

FILE NO:

TELEPHONE NO:

FROM: Patrick K. Poland
Local Government Specialist

SUBJECT: Regional Government Study

As you know, Chuck Orr and I have spent the last day and a half discussing how our regional government study might be presented to the public and a suggested timetable for presentation. This memorandum summarizes our conclusions and recommendations.

In terms of a presentation, it was concluded that a combination of visual aids and written statements would best serve our purpose given the technical nature of the subject matter. Essentially, the visual aids would consist of slides depicting, among other items, the maze of boundary lines throughout the State, an organizational chart showing the relationship of an unorganized borough with other organized units of government and a map showing the boundaries we are suggesting for division of the unorganized borough. Slides would be shown in conjunction with a verbal presentation by yourself or another staff member of the Division. Written materials would be passed out to the speaker's audience and referred to during the verbal and slide presentation while additional copies would be made available to interested parties following the presentation. The written materials most likely would consist of a comprehensive position paper which would state the problem as we perceive it, analyze alternative solutions to the problem, state our conclusions and explain how and why we arrived at them. Additional written material should include copies of draft legislation, a short summarized fact sheet and several pages of questions and answers. In my opinion, the above would provide the layman with a comprehensive explanation of our project without confusing him with a mass of technical data.

One item not mentioned above but one that could conceivably be included in a package of written materials is a "for instance" paper; that is, taking one of the regions we have identified in the State and using it as an example, running through, step by step, exactly what would be the effect of establishment of an unorganized borough.

In terms of a timetable, it is suggested that the first announcement of the Department's study and its proposed legislation be made during or immediately preceding the Commissioner's television appearance with the Governor in Fairbanks on September 16. It is envisioned that she would make only a general statement, concluding that the actual draft legislation is being finalized at the moment and would be available to the general public by September 23. On September 23, you would release to the public the proposed legislation at your speaking engagement before the Fairbanks Development Corporation. If all goes well, you will again appear before the Anchorage Chamber of Commerce the following Monday, September 27. From there, it will

be simply a matter of trotting our "horse and pony show" around the State to various chambers of commerce and other interested groups. We would, of course, attend the Alaska Federation of Natives convention in Anchorage on October 20-21-22 and give a presentation. It is anticipated that by early December public meetings would have been held in every major community affected by the proposed act. Following the public meetings, we would review the proposed legislation, make any changes and submit the same to the Governor's Office for introduction to the Legislature.

Basically, the wheels have been set in motion to accomplish the above. Chuck and I met with the Commissioner and she is willing to make the initial announcement during her television appearance; however, we did not discuss the point of having her refer to specific draft legislation being available the following week and your presenting it for the first time in Fairbanks. It is imperative, in my opinion, that the public have a specific proposal to respond to. Without a specific proposal, we will only get shrugging shoulders and comments that we don't want anything.

Would you please verify with the Commissioner the above schedule of events and manner of presentation?

PKP:me

cc: Chuck Orr

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

TO: Palmer McCarter, Director
LGAD Staff

DATE: June 15, 1976

FILE NO:

TELEPHONE NO:

FROM: Patrick Poland
Local Government Specialist

SUBJECT: Third Class City - "Food for Thought"

So that we might all have something to talk about when I mention the term "third class city," I would offer the following as a point of departure for purposes of discussing an alternative to second class city status.

Essentially, I envision the third class city as a basic municipality with only minimal services and functions. The primary purpose would be to grant a community legal, recognizable status so that it might participate in certain State, federal and private programs requiring the participation of a legal entity.

The procedures for incorporation of such a municipality would be essentially the same as those for a second class city. Standards would not, however, be as strict as those currently applicable to proposed second class cities. More specifically, I would suggest that any community with a population of more than 25, but less than 400, and displaying an interest in obtaining municipal status be allowed to incorporate as a third class city (actually, this is the situation we had with second class cities until a few days ago). No "heavy" standards would be placed upon the community desiring this status, although they would be required to demonstrate that their boundaries were logical, and assuming that they might some day reclassify upward, conducive to the provision of efficient municipal services.

As an afterthought, I think too, that we would require some basic showing of capability to operate a municipality.

The governing body of my hypothetical third class city would be composed of a city council of five members. One of the members would be selected from amongst the council to be the mayor who would have both executive and administrative responsibilities although, as with current law, he would have the option of employing a professional administrator. The option of adopting the manager form of government seems an unnecessary provision to me. Other officers would be limited to a city clerk and treasurer whose office would be combined unless the council provided otherwise by ordinance - the reverse of what we have today. Of course council terms would be staggered and the relationship between the city clerk/treasurer and council would be as it is for second class cities.

The election of initial council members would be by secret ballot and would be conducted by the State. However, the manner in which subsequent elections were conducted would be specified by the city council by ordinance. It would be their option to determine whether or not they wish to conduct elections through the "town meeting" method or by written ballot. I would anticipate that we would have to have detailed ordinances on hand that would be made available immediately to the council after the incorporation election at which time they would determine which method they choose. There would be no majority election or run-off requirement.

Council meetings would have to be held at least once each quarter and the council would specify the manner in which their meetings were conducted. Again, they could be in the traditional form that we know or they could be in a much more loosely defined form set forth by the council. Additionally, the council would be required to conduct a "town meeting" at least once a year at which time all local residents would have an opportunity to state their views with regard to the manner in which city affairs have been run during the preceding year in order to be run in the following year.

Powers of the city would be severely limited. They would have most of the general powers that we know including the power to contract. However, with respect to specific powers it would be much more limited. I envision only the following:

- fire protection
- health
- cemetaries
- community centers
- libraries.

A community would be authorized upon popular referendum to levy a sales tax of up to three percent. No property tax would be permitted. In concert with the theme of no property tax would be the provision that the municipality would not be permitted to enter into debt beyond the first fiscal year subsequent to the current fiscal year. Too, because of the limited taxing and bonding capability, I would think that special assessments in service areas as well as differential zones of taxation would not be applicable to this form of government.

Some general comments: I would imagine a section of the piece of legislation providing for third class cities would contain language effectively stating that cities presently with a population of 25 people or more but less than 400, and engaged in providing only those municipal services set forth at whatever section it is that sets forth the powers of third class cities, would be automatically reclassified as a third class city. The task of determining the population of those cities would, I imagine, be placed upon the Department. Additionally, I would envision language

effectively stating that the Boundary Commission investigate all second class cities with a population less than 400 and determine whether they should be reclassified as a third class city. Of course, provisions of law permitting reclassification to third class status from second class status would be established. I would suggest too that we amend the incorporation standards for a second class city to a minimum population of 250 people. Financial reporting requirements would not change from the present.

At any rate, I think the above will probably give us all something to discuss (yell about) at our next staff meeting.

PKP: ljd

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Bob LeReshe, Director
Division of Planning and Policy
Development

DATE: July 21, 1976

FILE NO:

TELEPHONE NO:

FROM: Lee McAnerney, Commissioner
Community & Regional Affairs *LM*

SUBJECT: Regional Government in the
Unorganized Borough

In response to my June 21 memorandum to Governor Hammond, you have asked that I expand upon our ideas relative to the above subject. The following is in response to that request and, basically, presents the alternatives (at least as we view them) together with a brief discussion of each; preliminary conclusions are offered in the final pages.

As noted in my previous memorandum, we feel that any legislation dealing with regional government in the unorganized borough must address three major subject areas: structure, financing and intergovernmental relations. Our presentation of alternatives follows that format.

STRUCTURE

Five alternative forms of government appear to be workable in the unorganized borough; they include:

1. Establishment of organized boroughs;
2. Creation of unorganized boroughs;
3. Creation of service areas in the unorganized borough;
4. Continuation of the Regional Educational Attendance Area (REAA) trend; i.e. delegation of municipal functions to independent boards and councils;
5. The status quo.

In reverse order, the above are discussed.

THE STATUS QUO

We feel strongly that the existing system of government in the unorganized borough is both inequitable and inefficient. Inequitable in the sense that residents are not, generally, afforded the opportunity to participate directly in the decision making process nor do they participate on an equal basis in terms of financing local services; inefficient in that existing service delivery mechanisms (cities and state regional offices) often lack the necessary expertise, be it professional or otherwise, to provide services on an efficient and responsive basis.

Being a department with extensive field contact, we have been made very much aware of many unorganized borough residents' dissatisfaction with existing municipal and state services--not necessarily with programs but with the manner in which those programs are administered. That the legislature, too, is receiving this message is evident from such legislation as HB 665 proposing health districts in the unorganized borough, SB 398 (Ch. 57, SLA 76) allowing for public works planning in the unorganized borough, HB 657 dealing with platting authority in the unorganized borough, SB 614 providing for taxation in the unorganized borough, HB 49 providing for organized boroughs in the unorganized borough and a number of other pieces of legislation dealing with service delivery problems in the unorganized borough.

Too, we hear non-profit regional native corporations talking about or actually providing such services as health, housing, electricity and comprehensive planning. While their efforts are commendable, they do not, in my opinion, fit into the scheme of local government provided for in our constitution. Nor, because of their own charters, may the corporations provide services to all residents of an area; on the contrary they are, by and large, limited to serving natives only and consequently can act as a service delivery mechanism for state and federal programs relating to services for Alaska natives.

Essentially, there are two major problems with the status quo. First, service delivery mechanisms established and those proposed are operated by independent boards or commissions acting totally without coordination. Additionally, this method of service delivery generates a much greater need for human and financial resources from areas that are in short supply of both. Second, it promotes a trend contrary to establishment of borough government in the unorganized borough--a course in direct conflict with the local government article of our constitution.

CONTINUATION OF THE REAA TREND

In our view, continuation of the REAA trend is going to be the status quo of tomorrow.

There is one very positive aspect about the concept of REAA's: it provides for decision making at the local level--one of the main purposes of providing for government in the unorganized borough. However, as presently constituted residents of REAA's literally "have their cake and eat it too"--100% plus funding is provided by the state, yet total local control is allowed. While this may be a desirable situation for residents of REAA's, it is certainly not equitable in comparison to a resident of a municipal school district who must pay local taxes. I would suspect that residents of urban areas--the bulk of the state's population--would not tolerate extension of this particular form of service delivery beyond its existing state.

It should be noted, too, that the two major concerns expressed under the "status quo" section apply equally, if not more so, to the REAA concept. Especially real-

izing that with the REAA concept of 100% plus funding, any incentive for a region to move toward regional government is destroyed.

One thing further should be said about REAA-type boards; they are so exclusively single purpose (usually attracting board membership concerned only with its particular responsibility) that development of a number of boards could actually lessen the level of service being provided; primarily because of lack of interboard coordination and restricted use of financial and, particularly, human resources. Moreover, when boundaries are drawn to define districts and the only criteria used are those relevant to the particular service to be provided overlapping boundaries are likely to result. With overlapping boundaries comes confused residents (who do we go to? where do we go to?) and, consequently, dissatisfaction with the services being provided.

Of concern, too, is the lack of flexibility associated with the REAA's. Because they are not units of local government they cannot be given taxing authority nor can they provide "local government" services. While the legality of the current REAA's has not been challenged on the grounds of Article X, Section 2, of the Constitution (proponents of the REAA's argue that they are really service areas authorized under Article X, Section 6), there is good reason to believe that if additional REAA type boundaries are established they will be challenged and may very well end up being declared unconstitutional. Through establishment of REAA-type entities we, at best, guarantee a long court battle, at worst, an entity without legal standing.

CREATION OF SERVICE AREAS:

There are a number of features of the service area concept that make it a fairly attractive alternative. Leading the list is the fact that it is an existing, recognized mechanism for delivery of municipal services. The legislature is given constitutional authority to provide for service areas in the unorganized borough thereby negating any legal challenge. But, probably most important of all is the service area's flexibility. A service area could provide any municipal service and, if the legislature so elected, a tax could be levied within the service area for services provided. Of significant benefit, too, is that one service area board could be responsible for provision of all services within a given area.

Probably the biggest drawback to the service area concept is that service areas would be dependent upon the legislature, sitting as the assembly for the unorganized borough, to add or delete powers, change levels of funding, acquire taxation authority, etc. A lesser drawback of a service area is that the service area board, at least in the legal sense, would be advisory as a dependent agency of the assembly of the unorganized borough (legislature). Depending upon the language in the enabling legislation, the latter might not be a problem.

DIVISION OF THE UNORGANIZED BOROUGH

In many ways establishment of a number of unorganized boroughs would be much the same as establishment of service areas with one overshadowing exception: the unorganized boroughs could have local autonomy. Because of the lack of constitutional constraints placed upon unorganized boroughs, their establishment could yield a tailor made form of regional government. More specifically, the legislature could delegate any municipal power to an unorganized borough, grant it taxing authority, etc.

We feel, too, that the term unorganized borough has significant advantages. First, it implies what is intended to be--an interim step in the long range development of regional government in rural Alaska. Second, it is a recognized and accepted term--most residents of rural Alaska know they live in the unorganized borough. In our opinion, residents would be more receptive to division of a governmental organization that already exists rather than establishment of a new form of government.

As with an organized borough, unorganized boroughs would have specific boundaries, powers, and a governing body responsible for more than one municipal service. All, in our opinion, positive results.

ESTABLISHMENT OF ORGANIZED BOROUGHS:

Because it is a proven form of regional government, organized boroughs offer some obvious advantages (or disadvantages depending upon your view point). Their method of operation is basically understood; they have taxing authority and an ability to acquire additional municipal powers in response to resident requests; they may establish service areas to provide different levels of service and they have a maximum degree of local autonomy. Additionally, organized boroughs could represent a final, rather than an interim, step in regional government. Too, establishment of organized boroughs would provide a sense of equity among all residents of the state with regard to receipt of municipal services.

However, the organized borough is not without its disadvantages. One of the biggest, of course, is a product of the 1964 Mandatory Borough Act which made the term borough a "dirty" word in many an Alaskan's vocabulary.

There are structural disadvantages too: organized boroughs are locked into rigid methods of adding powers, levying a sales tax, changing class or unifying with the cities within them. Also, they must have separate assemblies, planning commissions and school boards. Depending upon the amount of activity of the borough this may or may not be a disadvantage.

FINANCING

At this stage our thoughts are very tentative in terms of generating the funds

needed to pay for regional government in the unorganized borough. The following appear to be workable alternatives:

1. existing mechanisms, i.e. sales and property taxes levied and collected by and within the boundaries of each jurisdiction;
2. increase levels of funding of existing programs to cover all costs;
3. an ad valorem tax on property associated with the development of natural resources with distribution to regional governments, based on an equalization formula;
4. a sales or property tax throughout the unorganized borough with distribution to individual regional governments, based on an equalization formula;
5. levy of an additional income tax on wages earned in the unorganized borough with distribution to individual regional governments, based on an equalization formula.

1. Existing mechanisms: In our view, authority to levy sales and property taxes should continue to be an option available to organized municipalities. Although the constitution permits extension of taxing authority to unorganized boroughs, doing so does, in fact, create another class of organized borough. This is not, in our opinion, a viable, alternative structure.

The advantage, at least from the state's view, of a local property or sales tax is that it would be administered at the local level. However, the disadvantages appear to outweigh any advantage. First, a local sales or property tax reflects only the local economy; advantageous for those located along the pipeline; not so for those located on the lower Kuskokwim. Second, property taxes are, relatively speaking, regressive and expensive to collect. It is entirely possible that it might cost as much to levy and collect a tax in certain areas as the tax itself would generate. While a local sales tax would not be as expensive to levy and collect, an assessment and collection department in each taxing jurisdiction would need to be established.

2. Increase levels of funding: Basically, this approach is an extension of the funding mechanism provided for the REAA's. We oppose this method of funding because of its gross inequity. It is unpalatable for us to ask residents of one region to pay for municipal services while providing those services to another region at no cost to the residents. Additionally, such a method of funding totally discourages the formation of regional government; why pay if services can be received at no cost?

Of course, one means of alleviating the question of equity is to provide the same level of funding to all jurisdictions. However, at that point the costs seem to outweigh any advantage to be realized.

3. A "resources" tax: A fresh approach to funding local government services might be implementation of a resource tax. Essentially, the tax would be an ad valorem tax levied upon all property used for the exploitation of natural resources. The primary advantage of this tax is that administration of it would be relatively simple in that you would be assessing and collecting taxes on a fairly limited amount of property with a high dollar value. As we envision a resource tax, it would be levied and collected by the state throughout the unorganized borough and then redistributed to individual regional governments based on an equalization formula.

Optionally, the tax could be levied upon all resource related property throughout the state and redistributed on an equalization formula to all areas of the state. This would not only provide a source of funding for new regional governments in the unorganized borough but would also provide new revenues for existing regional governments.

The major disadvantages of a resource tax appears to be that it is an unknown quantity and, probably most important, an encroachment upon and placing under state taxing jurisdiction a tax base that, in the past, has been considered the exclusive tax base of local governments. Perhaps the latter problem, at least to some degree, could be relieved by allowing a local taxing jurisdiction having resource related property within its boundaries the right to levy a tax up to a certain limit and then "piggybacking" the state tax on top of the local. The resource tax would be similar to the present oil and gas tax of the state but would additionally apply to all other natural resources.

4. Unorganized borough sales or property tax: The advantages and disadvantages of a property or sales tax have been defined in the preceding discussion of alternatives. The change we are suggesting here is that the tax be levied throughout the unorganized borough and be collected by the state, thereby minimizing administrative costs. Tax proceeds would be redistributed to individual regional governments based on an equalization formula.

While levy of a property tax would undoubtedly yield sufficient revenues to cover the cost of regional government, it would seem that the additional net revenues received from extending the tax to all property, rather than just resource related property, would be so minimal as to hardly justify its levy.

An unorganized borough sales tax would yield sufficient revenues to cover the costs of regional government and would be much more simple and, accordingly, less costly to administer. We estimate a 2% sales tax levied and collected in the unorganized borough would generate in excess of \$10 million annually.

5. An additional income tax: As with the sales tax, the primary advantage of an income tax appears to be ease of administration. Collection could be accomplished by the state at the same time that state income taxes are collected and then redistributed to regional governments, based on an equalization formula.

A product of this tax is that you extend taxing jurisdiction previously restricted to the state to local governments, thereby strengthening the tax base of all local governments. (As a practical matter, if the income tax is established as a system of local government finance in the unorganized borough, it would have to also be extended, at least on an optional basis, to organized boroughs.)

Of the above, we tend to favor either the resource tax or a sales or income tax. The administrative burden imposed by a comprehensive property tax would, in our opinion, create more problems that it would solve. We also favor levy of a tax at the state level with redistribution to individual regional governments based upon an equalization formula. Administration of the tax in this manner would minimize costs and provide for consistent administration throughout the state.

Presently, we estimate that an additional \$7 million will be required to fully fund the program (see attached budget). This figure does not include existing shared revenues that might be made available to new regional governments. Preliminary calculations show that a 1.5% sales tax or a 2 mill (or less) resource property tax could generate this amount of revenue. Data needed to estimate the percentage for an income tax is not yet available.

INTERGOVERNMENTAL RELATIONSHIPS

Without doubt one of the major factors that will determine the success, or lack of it, of a regional government proposal is the relationship between a new regional government and the cities and other service mechanisms located within it. While a detailed discussion of intergovernmental relationships is not possible until the form of regional government to be used is specified, there are certain key elements that should be present regardless of the form of government. Those elements are:

1. promotion of regionalism: any form of government should encourage regional provision of services; that is not to say that services could not be provided at the local level but rather, that policy development and overall control should rest at the regional level;
2. certain services should mandatorily be at a regional level; these services should include at a minimum, planning, health, education and public safety;
3. if any form of regional government less than an organized borough is established, home rule cities should not be forced to relinquish any authority to the region;
4. an alternative to second class city government should be established (see attached memorandum) relieving many villages of the obligation to provide

municipal services;

5. any form of regional government established should, to the maximum degree possible, be free from state and federal control.

CONCLUSIONS

Based on the above discussion and several in-house work sessions on the subject, we think that the following would be the best method of establishing and operating regional governments in the unorganized borough.

STRUCTURE

Establishment of unorganized boroughs with boundaries that would meet organized borough standards. Each unorganized borough would have the mandatory powers of:

Education
Health
Planning
Public Safety (fire and police protection)

Home rule cities located within an unorganized borough would continue to exercise all of the above powers unless they elected to participate on a regional basis. The assembly of the unorganized borough would have absolute authority, subject to state and federal law, over the exercise of the above powers. Additional powers could only be added by a process requiring state approval and voter ratification in the region.

The unorganized borough would be governed by an assembly with separate boards for school and planning functions. The assembly could assume the responsibilities of the school board and planning commission upon voter approval. The unorganized borough would be required to employ a professional manager.

FINANCING

Unorganized boroughs would not have taxing authority. A resource tax as previously described would be the recommended source of funding; as an alternative, a sales or income tax would be levied and collected, by the state, in all of the unorganized boroughs and then redistributed based on an equalization formula. Unorganized borough assemblies would have full budget authority.

INTERGOVERNMENTAL RELATIONS

The unorganized borough would be the regional government for the area; state and federal agencies would be obligated to treat it as we currently do an organized borough.

As noted the unorganized boroughs would have mandatory responsibility for certain services. They could, also, contract with cities for provision of certain services.

This is obviously a very complicated subject and these are only our preliminary conclusions. I would like to discuss this matter further.

LMcA:PP:jg

Attachments

The following sample budget is very tentative at this time. Several assumptions have been made. They include:

1. that health programs provided will be those transferred from the state; accordingly, it is anticipated that no significant additional cost will be incurred.

2. public safety costs are estimated at \$150,000. However, until the level of service is clearly indentified an actual cost is not calculable

SUMMARY OF COSTS

Assembly	\$ 65,000
Administration & Finance	144,000
Planning	56,000
Health	-0-
Public Safety	150,000
Education (same funding as with REAA's)	-0-
	<hr/>
Total additional cost	\$415,500

New Boroughs 15	=	\$6,232,500
10% items not covered		<u>623,250</u>
TOTAL COST		\$6,855,750

ASSEMBLY

Personal Services	\$ 5,000
Travel	10,000
Contingency	<u>50,000</u>

TOTAL ASSEMBLY \$ 65,000

Personal services includes payments to assembly members attending meetings. The contingency amount is to be used to meet extra-ordinary operating expenditures not anticipated.

ADMINISTRATION

General

Personal Services	\$ 45,000
Materials & Supplies	2,000
Equipment	3,000
Travel	2,000
Contractual	<u>35,000</u>

TOTAL ADMINISTRATION \$ 87,000

Personal services includes an administrator and secretary. Materials and supplies are necessary paper goods and other office items. Office furniture and machines are included in the equipment figure. Travel expenditures are predicated on some regional and statewide travel. All legal and other necessary services are listed on the contractual line item.

FINANCE

Personal Services	\$ 45,000
Materials & Supplies	3,000
Equipment	3,000
Travel	1,000
Contractual	<u>5,000</u>

TOTAL FINANCE \$ 57,000

An accountant and clerical support are included in personal services. Contractual includes professional services required for the maintenance and audit of the entire administrative financial structure.

PLANNING

Personal Services	
Materials & Supplies	3,000
Equipment	2,500
Travel	2,000
Contractual	<u>10,000</u>

TOTAL PLANNING \$ 56,500

Personal services includes one planner and secretary. Contractual includes money to be used to purchase professional planning advice on selected topics.

PUBLIC SAFETY

TOTAL PUBLIC SAFETY \$150,000

HEALTH

TOTAL HEALTH -0-

TOTAL EXPENDITURE
PER BOROUGH \$415,500

BoroughsCities

Services	1st Class	2nd Class	3rd Class	Unorganized	1st Class	2nd Class
<u>Minimum</u>						
1. Assessment & Collection of Taxes						
-Authority	AS 29.33.030	AS 29.33.030	AS 29.41.010	—	—	—
-Mechanism	AS 29.53	AS 29.53	AS 29.53	—	—	—
2. Education						
-Authority	AS 29.33.050	AS 29.33.050	AS 29.41.010	AS 14.08	AS 29.43.030 ¹	—
-Mechanism	AS 14.14.060	AS 14.14.060	AS 14.14.060	AS 14.08	AS 14.14.065	—
3. Planning, Platting & Zoning						
-Authority	AS 29.33.070	AS 29.33.070	AS 38.05.037 AS 40.15.075	AS 38.05.037 AS 40.15.075	AS 29.43.040 ¹	—
-Mechanism	AS 29.33.070-245	AS 29.33.070-245	AS 38.05.037 AS 29.33.210-240	AS 38.05.037 AS 29.33.210-240	AS 29.33.070-245	—
<u>Optional</u>						
1. General	AS 29.48	AS 29.48	2	—	AS 29.48	AS 29.48
2. Areawide						
-Authority	AS 29.33.250	AS 29.33.250	—	—	—	—
-Mechanism	local election AS 29.33.270-290	local election AS 29.33.270-290	—	—	—	—
3. Nonareawide						
-Authority	AS 29.38.010	AS 29.38.020	—	—	—	—
-Mechanism	ordinance ³ AS 29.38.010	local election AS 29.38.020-050	—	—	—	—
4. Service area						
-Authority	AS 29.63.090	AS 29.63.090	2	AS 29.03.020	—	—
-Mechanism	ordinance AS 29.63.090	local election AS 29.63.090	2	—	—	—

1. In the unorganized borough only.

2. See the January 6, 1977 Attorney General's opinion and January 26, 1977 Legal Services Division opinion.

3. Some statutory ambiguity.

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter
Director

DATE: August 20, 1976

FILE NO:

TELEPHONE NO:

FROM:  Patrick Poland
Local Government Specialist

SUBJECT: Regional Government

The following is a first draft of legislation that might provide for organization of the unorganized borough.

Section 1. AREAS DESIGNATED. (a) The following areas are designated as unorganized boroughs and possess all the powers and privileges prescribed by AS 29.03. The areas designated are:

- (1) Regional Education Attendance Area #1
- (2) Regional Education Attendance Area #2
- (3) Regional Education Attendance Areas #3, #4 and #5
- (4) Regional Education Attendance Areas #6 and #7
- (5) Regional Education Attendance Areas #8, #9 and #10
- (6) Regional Education Attendance Areas #11, #12, #13 and #14
- (7) Regional Education Attendance Areas #15 and #16
- (8) Regional Education Attendance Area #17
- (9) Regional Education Attendance Areas #18, #19 and #20
- (10) Regional Education Attendance Area #21

(b) Within 180 days of the effective date of this act the Local Boundary Commission shall hold public hearings in each of the unorganized boroughs to determine whether or not boundary adjustments are necessary. If determined necessary, the Local Boundary Commission shall proceed in accordance with law governing

changes of boundaries of municipalities and shall submit any proposed changes for review in accordance with Article X, Section 12 of the Constitution.

(c) If a portion of any unorganized borough becomes incorporated as an organized borough the Local Boundary Commission shall determine whether the remaining portion of the unorganized borough should continue as a separate unorganized borough or be annexed to another unorganized borough.

Section 2. AS 29.03 is amended to read:

CHAPTER 03. [THE] UNORGANIZED BOROUGHs.

Article

1. Administration
2. Assembly
3. Other officers and employees
4. Elections
5. Recall
6. Powers
7. Home rule charters

ARTICLE I.
ADMINISTRATION.

Sec

- 10. Chief executive officer
- 20. Chief administrative officer

Sec. 29.03.010. CHIEF EXECUTIVE OFFICER. (a) The chief executive officer of an unorganized borough is an elected borough mayor who has, consistent with the provisions of this chapter, the same functions as those of the mayor of a manager-plan city under AS 29.23.240.

(b) An unorganized borough voter is eligible to be borough mayor.

(c) The unorganized borough mayor's regular term of office is three years and until a successor is elected and has qualified and begins on the first Monday following his election which is held at the time of the regular unorganized borough election.

Sec. 29.03.020. CHIEF ADMINISTRATIVE OFFICER. (a) The chief administrative officer of each unorganized borough is a manager selected by the assembly who has, consistent with the provisions of this chapter, the same functions as the manager of a manager-plan borough under AS 29.23.140.

(b) The chief administrative officer serves at the pleasure of the assembly and may be hired or dismissed only by a majority of the authorized assembly membership.

ARTICLE 1.

ASSEMBLY.

Sec.

- 30. Assembly
- 40. Composition, apportionment and reapportionment
- 50. Regular term of office
- 60. Qualification
- 70. Filling a vacancy

Sec. 29.03.030. ASSEMBLY. Each unorganized borough shall have an advisory assembly. The assembly may participate in the development and implementation of state programs and projects relating to the borough and may enact legislation necessary to carry out the purposes of this chapter.

Sec. 29.03.040. COMPOSITION, APPORTIONMENT AND REAPPORTIONMENT. (a) The assembly shall be composed of five, seven or nine members elected at large or from designated sections within the unorganized borough equal as near as practicable in population. The initial number of assembly members, a determination as to at large or sectional representation and the initial boundaries of the sections, if any, shall be determined by the department in consultation with the communities within the unorganized borough.

(b) The qualified voters of an unorganized borough may increase or decrease the number of assembly members or alter the manner of representation by submitting a petition to the department requesting a change and bearing the signature of a number of voters equal to at least 25% of the number who voted in the last unorganized borough election.

Sec. 29.03.050. REGULAR TERM OF OFFICE. (a) Assemblymembers are selected for three year terms and until their successors are elected and have qualified.

(b) The initial elected assembly shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected.

Sec. 29.03.060. QUALIFICATION. A resident of the borough is eligible to be an assemblymember if he or she is a borough voter. An assemblymember who ceases to be a borough voter immediately forfeits his or her office. An assemblymember elected from or selected to represent an area less than the unorganized borough area at large and who becomes a resident of another area may continue to serve only until the next regular election.

Sec. 29.03.070. FILLING A VACANCY. A vacancy is filled by the majority of the remaining assemblymembers, who designate a voter and, if the assembly seat vacated is other than on an at large basis, a resident of the unorganized borough area to which the seat was apportioned, to serve until the next regular election.

ARTICLE III.

OTHER OFFICERS AND EMPLOYEES.

Sec.

080. Appointment of officers

090. Combining offices

Sec. 29.03.080. APPOINTMENT OF OFFICERS. The manager, acting as chief administrative officer of the unorganized borough, shall appoint a clerk-treasurer,

health officer, public safety officer and planner. Appointments by the chief administrator are subject to confirmation by the assembly.

Sec. 29.03.090. COMBINING OFFICES. At the direction of the assembly no more than two of the above offices shall be combined.

ARTICLE IV.

ELECTIONS.

Sec.

100. Administration

110. Election dates

Sec. 29.03.100. ADMINISTRATION. The Department of Community and Regional Affairs shall adopt regulations for conducting elections in unorganized boroughs. The regulations shall specifically address the issues of candidate nomination, voter qualification, notice requirements, majority elections and election contest and appeal.

Sec. 29.03.110. ELECTION DATES. (a) The date of an unorganized borough's regular election is the first Tuesday of October annually except that the commissioner may, upon receipt of a petition requesting a change and bearing the signature of a number of qualified voters equal to at least 25% of the number of voters who cast ballots in the last regular election, change the date of the regular election.

(b) The commissioner may, with concurrence of the assembly, call a special election upon no less than 20 days notice.

ARTICLE V.

RECALL.

Sec.

110. Procedures

Sec. 29.23.110. PROCEDURES. The members of an unorganized borough assembly are subject to recall in accordance with the provisions of AS 29.28.130 - 29.28.150.

ARTICLE VI.

POWERS.

Sec.

120. General powers

130. Areawide power.

140. Additional areawide powers

Sec. 29.03.120. GENERAL POWERS. Unorganized boroughs have the following general powers, subject to other provisions of law:

(1) to enter into agreements for cooperative or joint administration of any functions or powers with a local government, with the state or with the United States;

(2) to acquire, manage, control use and dispose of real and personal property for a purpose authorized under this title, federal law, or other law, or

in accordance with such law, and irrespective of whether or not the property is situated within or outside the municipal boundaries;

(3) to acquire membership in organizations which promote legislation for the good of the municipality.

Sec. 29.03.130. AREAWIDE POWERS. (a) Unorganized boroughs have the following areawide powers, subject to other provisions of law:

- (1) education~~y~~ as provided at AS 14.08;
- (2) planning, platting and zoning as provided at AS 29.33.070-245;
- (3) health as provided at AS 29.48.030 (5); and
- (4) police and fire protection as provided at AS 29.48.030 (7) and (18).

(b) Subject to the provisions of (c) of this section, unorganized boroughs shall exercise the powers specified in (a) of this section both inside and outside cities within their boundaries.

(c) No unorganized borough may exercise a power within a home rule city unless the city has, in the manner provided by AS 29.33.260, transferred the power to the unorganized borough.

Sec. 29.03.140. ADDITIONAL AREAWIDE POWERS. Unorganized boroughs may not acquire additional areawide powers.

ARTICLE VII.

HOME RULE CHARTERS.

Sec. 29.03.150. ADOPTION OF CHARTER. An unorganized borough established under this chapter may adopt a home rule charter in the manner prescribed by

AS 29.40.010 - 29.40.030 and AS 29.85.110(a) - (d), except that the assembly elected in accordance with sec. 30 of this chapter shall perform the duties assigned to city councils, and except that the charter commission shall consist of 11 members. Vacancies on the charter commission shall be filled in the same manner as vacancies on the assembly.

Sec. 29.03.160. ORGANIZATION. The charter commission shall initiate organization of the borough in accordance with the terms of the charter by submission of their charter to the Department of Community and Regional Affairs. The charter shall be submitted within one year of the first meeting of the commission. The department shall review the charter in light of the circumstances of the particular borough and, within 120 days from receipt shall transmit the charter, together with its findings and recommendations, to the Local Boundary Commission.

Sec. 29.03.170. HEARING. The Local Boundary Commission shall hold at least one hearing in the area proposed to be organized for the purpose of hearing public comment on the charter.

Sec. 29.03.180. LOCAL BOUNDARY COMMISSION DETERMINATION. The Local Boundary Commission, within 90 days from receipt of the charter and the recommendations and findings of the Department of Community and Regional Affairs, shall determine whether the charter meets standards for organization established by the laws and the Constitution of the State of Alaska and by regulations adopted by the commission.

Sec. 29.03.190. REJECTION OF CHARTER. If the Local Boundary Commission determines that the charter fails to meet the standards for organization it shall reject the charter stating in writing its reasons for the rejection.

Sec. 29.03.200. AMENDED CHARTER. A charter commission, within 60 days of rejection, may prepare and submit to the Department of Community and Regional Affairs an amended charter fairly meeting the stated objections to the original charter. The amended charter shall be evaluated in the same manner as the original charter. No more than one original and one amended charter may be submitted within one 12 month period.

Sec. 29.03.210. RATIFICATION OF CHARTER. If the Local Boundary Commission determines that the charter meets the standards for organization it shall notify the lieutenant governor. As soon thereafter as practicable the lieutenant governor shall provide for an election in the borough on the question of whether or not the charter is ratified and for election of the officers provided for in the charter. The election shall be preceded by publication and posting of the proposed charter by the lieutenant governor substantially in the manner provided for other charter elections in AS 29.85.150.

Sec. 29.03.220. CERTIFICATION OF RESULTS. If a majority of the votes cast by the qualified voters of the borough are against ratification the lieutenant governor shall so certify and shall certify that the charter is defeated. If a majority of the votes cast by the qualified voters on the question are in favor of ratification the lieutenant governor shall so certify and declare that the borough in which the election was held is an organized borough and a municipal corporation in accordance with the terms of the charter. The lieutenant governor shall also certify the names of those candidates who received the greatest number of votes for the offices established by the charter.

Sec. 29.03.230. VOTERS, ELECTIONS AND COSTS. (a) A person is qualified to vote in a borough election authorized in this chapter if he is qualified to vote in state elections and if he is a resident of the borough.

(b) The lieutenant governor shall supervise elections under this chapter as provided for supervision of other borough elections under AS 07.10.120 (d).

(c) The state through the office of the lieutenant governor shall assume the costs of elections and charter preparation under this chapter.

*Sec. 2. Nothing in this act may be construed to affect any organization petition pending on the effective date of this act. All such petitions shall be acted upon in the manner provided by law in effect prior to the effective date of this act.

* Sec. 3. AS 29.03.010 and AS 29.03.020 are repealed.

* Sec. 4. This act takes effect immediately in accordance with AS 01.10.070 (c).

* Sec. 5. In each unorganized borough, the lieutenant governor, within not less than 60, nor more than 90 days after the establishment of the unorganized borough, shall provide for election of an advisory assembly.

PKP:ljd

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS--MINUTES

MARCH 13, 1974
1:35 pm

PRESENT: RADER MILLER, SILIDES

1. SENATE BILL 390

Mr. R.D. STEVENSON, Commissioner of Revenue testified briefly before the committee and handed out historical background on the subject. He is also Secretary of the State Bond Committee.

Mr. Emmitt WILSON, Commissioner of Commerce and also Chairman of the State Bond Committee, testified briefly. He said under the concept we now have there has been nothing that would imply that being an advisor for the state and an investor is advantageous. He said he believed he supported the concept in SB 390. It eliminates any possibility of the financial advisor providing additional information to an investor. With the state bond act we are prohibiting the financial advisor from bidding on the bonds. Mr. Wilson pointed out a discrepancy in the bill as to the bond anticipation notes. He said we do support this legislation.

SENATOR RADER said he appreciated Mr. Wilson's calling the bond anticipation note to the committee's attention and he said that would be amended to be proper. He said we would probably report this out later this afternoon.

2. IMPACT

Mr. Fischer of the Attorney General's office said Section 2 line 14 page 1, the statement "the Department of Community and Regional Affairs shall make grants" compels the department to make grants and there is an inconsistency with the Budget and Audit Committee for authority over them.

COMMISSIONER MALLOTT said he was anxious to see the dollars figures put into this bill. He said this was a far-cry from the legislation originally sent down. This legislation at least attempts to respond to the needs he said. He was concerned about mandatory grants that says we "shall" make grants. He would like it to say they could turn down an application if eligibility standards were not met.

SENATOR SILIDES said actually the people making the loan in this bill would be the Budget and Audit Committee.

COMMISSIONER MALLOTT seemed to disagree and said they have the responsibility to approve or disapprove but not to initiate it.

He said it gives flexibility that we don't see in other legislation. Regarding dollar figures, our recommendation was a \$10 million dollar program in the nature of a discretionary grant program. Under this bill formula grants based upon the eligibility standards somewhere in the neighborhood of \$2 million, to be used probably by Fairbanks, Anchorage, Valdez, Delta Junction, etc. Discretionary grants \$2,000,000. He said he has no recommendation for the amount of capital improvement loan funds. Total package between \$15 and \$20 million. The way they read the bill, they are obliged with the local government when they meet the standards to make the grant. He said he would like to have some discretion in that area. He wanted it worded "may" make grants. A municipal bond bank bill is before both house in the legislature. He said the legislature needs to take a long look at that type of legislation.

SENATOR RADER said the went into that several years ago in detail with many people here and almost no one could see the merit of that bill.

COMMISSIONER MALLOTT said he just mentioned it because it is an important area of need.

SENATOR RADER said unless circumstances have changed, I wouldn't optimistic about it passing.

COMMISSIONER MALLOTT said he would like to see a carefully spelled out committee report as to the intentions because it makes it easier for them in making proper grants.

SENATOR RADER explained to Senator K. Miller the we tried to take the formula provision submitted by the administration, the discretionary grants as submitted by Rettig's committee and we added a capital improvement loan program so we would not be expected to build such things as sewer systems, etc. We have tried to cut out a great deal of verbage. He said we will wait until we have a committee and report it out as a do pass recommendation.

COMMISSIONER MALLOTT said until we run the dollar figures through here he can't say whether he recommends it or not.

3. They discussed SB 455 enough to sign a recommendation only on it.

4. VICTOR FISCHER, University of Alaska professor testified on creation of boroughs, etc.

SENATOR RADER introduced Mr. Fischer to the group and said he has ideas on local government and what we should and should not do about it.

MR. FISCHER said basically his hope was that the Legislature would do something this session to get the State to the point

where in 3 or 4 years Alaska would have a functional state-wide borough system. He said there wasn't any need to establish boroughs this year but there is a constant movement to bring us closer to decision points. There is no state policy as to what type of a borough system we are going to have in the State. He said during the Special Session on the ad valorem tax bill this committee report indicated some more governments may be established; some may be rational, some may not be rational. To get a borough system established is going to take a lot of money. You will have to provide incentives to get people to provide or assume government functions. The state doesn't have that money at this time but now would be a very good time to start moving toward the time when the State will have the money. Decentralization of education is coming about. He said his hope was that the Legislature would take steps to rationalize the system of establishing boroughs in the State. He said we ought to try to figure out what we want the borough to be. Due to lack of policy you get establishment of a structure that is going to cause a lot of problems.

SENATOR THOMAS asked if the Department of Community and Regional Affairs doesn't have the tools to do that.

MR. FISCHER said he wouldn't say that. The problem is the department has responsibilities, crisis, etc. and some of the things they want to do don't get done. The Boundary Commission is already overburdened. They have not undertaken the job.

SENATOR KEITH MILLER asked if Mr. Fischer's concept of borough government that the entire State should be divided into boroughs covering the whole State by the Legislature?

MR. FISCHER said yes, established by the Legislature but not necessarily organized.

SENATOR K. MILLER asked what would be the function of a regional unorganized borough.

MR. FISCHER said it is conceived in the constitution to provide for a regional focus. It would be a State administered region. Provides for gradual assumption of responsibilities.

SENATOR K. MILLER said it would be a step toward being an organized borough?

MR. FISCHER said they would eventually be organized.

SENATOR K. MILLER said for instance if the Bristol Bay region had an unorganized borough there but the people in two communities might feel they would want to form a western Bristol Bay borough.

MR. FISCHER said you need a careful analysis of what would be appropriate. It may be more appropriate to have several regions. Advisory Commission on Intergovernmental Relations came out with reports and they propose that future federal programs try and

Coordinate their impacts within self-set regions (which in this case would be boroughs); the idea being to try and eliminate the dissipation of efforts.

SENATOR K. MILLER said his concept of the borough is that Alaska was unique; that it could serve a need in a smaller area.

MR. FISCHER said the decision of one effects another. If your freedom eliminates somebody else's, you need to stop and look into this and through laws such as the ad valorem tax bill . . .

SENATOR RADER said he would like to set up a hearing for tomorrow afternoon with Mr. Fischer to pursue the matter. He said this problem has come up a number of times and it is important. If we are going to pursue this we must have the input of the bush people. He said will continue this matter until 1:00 pm tomorrow.

5. IMPACT

SENATOR RADER said they need to make a decision before we adjourn. Under the Formula Grants, shall we say Community and Regional Affairs Department "may" or "shall" make the grant.

SENATOR THOMAS said he hadn't heard the arguments on that yet.

(HENSLEY ARRIVED)

COMMISSIONER MALLOTT said his concern was there may be instances where the local governments meet the population requirement but would not really meet other reasonable judgments that might be made to receive that money or not.

SENATOR THOMAS said "shall"

SENATOR RADER said "shall"

SENATOR MILLER said "shall"

SENATOR HOHMAN said "may"

SENATOR HENSLEY said no recommendation

SENATOR MILLER asked if this bill addresses itself to negative impact.

SENATOR RADER said no it doesn't. Maybe it could come up under Discretionary Grants. He said he didn't know whether it would meet the purpose clause. Senator Rader said what would the individual recommendations be for this bill so that he could prepare a committee report.

SENATORS RADER, HENSLEY, THOMAS voted DO PASS.

SENATOR K. MILLER voted no recommendation

SENATOR HOHMAN voted do not pass or no recommendation

SENATOR RADER said he would prepare the report and have it circulated to the members for their signatures.

FINANCING:

SENATOR RADER said he preferred to see the Discretionary Grants larger and Formula Grants smaller. He suggested \$25,000,000 on Capital Improvement Loans, \$10,000,000 on Discretionary Grants ; and \$5,000,000 on Formula Grants. He said he didn't know that they would ever use the \$25 million or the \$10 million on Discretionary Grants. It was pretty certain they would disburse the \$5 million on the formula.

SENATOR HENSLEY said we are just dealing for about one year or until the Legislature returns. Right? He said he did not object to the recommendation.

SENATOR MILLER said he would support it.

SENATOR THOMAS said he would support it too as long as it was understood all that money does not necessarily have to be spent.

SENATOR HOHMAN questioned the alternatives; said no recommendation on that.

COMMISSIONER MALLOTT said he viewed the Formula Grants as having a real capacity to respond quickly to the local government needs. He thought they needed more for them than the \$5 million. The difficulty with the Discretionary Grants is by making one you set the precedent that opens up the whole business.

SENATOR RADER asked the commissioner to prepare a schedule to go with our committee report. He said it would be attached to the committee report.

ADJOURNED 3:15 pm

SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS -- MINUTES

MARCH 14, 1974 1:00 pm

PRESENT: Miller, Thomas, Rader, Hensley, Hohman

SENATOR RADER called the meeting to order and announced that Dr. Victor Fischer has supplied material to be passed out to the committee.

DR. FISCHER said he suggests that the State needs to take steps now to organize itself and establish state policy for the regionalization of Alaska for dividing the existing unorganized borough, that would be decentralization of state services, to provide a basis for local participation and to provide a basis for local and regional taxation for local needs and to provide a mechanism for redistribution of wealth. He said since 1970 each Legislature had bills before it to divide Alaska into boroughs introduced by legislators, administration and other sources. He explained the material passed out. He said bills have been introduced going from unorganized regions to home rule which he said he thought was a very good idea. He said the North Slope has established several school areas within the borough. There are different combinations that may be appropriate to different regions.

SENATOR RADER said we would have to draw a mandatory line.

DR. FISCHER said that is right. It is a state responsibility to draw the lines. It would be mandatory in terms of where the boundary is. The process would involve going out and talking with the people in the communities so there is an acceptance and a logic to the legislation. His suggestion with respect to statute is to set up a process that would say what these boroughs would do. His recommendation was that you by law ask the Department and the Boundary Commission to give you their plan on what the boundaries should be. He said his conclusion at this time is there is no quick answer to an awfully difficult question. If this committee and the Legislature doesn't do anything, you will be going through the same process each year.

SENATOR RADER said what he wanted to know was how to decentralize state government for better distribution. There are going to be a lot of people who will not want to be in a boundary. It is going to have to be a mandatory thing. Secondly, you will have to delegate them authority. Do you take away a city's right to run their schools when they are inside a borough? How about police protection? These are the type of problems you need to get into and so far it comes up to an unreal thing. They have no ties with one another many times.

DR. FISCHER said now is not the time to establish boroughs throughout Alaska. He said he thought you have 2 or 3 years except in some areas that they are ready now. He said he thought these questions need to be turned over to a group or agency that can report back and study the situations. He said he can't tell the committee how to right this legislation. He recommended that they do it through an established agency or an interim committee or a temporary commission on local government. They would ask the type of questions the committee is asking now and answer them with "price tags" on them. Then you would have these answers.

SENATOR RADER said he agreed with Dr. Fischer that we don't have the answers and he said maybe appointing a committee would be the answer.

DR. FISCHER said the Calista Region met with the University and they discussed the establishment of a borough and one thing for sure was no one knew enough about it. 3rd class boroughs have education powers only then someone said service areas come in and give more power than a first class city. . . there needs to be further analysis on what the State position ought to be and where we want to be 10 years from now instead of jumping into this year by year.

SENATOR THOMAS said maybe there are too many options now and you are suggesting we ought to knock out this service area for example. You are saying we ought to have more say about what they want to do out there. Are you saying we ought to narrow it down more?

DR. FISCHER said no, I am not. We ought to develop options that make sense. We have a 3rd class borough to resolve a very irrational problem at Haines. What I am suggesting is we ought to look in the total situation and give the people tools that are appropriate. If anything, I would give them more options. Let them design the system that meets their needs. So long as basic standards are met and so on. Don't leave options that don't mean anything or that can cause problems in the long run. Such as a few villages around Ambler. Once you have a borough, it is hard to change no matter how bad it is.

SENATOR THOMAS said he doesn't see how we are going to figure out what these areas should have.

DR. FISCHER said he suggests that we can't do it but it will take a very intensive effort and time and money, etc., analysis of the implications, look not just at education but all the other functions but we ought to try and avoid the problems throughout the United States that don't fit the bills. We have an opportunity to do better here. Set a specific schedule, targets for making a system of central government that will still make sense 10 years from now.

SENATOR RADER said the home rule borough is available to any community. The difficulty with the suggestion is the people most concerned here are not interested in going into this at this time. He said he was not opposed to appointing a committee.

DR. FISCHER said we should have learned something from 1959-60-61 there was no overall looking at Alaska. We have never taken a look at the totality of Alaska. He said he didn't think this was going to threaten anyone. Boundaries would provide people with the option of organizing. With respect to home rule, areas wouldn't have the option of going to home rule unless they establish a first class city with powers.

SENATOR RADER said that would be easy to change.

DR. FISCHER said no one has to knock themselves out to do it now but you need to start the ball rolling.

SENATOR RADER said he was not opposed to a committee but that is pretty vague.

SENATOR HENSLEY said there is merit in the idea of having additional regional government in the unorganized borough for the standpoint of planning and zoning. He said we haven't had any hearings at all on this subject. There ought to be some move in that direction. He said he thought most of the leadership out there would like to have a government entity dealing with their problems. He said they have to come to him now for those things.

SENATOR HOHMAN said he thought people were interested in this now. He said he thought what Dr. Fischer has suggested is what is needed. He said he sees it as a substantial move in the right direction.

REPRESENTATIVE PHILLIP GUY said the lack of knowledge of the concept is the deterrent. Local governments should be brought closer to the people. He said he agreed with Dr. Fischer's suggestions.

COMMISSIONER MALLOTT said he was concerned about the proposals Dr. Fischer makes. He said he felt there was nothing wrong with the structure; some modifications are required but it is good. We can talk about form but until the Legislature begins to address the service needs out in the rural areas and builds incentives, he said he thought these were the basic issues. He disagrees that we need a 3rd-party look. He said he thought you would be freezing into posterity what the local governments could do. He said we have a very responsive mechanism. We need to spend more time looking at the substance rather than the form. The State is going to have to pump millions of dollars out there. He said his department is in the process of an analysis of everything that we can see presently and in the future of local government need. They have asked for \$100,000 to do a study of what the fiscal resources are in the unorganized

borough. He said he thinks there is room for fine tuning but he don't need to agonize over the existing structure.

SENATOR HENSLEY said one of the reasons it was possible to organize what we did organize was because it was very simple and it didn't give them a substantial amount of responsibility. It was a very simple structure. He said he thought there needs to be some consideration of the problems now. The only way to organize more boroughs are the ones with property with finances. If we can get a start on borough formation without moving into complicated areas. . . if we sit here and wait, we will not be able to fight the giants the North Slope has been able to fight.

COMMISSIONER MALLOTT said the structure should be reviewed but the point you make illustrates my point he said. He said those 2nd class cities do essentially nothing. The State has never given them the kinds of tools to respond to service needs., sewer, water, housing, police, fire, etc. The emphasis should be to look at what they need to make the existing structure work. Money is the principal need. Information to the people is necessary. The Local Boundary Commission needs its own staff.

SENATOR RADER asked Senator Hohman if he was funded by the State or Federal Government when he was organizing rural areas.

SENATOR HOHMAN said they were funded by both and that program is still in effect now.

SENATOR RADER told Commissioner Mallott that he believed the importance of his agency has been ignored.

SENATOR HENSLEY said they have a bill in committee to remedy that situation.

COMMISSIONER MALLOTT said they are trying to take a long range look now and he has asked for funding. He said they have reviewed the state's revenue sharing in terms of how needs in the smaller communities can be met.

MR. BILL THOMPSON, Department of Education, said he concurred with the Commissioner; the structure is there. Education and information is the biggest thing. As to what their options are without the existing structure, what does it entail other than education that they have to provide. I agree that the problem is money, he said. He said there have been three of them that go out to explain things to the rural areas.

SENATOR RADER asked if that should be an activity concentrated in one department.

MR. THOMPSON said it should be in the Department of Community and Regional Affairs because education is only one service.

MR. ROBERT VAN HOUTE, President IEA said he felt there is a strong feeling of democratic representation. Every village wants to have means of being represented. Most villages want water, electricity, schools, health services, etc. this comes down to \$\$\$\$. There is an element of time. We can't wait too long. Galena is 1st class with their own school district. 4 or 5 of the villages around Galena should be included in the Galena service area. If you take a major part out of a community area you destroy both. They all have to be included. You need projected planning. He said after 1980 all the area which is not organized should be mandated into boroughs. School funding should be done 100% foundation level. You are going to have to pump in money. 3rd class boroughs do not have any taxes mandated on them. He said he would like to go to the map and say these are the boundaries and let the people come and say we don't want to be in there and reorganize the map until you get it the way everyone likes it. He said there is a great desire for some kind of control by them for what goes on in their region. Time is of the essence.

MR. OVERSTREET, Alaska School Board Representative: He said we have overly consolidated rather than too much decentralization. He said he didn't find alarming 2 or 300 school districts. There are going to have to be a lot of small districts. Pelican runs K-10 with 45 kids under the existing structure. With whom might they consolidate is an impossible situation. Representatives of Education and Community and Regional Affairs should get out to these communities and let them know a way to provide more services without assuming responsibilities that they don't feel they can handle. He said he favored full State funding for education.

DR. FISCHER said he was glad to hear these views and he said he agrees with all. What is brought out here underlines the needs to go at this more systematically than we have been. He said we can draw 15 boroughs, 15-25 or 200 school districts, are they cities, boroughs or what? What are we talking about? He said in their report they had a long discussion over a relationship between form and function. Juneau is a borough but it is a city; it will perform urban functions. The same thing with Anchorage. The Kenai borough is a totally different creature. The functions performed in each would be totally different. There is a link between form and function. It is necessary to not only look at function. He said he thought we should hold down the size of central government as much as possible. We ought to put as much responsibility at the local level as possible. Schools need not be area wide functions. The financial aspect is really important not only for providing money for functions and for these two departments. It is important when the State is going to have a few billion dollars for oil alone that might be spent for state government--the alternative is to give the money to the people, to the cities, etc. This is going to be very important. We need a governmental structure that would be suited to representing the people and the areas of Alaska effectively. It is time to act. If you

have a commission that were made up of the 2 commissioners (of the Community and Regional Affairs and Education) and the Boundary Commission, etc. and a few legislators and citizens; members that could be of the executive branch but also of the people, give it a 2 year life and go out and talk to the people; deal with it objectively once and for all. This is not to demean the existing departments. It is one alternative but he said he hoped SOMETHING would be done.

SENATOR THOMAS asked what Dr. Fischer thought about the idea of a foundation program along the lines of the Education Act.

DR. FISCHER said he thought it was a very good idea.

SENATOR THOMAS asked if 2 years wasn't too much time.

DR. FISCHER said if it were only for one year instead of two it wouldn't take on any life until July and that would really be only a 6 month effort. It would be too early to report back. The support of regional groups can make real contributions. He said he had been impressed with Calista representatives. There could be an interim report to the Legislature. It would take a good solid year of work.

SENATOR THOMAS asked if Dr. Fischer suggested education could go along at its own pace and in its separate way?

DR. FISCHER said he thought some things may need to go in the interim. He said if you do establish a commission of this sort and these questions came up, they would be coordinated in this group. You can't have a large regional district here, and two little districts. He said he is not saying one is better than the other for education. And he said he knows the world cannot stand still while somebody is making studies.

SENATOR HOHMAN asked Mr. Overstreet if he was suggesting reducing teachers salaries.

MR. OVERSTREET said yes. We need to stop doing things just because we have always done them.

REPRESENTATIVE GUY said whenever the concept of a municipality is brought up people immediately think of taxation. This leads to the question of whether the 3rd class borough is valid. He said maybe it would be better for the area to go 1st class. The benefits of being a 1st class city would be available to the region.

COMMISSIONER MALLOTT said he thought the notion of taking a look at what is and what is happening and what ought to be is necessary otherwise his department wouldn't be engaged in that effort now. He said it can't be a presupposed, prejudged effort that goes out there with policy objective. He said if you can corral that effort into the kind of thing Victor Fischer is talking about, he said he would support that kind of concept.

ADJOURNED 2:45 pm.

ALASKA
STATE LEGISLATURE

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MEMORANDUM


TO:
DR. VICTOR FISCHER

FROM:
KAREN RUDELL
Secretary
Community and Regional Affairs Committee

MARCH 18, 1974

Enclosed are copies of the hearing on the 13th and 14th of
this month that you requested.

Usually no one reads my minutes so I don't agonize over them.
I do worry that when I send them out someone will take exception
to what I have put down. I hope they are of some assistance
to you.


Karen

June 23, 1976

Mr. Mar Winegar, Chairman
AML Legislative Committee
City Manager's Office
City & Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801

Dear Mar:

Earlier I had requested an audience with the Legislative Committee when it meets in Sitka on July 8th and 9th for the purpose of presenting, and hopefully obtaining endorsement, for legislation which would basically "clean up" Title 29 of the Alaska Statutes. As you are aware, Commissioner McAnerney had earlier requested that the Division begin to research those areas that may have caused problems for some of the municipalities since adoption of Title 29 in 1972. Although time is limited, I have asked all the supervisors in the Local Government Division to research Title 29 and their files to find those areas that have created problems in the past to the municipalities. Quite possibly some of the members of the Legislative Committee might wish to offer other proposed amendments to Title 29 which would "clean up" or clarify existing language.

As an afterthought to our telephone conversation the other day, I would also like to impose upon the Legislative Committee to hear a brief presentation on a major project that is being undertaken by the Division. For lack of a better name we have entitled the project "Local Government Study/State Taxation Policy" which involves a study of three basic areas with a legislative package to be prepared and hopefully available long before the AML Conference in November. Basically the study involves three areas: (1), Dividing the unorganized borough into "borough administrative units;" (2), Creating an alternative to second class municipalities which might be labeled "third class cities" or "villages;" and (3), Creating a state-wide policy of resources taxation similar to the 20 mill ad valorem tax on oil and gas properties with an equalizing distribution formula which would return revenues to all municipal-

Mr. Mar Winegar

-2-

June 23, 1976

titles, both organized and unorganized, based on local tax effort and need. Although the study is just now getting underway, we feel it important to at least "throw out" our ideas to members of the legislative committee and to receive some tentative input or support for the project. Therefore I would like to request that I be able to bring Pat Poland, project coordinator for this study, with me to Sitka and to meet with the Committee for approximately 15-30 minutes to explain our project. Obviously, at this point we do not have any specific legislation drafted which might be reviewed by the Committee.

If you would like, I would be happy to sit down with you prior to that Sitka meeting to provide you with more detail as to what we would actually hope to present to the Legislative Committee meeting. Please give a call if you would like to have lunch or to meet prior to the July 8-9 Committee meeting.

Sincerely,

Palmer McCarter
Director

PMcC: Ijd

Regional Government...

A Choice of the People*

by

The Department of Community & Regional Affairs

Local Government Assistance Division

March, 1977

*This is the text of a slide and audio presentation discussing alternative forms of regional government for rural Alaska.

Regional government...a choice of the people.

The following is a presentation of the Department of Community and Regional Affairs, Local Government Assistance Division.

What you are about to see is, or will soon be, of concern to a great many Alaskans. As Alaska grows, the need for the development of regional forms of government in the Unorganized Borough will grow. There are many opinions as to the kinds of regional government that should be established and how they should operate. The purpose of this presentation is to explore some of the different types of regional governments and consider which might best help your community and region.

The history of Alaska is one of constant and dramatic change. The change has not occurred evenly. Some areas of the State have changed dramatically, producing large cities. Other regions have changed much less, and in many of the villages some of the old ways are still an every day way of life.

Major changes have been caused by growth, and much of the growth has resulted from the discovery and development of natural resources. The early development of trade, the discovery of gold, money coming into the State from the Federal Government, the development of industries, and the individual efforts which Alaskans have made to improve their lives, have all been a part of making change happen.

Change can be seen almost everywhere. Transportation systems have improved and expanded, communication systems have been enlarged to include a majority of the remote areas, new schools have been built and more are proposed, medical care has been extended to serve more residents, and new businesses developed, to name just a few.

Change is continuous. For example, the discovery of oil in Prudhoe Bay created thousands of jobs and provided money to the State Treasury, which in turn is being used to meet the people's needs. The Alaska Native Claims Settlement Act is bringing money and land title to the Native people, their village and regional corporations. It will also create new concepts and practices of land ownership and land management.

Let's examine the role of government and how it can respond to the kinds of changes that are taking place and look at the ways in which people, especially those in the smaller communities of rural Alaska, can have a stronger voice within their communities and regions.

Government is a way in which people organize to provide services, and make decisions beneficial to the entire community. Through government, communities can determine how services will be provided and how money is to be raised to pay for services.

Government is very different from private corporations such as the Native Regional Corporations. Government has official powers and responsibilities which have come from the people. Its function is to serve people by providing public services. Government, whether a city or a state is administered by representatives elected by the people, and employees who are appointed or hired by elected representatives.

Private organizations serve their owners or stockholders and are not responsible for providing services to an entire community. Private corporations obtain their authority from the State and decisions are made by a board of directors elected by the shareholders.

Some villages have elected village councils, or have councils, as provided in the Indian Reorganization Act. These councils can in a sense, be called local governments because they can make certain kinds of decisions for the community.

However, there are many powers which a local government can have only if it is officially incorporated as a city. The laws of Alaska say that there can be two kinds or classes of cities, called first class and second class. The difference is a first class city assumes more responsibilities than a second class city; and a first class city requires a larger population.

The incorporation of a city gives the people of that community official status in dealing with the State and Federal Governments, and other agencies. Also, cities have the authority to make rules and regulations, in the form of ordinances, and the authority and responsibility for providing services to the people of the community. In many cases, problems and issues affect several communities in a region. As an example, residents of a region may wish to have local control over police protection. This would mean that police officers could be hired locally and be totally responsible to a locally elected governing body. Another example could be found when several communities want to create and finance their own school districts so that together they can provide a higher level of education for their children. These are all regional problems and issues that can be solved by a regional form of government.

This map of Alaska shows the present division of the State into cities and boroughs. Currently, Alaska has one hundred and thirty nine cities, eleven organized boroughs, and the remaining area is called the Unorganized Borough.

The way in which our forms of government are organized was decided originally

by the Alaska Constitutional Convention of 1955-56. This convention consisted of delegates from many parts of what was then the Territory of Alaska. The delegates to the convention determined how the State Government would be organized. They decided on three branches . . . the Executive Branch, which is the Governor and the agencies working under him; the Legislative Branch, which is the Senate and the House of Representatives, which make the laws and appropriate the money necessary for the government to provide services, and the Judicial Branch, which interprets the laws, and operates the system of justice in Alaska.

The delegates to the Constitutional Convention decided that all government powers and responsibilities would first be given to the State, and that certain of these powers could then be transferred to cities and boroughs. Thus, the delegates left it up to the people of villages and communities to decide for themselves when they wanted to become cities, and when they wanted to join together to create borough government. It was determined that those areas not incorporating as boroughs would form the Unorganized Borough, and that the State Legislature would provide as many services as possible to the Unorganized Borough.

We've seen that most of the State is the Unorganized Borough, and that 11 boroughs have been created so far. Let's briefly look at the history of how these boroughs were formed.

The first borough to be formed after Statehood was the Bristol Bay Borough, shown on the map. Other larger communities of the State could have joined

together to create boroughs but they did not. The State Legislature in 1963 passed the Mandatory Borough Act, which said that the State would incorporate other boroughs if the people did not do it themselves. After that, four regions voted to become boroughs. These were the Kodiak Island, Sitka, Ketchikan and Juneau Boroughs, shown on the map.

The State Legislature then took the step of incorporating four additional boroughs in the regions of Anchorage, Matanuska-Susitna, Fairbanks and the Seward-Cook Inlet election districts.

After these Boroughs were incorporated by the State through the Mandatory Borough Act, two additional boroughs have been formed. They are the Haines Borough and the North Slope Borough.

Let's take a look at the status of the Unorganized Borough today. The Legislature is the governing body of this vast area...approximately 75% of the State.

While at least some municipal services are being provided to the Unorganized Borough, they are provided without input from locally elected representatives. The rural residents have recognized the shortcomings of the Unorganized Borough and are beginning to demand that another form of regional government deliver these services. The creation of REAA's was a direct result of the rural resident's frustration with the Unorganized Borough. These residents are also asking for more and more municipal services and for the authority to provide these services on a regional level. The Association of Village Council Presidents has shown a

strong interest in creating substate planning agencies. The Native Regional Corporations would like to form areawide non-profit health corporations. With increased development of natural resources in the Unorganized Borough, we can be certain there will be an increase in population. More people will mean greater demands for municipal services.

There are serious pro's and con's to be considered in thinking about any form of regional government. Let's look at some of the alternatives that are, or could be available to residents of the Unorganized Borough.

Borough government is one mechanism for solving regional problems. In some ways it is a bridge between the State and local government. Boroughs are regional forms of government which provide services to communities within an area having similar physical, social and economic conditions.

A region must meet certain requirements in order to be eligible to form a borough.

These requirements include:

1. The population must be interrelated and integrated as to its social, cultural and economic activities. It must also be large and stable enough to support organized government.
2. The boundaries should conform to natural geography.
3. The economy of the area should include the human and financial resources capable of providing local services.
4. Transportation facilities must be adequate to allow the communication and

exchange necessary to develop integrated government.

The most attractive aspect of borough government is that it puts some of the power in the hands of the people of the borough, allowing them to do their own regional decision making. Unlike other forms of regional governments which have advisory powers only, organized boroughs are truly self-governing with clearly established powers. All first and second class borough governments have the responsibility for providing education and planning services, and levy sales and/or property taxes to help pay for these services. Optional services that first and second class boroughs may provide include:

- Health services and hospital facilities
- Fire protection service and facilities
- Provide for sewage and garbage disposal
- Make plans and regulations for water pollution control
- Community centers
- Police protection and jail facilities
- Cold storage plants
- Telephone systems
- Light, power and heat
- Transportation systems
- Libraries
- Recreation facilities
- Airport and aviation facilities

Housing programs for new construction and rehabilitation

Preservation, maintenance and protection of historic sites, buildings and monuments

Consumer protection

Organized boroughs could represent a final, rather than interim, step in regional government.

One disadvantage of organized boroughs is that some areas of the State have limited taxable resources. Additionally, organized boroughs are locked into rigid methods of adding powers, collecting taxes, changing class or unifying with the cities within them.

Another form of regional government is unorganized boroughs. This map shows how the Unorganized Borough could be divided into several unorganized boroughs. Unorganized boroughs are similar to organized boroughs in that they each would be able to elect a local governing assembly. The assembly could have the responsibility to act on issues concerning education, regional planning, public safety and health. However, there are disadvantages. The Legislature still retains the power to make the final decision concerning performance of services; unorganized boroughs could not have the power to levy taxes; and they are only a temporary form of government.

Service areas are another form of regional government. One of the good aspects is the flexibility of service areas. A service area could provide any municipal

service and local taxes could be collected to provide a higher than existing level of service. Additionally, one service area board could be responsible for providing all services within a given area.

One disadvantage of service areas is that they are dependent on the Legislature to add or take away services, levy taxes, or change the level of funding. Furthermore, the service area would only be a temporary form of regional government.

Another form of regional government would be service areas patterned after the Regional Education Attendance Areas concept. There is one very positive aspect about the REAA's: it allows decision making at the regional level--which is one of the main purposes of providing for government in the Unorganized Borough. At present though, the REAA's receive 100% state funding and have regional control of educational services. While this may be a good arrangement for the REAA residents, it really isn't very fair when compared to residents of boroughs and first class cities in the Unorganized Borough who must pay local taxes. REAA type boards have the disadvantage of being so exclusively single purpose that the level of service could actually be lessened if several boards were formed. Another disadvantage is that overlapping boundaries are very likely to result... promoting even more confusion.

REAA's are not units of local government, so they cannot be given taxing authority. Furthermore, the REAA concept has not yet been tested in court, but there is reason to believe that if more REAA type service areas are established they will

be challenged and may be declared unconstitutional.

The options for development of regional government in rural Alaska are numerous.

We have examined four possibilities. Let's review them briefly:

The organized borough - this form of regional government contains three positive features:

- (1) Much of the power to make decisions at a regional level is placed with the people. This power is clearly established and the people become truly self governing;
- (2) A wide variety of services can be delivered due to increased freedom in decision making; and
- (3) It is the final step in regional government.

Disadvantages of the organized borough form of regional government are:

- (1) Even though a borough might have the authority to levy and collect taxes, some areas of the State have limited taxable resources; and
- (2) Organized boroughs are locked into rigid methods of adding powers, levying a sales tax, changing class or unifying with the cities within them.

The second form of regional government examined was unorganized boroughs.

The most positive aspect of this form of government is that a regionally elected governing body acts on issues concerning education, planning, etc.

The principal disadvantages are that the Legislature still retains the power to make the final decisions concerning performance of services, and levy of taxes, and the unorganized borough form of government would be only temporary in nature.

The third form of regional government discussed was service areas. This concept . . . contains two positive aspects:

- (1) A service area could provide any municipal service and local taxes could be collected to provide a higher level of services; and
- (2) One service area board could be responsible for providing all services within a given area.

There are two distinct disadvantages to the service area concept:

- (1) Service areas are dependent on the Legislature to add or take away services, authorize taxes or change the level of funding; and
- (2) Service areas are a temporary form of government.

The fourth type of regional government discussed was the service area modeled after the Regional Education Attendance Areas concept.

The principal advantage of this concept is that it would allow decision making at the local level.

There are several disadvantages:

1. They are inequitable in that some residents are required to help pay for governmental services, while others aren't taxed;
2. The boards would be so exclusively single purpose that the level of service could actually be lessened if several boards were formed;
3. Overlapping boundaries are likely to result, promoting even more confusion;
4. The Legislature still has the ultimate authority; and
5. If tested in court, REAA's may be declared unconstitutional.

Alaska is presently undergoing a wide variety of changes...development of natural resources, growth in population, and rapid economic expansion. As this growth and change becomes more evident in the Unorganized Borough, Alaskans will be looking for ways in which they can have a stronger voice within their communities and regions. We have presented four alternatives to regional government, which can give Alaskans especially those in smaller communities, the opportunity to shape the future of their region for themselves and their children.

*via
Rader
3/14/74*

*pp 2-~~7~~
1-6*

SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS--MINUTES

MARCH 13, 1974
1:35 pm

PRESENT: RADER MILLER, SILIDES

1. SENATE BILL 390

Mr. R.D. STEVENSON, Commissioner of Revenue testified briefly before the committee and handed out historical background on the subject. He is also Secretary of the State Bond Committee.

Mr. Emmitt WILSON, Commissioner of Commerce and also Chairman of the State Bond Committee, testified briefly. He said under the concept we now have there has been nothing that would imply that being an advisor for the state and an investor is advantageous. He said he believed he supported the concept in SB 390. It eliminates any possibility of the financial advisor providing additional information to an investor. With the state bond act we are prohibiting the financial advisor from bidding on the bonds. Mr. Wilson pointed out a discrepancy in the bill as to the bond anticipation notes. He said we do support this legislation.

SENATOR RADER said he appreciated Mr. Wilson's calling the bond anticipation note to the committee's attention and he said that would be amended to be proper. He said we would probably report this out later this afternoon.

2. IMPACT

Mr. Fischer of the Attorney General's office said Section 2 line 14 page 1, the statement "the Department of Community and Regional Affairs shall make grants" compels the department to make grants and there is an inconsistency with the Budget and Audit Committee for authority over them.

COMMISSIONER MALLOTT said he was anxious to see the dollars figures put into this bill. He said this was a far-cry from the legislation originally sent down. This legislation at least attempts to respond to the needs he said. He was concerned about mandatory grants that says we "shall" make grants. He would like it to say they could turn down an application if eligibility standards were not met.

SENATOR SILIDES said actually the people making the loan in this bill would be the Budget and Audit Committee.

COMMISSIONER MALLOTT seemed to disagree and said they have the responsibility to approve or disapprove but not to initiate it.

He said it gives flexibility that we don't see in other legislation. Regarding dollar figures, our recommendation was a \$10 million dollar program in the nature of a discretionary grant program. Under this bill formula grants based upon the eligibility standards somewhere in the neighborhood of \$8 million, to be used probably by Fairbanks, Anchorage, Valdez, Delta Junction, etc. Discretionary grants \$2,000,000. He said he had no recommendation for the amount of capital improvement loan funds. Total package between \$15 and \$20 million. The way they read the bill, they are obliged with the local government when they meet the standards to make the grant. He said he would like to have some discretion in that area. He wanted it worded "may" make grants. A municipal bond bank bill is before both house in the legislature. He said the legislature needs to take a long look at that type of legislation.

SENATOR RADER said the went into that several years ago in detail with many people here and almost no one could see the merit of that bill.

COMMISSIONER MALLOTT said he just mentioned it because it is an important area of need.

SENATOR RADER said unless circumstances have changed, I wouldn't optimistic about it passing.

COMMISSIONER MALLOTT said he would like to see a carefully spelled out committee report as to the intentions because it makes it easier for them in making proper grants.

SENATOR RADER explained to Senator K. Miller the we tried to take the formula provision submitted by the administration, the discretionary grants as submitted by Rettig's committee and we added a capital improvement loan program so we would not be expected to build such things as sewer systems, etc. We have tried to cut out a great deal of verbage. He said we will wait until we have a committee and report it out as a do pass recommendation.

COMMISSIONER MALLOTT said until we run the dollar figures through here he can't say whether he recommends it or not.

3. ~~They discussed SB 455 enough to sign a recommendation only on it.~~

4. VICTOR FISCHER, University of Alaska professor testified on creation of boroughs, etc.

SENATOR RADER introduced Mr. Fischer to the group and said he has ideas on local government and what we should and should not do about it.

MR. FISCHER said basically his hope was that the Legislature would to something this session to get the State to the point

where in 3 or 4 years Alaska would have a functional state-wide borough system. He said there wasn't any need to establish boroughs this year but there is a constant movement to bring us closer to decision points. There is no state policy as to what type of a borough system we are going to have in the State. He said during the Special Session on the ad valorem tax bill this committee report indicated some more governments may be established; some may be rational, some may not be rational. To get a borough system established is going to take a lot of money. You will have to provide incentives to get people to provide or assume government functions. The state doesn't have that money at this time but now would be a very good time to start moving toward the time when the State will have the money. Decentralization of education is coming about. He said his hope was that the Legislature would take steps to rationalize the system of establishing boroughs in the State. He said we ought to try to figure out what we want the borough to be. Due to lack of policy you get establishment of a structure that is going to cause a lot of problems.

SENATOR THOMAS asked if the Department of Community and Regional Affairs doesn't have the tools to do that.

MR. FISCHER said he wouldn't say that. The problem is the department has responsibilities, crisis, etc. and some of the things they want to do don't get done. The Boundary Commission is already overburdened. They have not undertaken the job.

SENATOR KEITH MILLER asked if Mr. Fischer's concept of borough government that the entire State should be divided into boroughs covering the whole State by the Legislature?

MR. FISCHER said yes, established by the Legislature but not necessarily organized.

SENATOR K. MILLER asked what would be the function of a regional unorganized borough.

MR. FISCHER said it is conceived in the constitution to provide for a regional focus. It would be a State administered region. Provides for gradual assumption of responsibilities.

SENATOR K. MILLER said it would be a step toward being an organized borough?

MR. FISCHER said they would eventually be organized.

SENATOR K. MILLER said for instance if the Bristol Bay region had an unorganized borough there but the people in two communities might feel they would want to form a western Bristol Bay borough.

MR. FISCHER said you need a careful analysis of what would be appropriate. It may be more appropriate to have several regions. Advisory Commission on Intergovernmental Relations came out with reports and they propose that future federal programs try and

coordinate their impacts within self-set regions (which in our case would be boroughs); the idea being to try and eliminate the dissipation of efforts.

SENATOR K. MILLER said his concept of the borough is that Alaska was unique; that it could serve a need in a smaller area.

MR. FISCHER said the decision of one effects another. If your freedom eliminates somebody else's, you need to stop and look into this and through laws such as the ad valorem tax bill . . .

SENATOR RADER said he would like to set up a hearing for tomorrow afternoon with Mr. Fischer to pursue the matter. He said this problem has come up a number of times and it is important. If we are going to pursue this we must have the input of the bush people. He said will continue this matter until 1:00 pm tomorrow.

5. IMPACT

SENATOR RADER said they need to make a decision before we adjourn. Under the Formula Grants, shall we say Community and Regional Affairs Department "may" or "shall" make the grant.

SENATOR THOMAS said he hadn't heard the arguments on that yet.

(HENSLEY ARRIVED)

COMMISSIONER MALLOTT said his concern was there may be instances where the local governments meet the population requirement but would not really meet other reasonable judgments that might be made to receive that money or not.

SENATOR THOMAS said "shall"

SENATOR RADER said "shall"

SENATOR MILLER said "shall"

SENATOR HOHMAN said "may"

SENATOR HENSLEY said no recommendation

SENATOR MILLER asked if this bill addresses itself to negative impact.

SENATOR RADER said no it doesn't. Maybe it could come up under Discretionary Grants. He said he didn't know whether it would meet the purpose clause. Senator Rader said what would the individual recommendations be for this bill so that he could prepare a committee report.

SENATORS RADER, HENSLEY, THOMAS voted DO PASS.

SENATOR K. MILLER voted no recommendation

SENATOR HOHMAN voted do not pass or no recommendation

SENATOR RADER said he would prepare the report and have it circulated to the members for their signatures.

FUNDING:

SENATOR RADER said he preferred to see the Discretionary Grants larger and Formula Grants smaller. He suggested \$25,000,000 on Capital Improvement Loans, \$10,000,000 on Discretionary Grants ; and \$5,000,000 on Formula Grants. He said he didn't know that they would ever use the \$25 million or the \$10 million on Discretionary Grants. It was pretty certain they would disburse the \$5 million on the formula.

SENATOR HENSLEY said we are just dealing for about one year or until the Legislature returns. Right? He said he did not object to the recommendation.

SENATOR MILLER said he would support it.

SENATOR THOMAS said he would support it too as long as it was understood all that money does not necessarily have to be spent.

SENATOR HOHMAN questioned the alternatives; said no recommendation on that.

COMMISSIONER MALLOTT said he viewed the Formula Grants as having a real capacity to respond quickly to the local government needs. He thought they needed more for them than the \$5 million. The difficulty with the Discretionary Grants is by making one you set the precedent that opens up the whole business.

SENATOR RADER asked the commissioner to prepare a schedule to go with our committee report. He said it would be attached to the committee report.

ADJOURNED 3:15 pm

SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS -- MINUTES

MARCH 14, 1974 1:00 pm

PRESENT: Miller, Thomas, Rader, Hensley, Hohman

SENATOR RADER called the meeting to order and announced that Dr. Victor Fischer has supplied material to be passed out to the committee.

DR. FISCHER said he suggests that the State needs to take steps now to organize itself and establish state policy for the regionalization of Alaska for dividing the existing unorganized borough, that would be decentralization of state services, to provide a basis for local participation and to provide a basis for local and regional taxation for local needs and to provide a mechanism for redistribution of wealth. He said since 1970 each Legislature had bills before it to divide Alaska into boroughs introduced by legislators, administration and other sources. He explained the material passed out. He said bills have been introduced going from unorganized regions to home rule which he said he thought was a very good idea. He said the North Slope has established several school areas within the borough. There are different combinations that may be appropriate to different regions.

SENATOR RADER said we would have to draw a mandatory line.

DR. FISCHER said that is right. It is a state responsibility to draw the lines. It would be mandatory in terms of where the boundary is. The process would involve going out and talking with the people in the communities so there is an acceptance and a logic to the legislation. His suggestion with respect to statute is to set up a process that would say what these boroughs would do. His recommendation was that you by law ask the Department and the Boundary Commission to give you their plan on what the boundaries should be. He said his conclusion at this time is there is no quick answer to an awfully difficult question. If this committee and the Legislature doesn't do anything, you will be going through the same process each year.

SENATOR RADER said what he wanted to know was how to decentralize state government for better distribution. There are going to be a lot of people who will not want to be in a boundary. It is going to have to be a mandatory thing. Secondly, you will have to delegate them authority. Do you take away a city's right to run their schools when they are inside a borough? How about police protection? These are the type of problems you need to get into and so far it comes up to an unreal thing. They have no ties with one another many times.

DR. FISCHER said now is not the time to establish boroughs throughout Alaska. He said he thought you have 2 or 3 years except in some areas that they are ready now. He said he thought these questions need to be turned over to a group or agency that can report back and study the situations. He said he can't tell the committee how to right this legislation. He recommended that they do it through an established agency or an interim committee or a temporary commission on local government. They would ask the type of questions the committee is asking now and answer them with "price tags" on them. Then you would have these answers.

SENATOR RADER said he agreed with Dr. Fischer that we don't have the answers and he said maybe appointing a committee would be the answer.

DR. FISCHER said the Calista Region met with the University and they discussed the establishment of a borough and one thing for sure was no one knew enough about it. 3rd class boroughs have education powers only then someone said service areas come in and give more power than a first class city. . . there needs to be further analysis on what the State position ought to be and where we want to be 10 years from now instead of jumping into this year by year.

SENATOR THOMAS said maybe there are too many options now and you are suggesting we ought to knock out this service area for example. You are saying we ought to have more say about what they want to do out there. Are you saying we ought to narrow it down more?

DR. FISCHER said no, I am not. We ought to develop options that make sense. We have a 3rd class borough to resolve a very irrational problem at Haines. What I am suggesting is we ought to look in the total situation and give the people tools that are appropriate. If anything, I would give them more options. Let them design the system that meets their needs. So long as basic standards are met and so on. Don't leave options that don't mean anything or that can cause problems in the long run. Such as a few villages around Ambler. Once you have a borough, it is hard to change no matter how bad it is.

SENATOR THOMAS said he doesn't see how we are going to figure out what these areas should have.

DR. FISCHER said he suggests that we can't do it but it will take a very intensive effort and time and money, etc., analysis of the implications, look not just at education but all the other functions but we ought to try and avoid the problems throughout the United States that don't fit the bills. We have an opportunity to do better here. Set a specific schedule, targets for making a system of central government that will still make sense 10 years from now.

SENATOR RADER said the home rule borough is available to any community. The difficulty with the suggestion is the people most concerned here are not interested in going into this at this time. He said he was not opposed to appointing a committee.

DR. FISCHER said we should have learned something from 1959-60-61 there was no overall looking at Alaska. We have never taken a look at the totality of Alaska. He said he didn't think this was going to threaten anyone. Boundaries would provide people with the option of organizing. With respect to home rule, areas wouldn't have the option of going to home rule unless they establish a first class city with powers.

SENATOR RADER said that would be easy to change.

DR. FISCHER said no one has to knock themselves out to do it now but you need to start the ball rolling.

SENATOR RADER said he was not opposed to a committee but that is pretty vague.

SENATOR HENSLEY said there is merit in the idea of having additional regional government in the unorganized borough for the standpoint of planning and zoning. He said we haven't had any hearings at all on this subject. There ought to be some move in that direction. He said he thought most of the leadership out there would like to have a government entity dealing with their problems. He said they have to come to him now for those things.

SENATOR HOHMAN said he thought people were interested in this now. He said he thought what Dr. Fischer has suggested is what is needed. He said he sees it as a substantial move in the right direction.

REPRESENTATIVE PHILLIP GUY said the lack of knowledge of the concept is the deterrent. Local governments should be brought closer to the people. He said he agreed with Dr. Fischer's suggestions.

COMMISSIONER MALLOTT said he was concerned about the proposals Dr. Fischer makes. He said he felt there was nothing wrong with the structure; some modifications are required but it is good. We can talk about form but until the Legislature begins to address the service needs out in the rural areas and builds incentives, he said he thought these were the basic issues. He disagrees that we need a 3rd-party look. He said he thought you would be freezing into posterity what the local governments could do. He said we have a very responsive mechanism. We need to spend more time looking at the substance rather than the form. The State is going to have to pump millions of dollars out there. He said his department is in the process of an analysis of everything that we can see presently and in the future of local government need. They have asked for \$100,000 to do a study of what the fiscal resources are in the unorganized

orough. He said he thinks there is room for fine tuning but we don't need to agonize over the existing structure.

SENATOR HENSLEY said one of the reasons it was possible to organize what we did organize was because it was very simple and it didn't give them a substantial amount of responsibility. It was a very simple structure. He said he thought there needs to be some consideration of the problems now. The only way to organize more boroughs are the ones with property with finances. If we can get a start on borough formation without moving into complicated areas. . . if we sit here and wait , we will not be able to fight the giants the North Slope has been able to fight.

COMMISSIONER MALLOTT said the structure should be reviewed but the point you make illustrates my point he said. He said those 2nd class cities do essentially nothing. The State has never given them the kinds of tools to respond to service needs., sewer, water, housing , police, fire, etc. The emphasis should be to look at what they need to make the existing structure work. Money is the principal need. Information to the people is necessary. The Local Boundary Commission needs its own staff.

SENATOR RADER asked Senator Hohman if he was funded by the State or Federal Government when he was organizing rural areas.

SENATOR HOHMAN said they were funded by both and that program is still in effect now.

SENATOR RADER told Commissioner Mallott that he believed the importance of his agency has been ignored.

SENATOR HENSLEY said they have a bill in committee to remedy that situation.

COMMISSIONER MALLOTT said they are trying to take a long range look now and he has asked for funding. He said they have reviewed the state's revenue sharing in terms of how needs in the smaller communities can be met.

MR. BILL THOMPSON, Department of Education, said he concurred with the Commissioner; the structure is there. Education and information is the biggest thing. As to what their options are without the existing structure, what does it entail other than education that they have to provide. I agree that the problem is money, he said. He said there have been three of them that go out to explain things to the rural areas.

SENATOR RADER asked if that should be an activity concentrated in one department.

MR. THOMPSON said it should be in the Department of Community and Regional Affairs because education is only one service.

MR. ROBERT VAN HOUTE, President NEA said he felt there is a strong feeling of democratic representation. Every village needs to have means of being represented. Most villages want water, electricity, schools, health services, etc. this comes down to \$\$\$\$. There is an element of time. We can't wait too long. Galena is 1st class with their own school district. 4 or 5 of the villages around Galena should be included in the Galena service area. If you take a major part out of a community area you destroy both. They all have to be included. You need projected planning. He said after 1980 all the area which is not organized should be mandated into boroughs. School funding should be done 100% foundation level. You are going to have to pump in money. 3rd class boroughs do not have any taxes mandated on them. He said he would like to go to the map and say these are the boundaries and let the people come and say we don't want to be in there and reorganize the map until you get it the way everyone likes it. He said there is a great desire for some kind of control by them for what goes on in their region. Time is of the essence.

MR. OVERSTREET, Alaska School Board Representative: He said we have overly consolidated rather than too much decentralization. He said he didn't find alarming 2 or 300 school districts. There are going to have to be a lot of small districts. Pelican runs K-10 with 45 kids under the existing structure. With whom might they consolidate is an impossible situation. Representatives of Education and Community and Regional Affairs should get out to these communities and let them know a way to provide more services without assuming responsibilities that they don't feel they can handle. He said he favored full State funding for education.

DR. FISCHER said he was glad to hear these views and he said he agrees with all. What is brought out here underlines the needs to go at this more systematically than we have been. He said we can draw 15 boroughs, 15-25 or 200 school districts, are they cities, boroughs or what? What are we talking about? He said in their report they had a long discussion over a relationship between form and function. Juneau is a borough but it is a city; it will perform urban functions. The same thing with Anchorage. The Kenai borough is a totally different creature. The functions performed in each would be totally different. There is a link between form and function. It is necessary to not only look at function. He said he thought we should hold down the size of central government as much as possible. We ought to put as much responsibility at the local level as possible. Schools need not be area wide functions. The financial aspect is really important not only for providing money for functions and for these two departments. It is important when the State is going to have a few billion dollars for oil alone that might be spent for state government--the alternative is to give the money to the people, to the cities, etc. This is going to be very important. We need a governmental structure that would be suited to representing the people and the areas of Alaska effectively. It is time to act. If you

have a commission that were made up of the 2 commissioners (of the Community and Regional Affairs and Education) and the Boundary Commission, etc. and a few legislators and citizens; members that could be of the executive branch but also of the people, give it a 2 year life and go out and talk to the people; deal with it objectively once and for all. This is not to demean the existing departments. It is one alternative but he said he hoped SOMETHING would be done.

SENATOR THOMAS asked what Dr. Fischer thought about the idea of a foundation program along the lines of the Education Act.

DR. FISCHER said he thought it was a very good idea.

SENATOR THOMAS asked if 2 years wasn't too much time.

DR. FISCHER said if it were only for one year instead of two it wouldn't take on any life until July and that would really be only a 6 month effort. It would be too early to report back. The support of regional groups can make real contributions. He said he had been impressed with Calista representatives. There could be an interim report to the Legislature. It would take a good solid year of work.

SENATOR THOMAS asked if Dr. Fischer suggested education could go along at its own pace and in its separate way?

DR. FISCHER said he thought some things may need to go in the interim. He said if you do establish a commission of this sort and these questions came up, they would be coordinated in this group. You can't have a large regional district here, and two little districts. He said he is not saying one is better than the other for education. And he said he knows the world cannot stand still while somebody is making studies.

SENATOR HOHMAN asked Mr. Overstreet if he was suggesting reducing teachers salaries.

MR. OVERSTREET said yes. We need to stop doing things just because we have always done them.

REPRESENTATIVE GUY said whenever the concept of a municipality is brought up people immediately think of taxation. This leads to the question of whether the 3rd class borough is valid. He said maybe it would be better for the area to go 1st class. The benefits of being a 1st class city would be available to the region.

COMMISSIONER MALLOTT said he thought the notion of taking a look at what is and what is happening and what ought to be is necessary otherwise his department wouldn't be engaged in that effort now. He said it can't be a presupposed, prejudged effort that goes out there with a policy objective. He said if you can corral that effort into the kind of thing Victor Fischer is talking about, he said he would support that kind of concept.

ADJOURNED 2:45 pm.

ALASKA
STATE LEGISLATURE /

MEMORANDUM

Copy Tom

TO:
DR. VICTOR FISCHER

FROM:
KAREN RUDELL
Secretary
Community and Regional Affairs Committee

MARCH 18, 1974

Enclosed are copies of the hearing on the 13th and 14th of this month that you requested.

Usually no one reads my minutes so I don't agonize over them. I do worry that when I send them out someone will take exception to what I have put down. I hope they are of some assistance to you.

KR
Karen

INTRODUCTION

Regional government... a choice of the people.

The following is a presentation of the Department of Community and Regional Affairs, Local Government Assistance Division.

What you are about to see is, or will soon be, of concern to a great many Alaskans. As Alaska grows, the need for the development of regional forms of government in the Unorganized Borough will grow. There are many opinions as to the kinds of regional government that should be established and how they should operate. The purpose of this presentation is to explore some of the different types of regional government and consider which might best help your community.

NARRATIVE

The history of Alaska is one of constant and dramatic change. The change has not occurred evenly though. Some areas of the State have changed dramatically, producing large cities. Other regions have changed much less, and in many of the villages some of the old ways are still an every day way of life.

Major changes have been caused by growth, and much of the growth has resulted from the discovery and development of natural resources. The early development of trade, the discovery of gold, money coming into the State from the Federal Government, the development of industries, and the individual efforts which Alaskans have made to improve their lives, have all been a part of making change happen.

Change can be seen almost everywhere. Transportation systems have improved and expanded, communication systems have been enlarged to include a majority of the remote areas, new schools have been built and more are proposed, medical care has been extended to serve more residents, and new businesses developed, to name just a few.

Change is continuous. Things that happen, not only in the State but, throughout the world affect the entire State and cause change. For example, the discovery of oil in Prudhoe Bay created thousands of jobs and provided money to the State Treasury, which in turn is being used to meet the peoples needs. The Alaska Native Claims Settlement Act is bringing money and land title to the Native people and their village and regional corporations. It will also create new concepts and practices of land ownership and land management.

Let's examine the role of government and how it can respond to the kinds of changes that are taking place and look at the ways in which people, especially those in the smaller communities of rural Alaska, can have a stronger voice within their communities and regions.

Done!

Government is a way in which people organize to provide services, and make decisions beneficial to the entire community. Through government, communities can determine how services will be provided and how money is to be raised to pay for services.

Government is very different from private corporations such as the Native Regional Corporations. Government has official powers and responsibilities which have come from the people. Its function is to serve people and provide for the needs. Government, whether a city or a state is administered by representatives elected by the people, and employees who are appointed or hired by elected representatives.

Private organizations serve their owners or stockholders and are not responsible for providing services to an entire community. Private corporations obtain their authority from the State and decisions are made by a board of directors elected by the shareholders.

Some villages have elected village councils, or have councils, as provided in the Indian Reorganization Act. These councils can in a sense, be called local governments because they can make certain kinds of decisions for the community.

However, there are many powers which a local government can use only if it is officially incorporated as a city. The laws of Alaska say that there can be two kinds or classes of cities, called first class and second class. The difference between them is that first class cities have more responsibilities than second class cities; and that first class cities require a larger population before they can incorporate.

The incorporation of a city gives the people of that community official status in dealing with the state and federal governments, and other agencies. Also, cities have the authority to make rules and regulations, in the form of ordinances, and the authority and responsibility for providing services to the people of the community.

In many cases, problems and issues affect several communities in a region. As an example residents of a region may wish to have local control over police protection. This would mean that police officers could be hired locally and be totally responsible to an elected governing body.

Another example could be found when several communities want to create and finance their own school districts so that together they can provide a higher lever of education for their children.

These are all regional problems and issues that can be solved by a regional form of government.

This map of Alaska shows the present division of the State into cities and boroughs. Currently, there are one hundred and thirty nine cities in Alaska, there are eleven organized boroughs in the State, and the remaining area is called the unorganized borough.

The way in which our forms of government are organized was decided originally by the Alaska Statehood Convention of 1955-56. This convention was made up of delegates from many parts of what was then the Territory of Alaska.

The delegates of the convention determined how the State government would be organized. They decided on three branches. .the executive branch, which is the governor and the agencies working under him; the Legislative branch, which is the Senate and the House of Representatives, which make the laws and appropriate the money necessary for the government to provide services and the Judicial Branch, which interprets the laws, and operates the system of justice in Alaska.

The delegates to the Constitutional Convention decided that all government powers and responsibilities would first be given to the State, and that certain of these powers could then be transferred to cities and boroughs. Thus, the delegates

left it up to the people of villages and communities to decide for themselves when they wanted to become cities, and when they wanted to join together to create borough government. It was determined that those areas not incorporating as boroughs would become the unorganized borough, and that the State Legislature would provide as many services as possible to the unorganized borough.

We've seen that most of the State is still in the unorganized borough, and that 11 boroughs have been created so far. Let's briefly take a look at the history of how these boroughs were formed.

The first borough to be formed after Statehood was the Bristol Bay Borough, shown on the map. Other larger communities of the State could have joined together to create Boroughs but they did not. The State Legislature in 1963 passed the Mandatory Borough Act, which said that the State would incorporate other Boroughs if the people did not do it themselves. After that four regions voted to become Boroughs. These were the Kodiak Island, Sitka, Ketchikan and Juneau Boroughs, shown on the map.

The State Legislature then took the step of incorporating four additional boroughs in the regions of Anchorage, Matanuska-Susitna, Fairbanks and the Seward-Cook Inlet election districts.

After these Boroughs were incorporated by the State through the Mandatory Borough Act, two other Boroughs have been voluntarily formed. They are the Haines Borough and the North Slope Borough.

Many communities in Alaska are still in the unorganized borough. Some residents of the unorganized borough, have expressed interest in the possibility of creating some form of regional government. Other people have felt that regional governments should not be created in their region.

There are serious pro's and con's to be considered in thinking about any form of regional government. Let's look at some of the alternatives that are, or could be available to residents of the unorganized borough.

Borough government is one mechanism for solving regional problems. In some ways it is a bridge between the State and local government. Boroughs are regional forms of government which provide services to communities within an area having similar physical, social and economic conditions.

A region must meet certain requirements in order to be eligible to form a borough.

1. The population must be interrelated and integrated as to its social, cultural and economic activities. It must also be large and stable enough to support organized government.
2. The boundaries should conform to natural geography.
3. The economy of the area should include the human and financial resources capable of providing local services.
4. Transportation facilities must be adequate to allow the communication and exchange necessary to develop integrated government.

The most attractive aspect of borough government is that it takes some of the power away from the legislature and puts it in the hands of the people of the borough, allowing them to do their own regional decision making. Unlike other forms of regional governments which have advisory powers only, organized boroughs are truly self-governing with clearly established powers. First and second class borough governments have the powers of: education, planning, and may levy

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sales and/or property taxes to help pay for these services. Optional powers that first and second class boroughs may exercise include:

*health services and hospital facilities

*Fire protection services and facilities

*Provide for sewage and garbage disposal

*Make plans and regulations for water pollution control

*Community centers

*Police protection and jail facilities

*Cold storage plants

*Telephone systems

*Light, power and heat

*Transportation systems

*Libraries

*Recreation facilities

*Airport and aviation facilities

*Housing programs for new construction and rehabilitation

*Preservation, maintenance and protection of historic sites, buildings and Monuments.

*Consumer protection

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Organized boroughs could represent a final, rather than interim, step in regional government.

One disadvantage of organized boroughs is that some areas of the State do not have taxable resources. Additionally, organized boroughs are locked into rigid methods of adding powers, levy taxes, changing class or unifying with the cities within them.

Another form of regional government is unorganized boroughs. This map shows how the unorganized borough could be divided into several unorganized boroughs.

Unorganized boroughs are similar to organized boroughs in that they each have specific boundaries and would be able to elect a local governing assembly. The assembly could have the power to act on issues concerning education, regional planning, public safety and health. However, there are disadvantages. The legislature still retains the power to make the final decision concerning performance of services; the unorganized boroughs could not have the power to levy taxes; and they are only a temporary form of government.

Service areas are another form of regional government. One of the good aspects is the flexibility of service areas. A service area could provide any municipal service and local taxes could be collected to provide a higher level of service. Additionally, one service area board could be responsible for providing all services within a given area.

51 7/16/77 One disadvantage of service areas is that they are dependent on the legislature to add or take away services, authorize taxing powers, or change the level of funding. Furthermore, the service area board would be advisory only.

Another form of regional government would be service areas patterned after the Regional Education Attendance Areas concept. There is one very positive aspect about the REAA's: it allows decision making at the local level--which is one of the main purposes of providing for government in the unorganized borough. At present though, the REAA's receive 100% state funding and still have local control. While this may be a good arrangement for the REAA residents, it really isn't very fair when compared to residents of boroughs and first class cities in the unorganized borough who must pay local taxes. REAA type boards have the disadvantage of being so exclusively single purpose that the level of service could actually be lessened if several boards were formed. Another disadvantage is that overlapping boundaries are very likely to result...promoting even more confusion.

REAA's are not units of local government, so they cannot be given taxing authority. Furthermore, the REAA concept has not yet been tested in court, but there is reason to believe that if more REAA type service areas are established they will be challenged and may be declared unconstitutional.

Let's take a look at the status of the unorganized borough today. The legislature is the governing body of this vast area...approximately 75% of the State. While at least some municipal type services are being provided to the unorganized borough, they are being given without input from any locally elected representatives. The rural residents have recognized the shortcomings of the unorganized borough and are beginning to demand that other forms of regional government deliver these services. The creation of REAA's was a direct result of the rural resident's frustration with the unorganized borough. These residents are also asking for more and more municipal services and for the authority to provide these services

Joseph

on a regional level. The Association of Village Council Presidents has shown a strong interest in creating substate planning agencies. The Native Regional Corporations would like to form areawide non-profit health corporations. With increased development of natural resources in the unorganized borough, we can be certain there will be an increase in population. More people will mean greater demands for municipal services.

The options for development of regional government in rural Alaska are numerous. We have examined four possibilities. Let's review them briefly:

The organized borough - this form of regional government contains three positive features:

- (1) Much of the power to make decisions at a regional level is placed with the people. This power is clearly established and the people become truly self governing.
- (2) A wide variety of services can be delivered due to increased freedom in decision making and vested powers.
- (3) The authority to levy and collect taxes. The tax money will then be used in that region specifically as opposed to being collected by the Legislature and dispersed statewide.

Disadvantages to the organized borough form of regional government are:

- (1) Even though a borough might have the authority to levy and collect taxes, some areas of the State do not have taxable resources as in the Bethel area.
- (2) Organized boroughs are locked into rigid methods of adding powers, levying a sales tax, changing class or unifying with the cities within them.

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A second form of regional government is the unorganized borough. The most positive aspect of this form of government is that a regionally elected governing body acting on issues concerning education, planning, etc.

The principal disadvantage is that the legislature still retains the power to make the final decision concerning performance of services and the ability to levy taxes. It must also be remembered that the unorganized borough form of government would be only temporary in nature.

The third form of regional government discussed was service areas. This concept contains two positive aspects:

- (1) A service area could provide any municipal service and local taxes could be collected to provide a higher level of service.
- (2) One service area board could be responsible for providing all services within a given area. There are two distinct disadvantages to the service area concept:
 - (1) Service areas are dependent on the Legislature to add or take away services, authorize taxing powers or change the level of funding.
 - (2) A service area board would be advisory only. The fourth type of regional government discussed was the service area modeled after the Regional Education Attendance Areas concept.

The principal advantage of this concept is that it would allow decision making at the local level.

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There are several disadvantages:

- (1) This REAA boards are so exclusively single purpose that the level of service could actually be lessened if several boards were formed.
- (2) Overlapping boundaries are likely to result, promoting even more confusion.
- (3) The REAA's do not have taxing authority.
- (4) If tested in court, REAA's may be proved unconstitutional.

Today we have looked at the problems of the Unorganized Borough, and four possible forms of regional governments that could help solve these problems.

Paper

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Bob LeReshe, Director
Division of Planning and Policy
Development

DATE: July 21, 1976

FILE NO:

TELEPHONE NO:

FROM: Lee McAnerney, Commissioner
Community & Regional Affairs *LM*

SUBJECT: Regional Government in the
Unorganized Borough

In response to my June 21 memorandum to Governor Hammond, you have asked that I expand upon our ideas relative to the above subject. The following is in response to that request and, basically, presents the alternatives (at least as we view them) together with a brief discussion of each; preliminary conclusions are offered in the final pages.

As noted in my previous memorandum, we feel that any legislation dealing with regional government in the unorganized borough must address three major subject areas: structure, financing and intergovernmental relations. Our presentation of alternatives follows that format.

STRUCTURE

Five alternative forms of government appear to be workable in the unorganized borough; they include:

1. Establishment of organized boroughs;
2. Creation of unorganized boroughs;
3. Creation of service areas in the unorganized borough;
4. Continuation of the Regional Educational Attendance Area (REAA) trend; i.e. delegation of municipal functions to independent boards and councils;
5. The status quo.

In reverse order, the above are discussed.

THE STATUS QUO

We feel strongly that the existing system of government in the unorganized borough is both inequitable and inefficient. Inequitable in the sense that residents are not, generally, afforded the opportunity to participate directly in the decision making process nor do they participate on an equal basis in terms of financing local services; inefficient in that existing service delivery mechanisms (cities and state regional offices) often lack the necessary expertise, be it professional or otherwise, to provide services on an efficient and responsive basis.

Being a department with extensive field contact, we have been made very much aware of many unorganized borough residents' dissatisfaction with existing municipal and state services--not necessarily with programs but with the manner in which those programs are administered. That the legislature, too, is receiving this message is evident from such legislation as HB 665 proposing health districts in the unorganized borough, SB 398 (Ch. 57. SLA 76) allowing for public works planning in the unorganized borough, HB 657 dealing with platting authority in the unorganized borough, SB 614 providing for taxation in the unorganized borough, HB 49 providing for organized boroughs in the unorganized borough and a number of other pieces of legislation dealing with service delivery problems in the unorganized borough.

Too, we hear non-profit regional native corporations talking about or actually providing such services as health, housing, electricity and comprehensive planning. While their efforts are commendable, they do not, in my opinion, fit into the scheme of local government provided for in our constitution. Nor, because of their own charters, may the corporations provide services to all residents of an area; on the contrary they are, by and large, limited to serving natives only and consequently can act as a service delivery mechanism for state and federal programs relating to services for Alaska natives.

Essentially, there are two major problems with the status quo. First, service delivery mechanisms established and those proposed are operated by independent boards or commissions acting totally without coordination. Additionally, this method of service delivery generates a much greater need for human and financial resources from areas that are in short supply of both. Second, it promotes a trend contrary to establishment of borough government in the unorganized borough--a course in direct conflict with the local government article of our constitution.

CONTINUATION OF THE REAA TREND

In our view, continuation of the REAA trend is going to be the status quo of tomorrow.

There is one very positive aspect about the concept of REAA's: it provides for decision making at the local level--one of the main purposes of providing for government in the unorganized borough. However, as presently constituted residents of REAA's literally "have their cake and eat it too"--100% plus funding is provided by the state, yet total local control is allowed. While this may be a desirable situation for residents of REAA's, it is certainly not equitable in comparison to a resident of a municipal school district who must pay local taxes. I would suspect that residents of urban areas--the bulk of the state's population--would not tolerate extension of this particular form of service delivery beyond its existing state.

It should be noted, too, that the two major concerns expressed under the "status quo" section apply equally, if not more so, to the REAA concept. Especially real-

DIVISION OF THE UNORGANIZED BOROUGH

In many ways establishment of a number of unorganized boroughs would be much the same as establishment of service areas with one overshadowing exception: the unorganized boroughs could have local autonomy. Because of the lack of constitutional constraints placed upon unorganized boroughs, their establishment could yield a tailor made form of regional government. More specifically, the legislature could delegate any municipal power to an unorganized borough, grant it taxing authority, etc.

We feel, too, that the term unorganized borough has significant advantages. First, it implies what is intended to be--an interim step in the long range development of regional government in rural Alaska. Second, it is a recognized and accepted term--most residents of rural Alaska know they live in the unorganized borough. In our opinion, residents would be more receptive to division of a governmental organization that already exists rather than establishment of a new form of government.

As with an organized borough, unorganized boroughs would have specific boundaries, powers, and a governing body responsible for more than one municipal service. All, in our opinion, positive results.

ESTABLISHMENT OF ORGANIZED BOROUGHS:

Because it is a proven form of regional government, organized boroughs offer some obvious advantages (or disadvantages depending upon your view point). Their method of operation is basically understood; they have taxing authority and an ability to acquire additional municipal powers in response to resident requests; they may establish service areas to provide different levels of service and they have a maximum degree of local autonomy. Additionally, organized boroughs could represent a final, rather than an interim, step in regional government. Too, establishment of organized boroughs would provide a sense of equity among all residents of the state with regard to receipt of municipal services.

However, the organized borough is not without its disadvantages. One of the biggest, of course, is a product of the 1964 Mandatory Borough Act which made the term borough a "dirty" word in many an Alaskan's vocabulary.

There are structural disadvantages too: organized boroughs are locked into rigid methods of adding powers, levying a sales tax, changing class or unifying with the cities within them. Also, they must have separate assemblies, planning commissions and school boards. Depending upon the amount of activity of the borough this may or may not be a disadvantage.

FINANCING

At this stage our thoughts are very tentative in terms of generating the funds

izing that with the REAA concept of 100% plus funding, any incentive for a region to move toward regional government is destroyed.

One thing further should be said about REAA-type boards; they are so exclusively single purpose (usually attracting board membership concerned only with its particular responsibility) that development of a number of boards could actually lessen the level of service being provided; primarily because of lack of interboard coordination and restricted use of financial and, particularly, human resources. Moreover, when boundaries are drawn to define districts and the only criteria used are those relevant to the particular service to be provided overlapping boundaries are likely to result. With overlapping boundaries comes confused residents (who do we go to? where do we go to?) and, consequently, dissatisfaction with the services being provided.

Of concern, too, is the lack of flexibility associated with the REAA's. Because they are not units of local government they cannot be given taxing authority nor can they provide "local government" services. While the legality of the current REAA's has not been challenged on the grounds of Article X, Section 2, of the Constitution (proponents of the REAA's argue that they are really service areas authorized under Article X, Section 6), there is good reason to believe that if additional REAA type boundaries are established they will be challenged and may very well end up being declared unconstitutional. Through establishment of REAA-type entities we, at best, guarantee a long court battle, at worst, an entity without legal standing.

CREATION OF SERVICE AREAS:

There are a number of features of the service area concept that make it a fairly attractive alternative. Leading the list is the fact that it is an existing, recognized mechanism for delivery of municipal services. The legislature is given constitutional authority to provide for service areas in the unorganized borough thereby negating any legal challenge. But, probably most important of all is the service area's flexibility. A service area could provide any municipal service and, if the legislature so elected, a tax could be levied within the service area for services provided. Of significant benefit, too, is that one service area board could be responsible for provision of all services within a given area.

Probably the biggest drawback to the service area concept is that service areas would be dependent upon the legislature, sitting as the assembly for the unorganized borough, to add or delete powers, change levels of funding, acquire taxation authority, etc. A lesser drawback of a service area is that the service area board, at least in the legal sense, would be advisory as a dependent agency of the assembly of the unorganized borough (legislature). Depending upon the language in the enabling legislation, the latter might not be a problem.

needed to pay for regional government in the unorganized borough. The following appear to be workable alternatives:

1. existing mechanisms, i.e. sales and property taxes levied and collected by and within the boundaries of each jurisdiction;
2. increase levels of funding of existing programs to cover all costs;
3. an ad valorem tax on property associated with the development of natural resources with distribution to regional governments, based on an equalization formula;
4. a sales or property tax throughout the unorganized borough with distribution to individual regional governments, based on an equalization formula;
5. levy of an additional income tax on wages earned in the unorganized borough with distribution to individual regional governments, based on an equalization formula.

1. Existing mechanisms: In our view, authority to levy sales and property taxes should continue to be an option available to organized municipalities. Although the constitution permits extension of taxing authority to unorganized boroughs, doing so does, in fact, create another class of organized borough. This is not, in our opinion, a viable, alternative structure.

The advantage, at least from the state's view, of a local property or sales tax is that it would be administered at the local level. However, the disadvantages appear to outweigh any advantage. First, a local sales or property tax reflects only the local economy; advantageous for those located along the pipeline; not so for those located on the lower Kuskokwim. Second, property taxes are, relatively speaking, regressive and expensive to collect. It is entirely possible that it might cost as much to levy and collect a tax in certain areas as the tax itself would generate. While a local sales tax would not be as expensive to levy and collect, an assessment and collection department in each taxing jurisdiction would need to be established.

2. Increase levels of funding: Basically, this approach is an extension of the funding mechanism provided for the REAA's. We oppose this method of funding because of its gross inequity. It is unpalatable for us to ask residents of one region to pay for municipal services while providing those services to another region at no cost to the residents. Additionally, such a method of funding totally discourages the formation of regional government; why pay if services can be received at no cost?

Of course, one means of alleviating the question of equity is to provide the same level of funding to all jurisdictions. However, at that point the costs seem to outweigh any advantage to be realized.

3. A "resources" tax: A fresh approach to funding local government services might be implementation of a resource tax. Essentially, the tax would be an ad valorem tax levied upon all property used for the exploitation of natural resources. The primary advantage of this tax is that administration of it would be relatively simple in that you would be assessing and collecting taxes on a fairly limited amount of property with a high dollar value. As we envision a resource tax, it would be levied and collected by the state throughout the unorganized borough and then redistributed to individual regional governments based on an equalization formula.

Optionally, the tax could be levied upon all resource related property throughout the state and redistributed on an equalization formula to all areas of the state. This would not only provide a source of funding for new regional governments in the unorganized borough but would also provide new revenues for existing regional governments.

The major disadvantages of a resource tax appears to be that it is an unknown quantity and, probably most important, an encroachment upon and placing under state taxing jurisdiction a tax base that, in the past, has been considered the exclusive tax base of local governments. Perhaps the latter problem, at least to some degree, could be relieved by allowing a local taxing jurisdiction having resource related property within its boundaries the right to levy a tax up to a certain limit and then "piggybacking" the state tax on top of the local. The resource tax would be similar to the present oil and gas tax of the state but would additionally apply to all other natural resources.

4. Unorganized borough sales or property tax: The advantages and disadvantages of a property or sales tax have been defined in the preceding discussion of alternatives. The change we are suggesting here is that the tax be levied throughout the unorganized borough and be collected by the state, thereby minimizing administrative costs. Tax proceeds would be redistributed to individual regional governments based on an equalization formula.

While levy of a property tax would undoubtedly yield sufficient revenues to cover the cost of regional government, it would seem that the additional net revenues received from extending the tax to all property, rather than just resource related property, would be so minimal as to hardly justify its levy.

An unorganized borough sales tax would yield sufficient revenues to cover the costs of regional government and would be much more simple and, accordingly, less costly to administer. We estimate a 2% sales tax levied and collected in the unorganized borough would generate in excess of \$10 million annually.

5. An additional income tax: As with the sales tax, the primary advantage of an income tax appears to be ease of administration. Collection could be accomplished by the state at the same time that state income taxes are collected and then redistributed to regional governments, based on an equalization formula.

A product of this tax is that you extend taxing jurisdiction previously restricted to the state to local governments, thereby strengthening the tax base of all local governments. (As a practical matter, if the income tax is established as a system of local government finance in the unorganized borough, it would have to also be extended, at least on an optional basis, to organized boroughs.)

Of the above, we tend to favor either the resource tax or a sales or income tax. The administrative burden imposed by a comprehensive property tax would, in our opinion, create more problems that it would solve. We also favor levy of a tax at the state level with redistribution to individual regional governments based upon an equalization formula. Administration of the tax in this manner would minimize costs and provide for consistent administration throughout the state.

Presently, we estimate that an additional \$7 million will be required to fully fund the program (see attached budget). This figure does not include existing shared revenues that might be made available to new regional governments. Preliminary calculations show that a 1.5% sales tax or a 2 mill (or less) resource property tax could generate this amount of revenue. Data needed to estimate the percentage for an income tax is not yet available.

INTERGOVERNMENTAL RELATIONSHIPS

Without doubt one of the major factors that will determine the success, or lack of it, of a regional government proposal is the relationship between a new regional government and the cities and other service mechanisms located within it. While a detailed discussion of intergovernmental relationships is not possible until the form of regional government to be used is specified, there are certain key elements that should be present regardless of the form of government. Those elements are:

1. promotion of regionalism: any form of government should encourage regional provision of services; that is not to say that services could not be provided at the local level but rather, that policy development and overall control should rest at the regional level;
2. certain services should mandatorily be at a regional level; these services should include at a minimum, planning, health, education and public safety;
3. if any form of regional government less than an organized borough is established, home rule cities should not be forced to relinquish any authority to the region;
4. an alternative to second class city government should be established (see attached memorandum) relieving many villages of the obligation to provide

municipal services;

5. any form of regional government established should, to the maximum degree possible, be free from state and federal control.

CONCLUSIONS

Based on the above discussion and several in-house work sessions on the subject, we think that the following would be the best method of establishing and operating regional governments in the unorganized borough.

STRUCTURE

Establishment of unorganized boroughs with boundaries that would meet organized borough standards. Each unorganized borough would have the mandatory powers of:

Education
Health
Planning
Public Safety (fire and police protection)

Home rule cities located within an unorganized borough would continue to exercise all of the above powers unless they elected to participate on a regional basis. The assembly of the unorganized borough would have absolute authority, subject to state and federal law, over the exercise of the above powers. Additional powers could only be added by a process requiring state approval and voter ratification in the region.

The unorganized borough would be governed by an assembly with separate boards for school and planning functions. The assembly could assume the responsibilities of the school board and planning commission upon voter approval. The unorganized borough would be required to employ a professional manager.

FINANCING

Unorganized boroughs would not have taxing authority. A resource tax as previously described would be the recommended source of funding; as an alternative, a sales or income tax would be levied and collected, by the state, in all of the unorganized boroughs and then redistributed based on an equalization formula. Unorganized borough assemblies would have full budget authority.

INTERGOVERNMENTAL RELATIONS

The unorganized borough would be the regional government for the area; state and federal agencies would be obligated to treat it as we currently do an organized borough.

The following sample budget is very tentative at this time. Several assumptions have been made. They include:

1. that health programs provided will be those transferred from the state; accordingly, it is anticipated that no significant additional cost will be incurred.

2. public safety costs are estimated at \$150,000. However, until the level of service is clearly identified an actual cost is not calculable

SUMMARY OF COSTS

Assembly	\$ 65,000
Administration & Finance	144,000
Planning	56,000
Health	-0-
Public Safety	150,000
Education (same funding as with REAA's)	-0-
	<hr/>
Total additional cost	\$415,500

New Boroughs 15	=	\$6,232,500
10% items not covered		<u>623,250</u>
TOTAL COST		\$6,855,750

Bob LeReshe

-9-

July 21, 1976

As noted the unorganized boroughs would have mandatory responsibility for certain services. They could, also, contract with cities for provision of certain services.

This is obviously a very complicated subject and these are only our preliminary conclusions. I would like to discuss this matter further.

LMcA:PP:jg

Attachments

ASSEMBLY

Personal Services	\$ 5,000
Travel	10,000
Contingency	<u>50,000</u>

TOTAL ASSEMBLY \$ 65,000

Personal services includes payments to assembly members attending meetings. The contingency amount is to be used to meet extra-ordinary operating expenditures not anticipated.

ADMINISTRATION

General

Personal Services	\$ 45,000
Materials & Supplies	2,000
Equipment	3,000
Travel	2,000
Contractual	<u>35,000</u>

TOTAL ADMINISTRATION \$ 87,000

Personal services includes an administrator and secretary. Materials and supplies are necessary paper goods and other office items. Office furniture and machines are included in the equipment figure. Travel expenditures are predicated on some regional and statewide travel. All legal and other necessary services are listed on the contractual line item.

FINANCE

Personal Services	\$ 45,000
Materials & Supplies	3,000
Equipment	3,000
Travel	1,000
Contractual	<u>5,000</u>

TOTAL FINANCE \$ 57,000

An accountant and clerical support are included in personal services. Contractual includes professional services required for the maintenance and audit of the entire administrative financial structure.

PLANNING

Personal Services	\$ 39,000
Materials & Supplies	3,000
Equipment	2,500
Travel	2,000
Contractual	<u>10,000</u>

TOTAL PLANNING \$ 56,500

Personal services includes one planner and secretary. Contractual includes money to be used to purchase professional planning advice on selected topics.

PUBLIC SAFETY

TOTAL PUBLIC SAFETY \$150,000

HEALTH

TOTAL HEALTH -0-

TOTAL EXPENDITURE
PER BOROUGH \$415,500

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter
Bruce Aronson
Rebecca Burch

DATE: September 10, 1976

FILE NO:

TELEPHONE NO:

FROM: Patrick K. Poland
Local Government Specialist

SUBJECT: Regional Government Study

For the record and so that we might have something to measure our progress against, the following is a "laundry list" of items that have yet to be accomplished in our pursuit of completing the regional government study.

1. A memorandum to Bob LeResche updating (status report) our original memorandum of July 21, 1976. Major changes that have been agreed upon by all staff and should be included in that memorandum include:
 - a. Expanding the category of cities not subject to exercise of authority by an unorganized borough to include first class cities.
 - b. Deleting the provisions making public safety and health powers mandatory for unorganized boroughs and rewriting the section to provide for optional exercise of these powers by unorganized boroughs. The revisions should, most probably, state that exercise by an unorganized borough precludes exercise by a second class city.
 - c. The memorandum should reflect the fact that we have decided to withhold further action on our proposed third class city legislation until the shape and relationship of regional governments are firmly identified.
 - d. Amending the distribution formula to a simpler method; most likely providing a minimum amount plus a cost-of-living allowance plus a per capita distribution.
 - e. The draft legislation needs to more clearly substantiate the fact that the relationship between regional education attendance area school boards and unorganized borough assemblies would be identical to that between municipal school boards and borough assemblies.
 - f. Amend the proposed legislation to more clearly state that unorganized boroughs will have the authority to contract with other municipal corporations, private corporations or other governmental agencies for the provision of services or to provide services on behalf of those agencies.

2. We need to investigate the possibility of:
 - a. Funding regional education attendance areas in the same manner as municipal school districts are funded; i.e., they would receive P. L. 874 and many 874 funds but would lose the gratis state-local contribution. Additionally, they would be permitted to use a portion of the sales tax revenues they receive as local effort.
 - b. Combining assemblies and school boards on an optional basis.
 - c. Automatic incorporation of an unorganized borough as an organized borough once it reaches a certain assessed property valuation.
 - d. The feasibility of allowing service areas within unorganized boroughs.
3. Items that must be accomplished in conjunction with the Department of Revenue include:
 - a. Completing projections of sales and use tax revenues.
 - b. Determining the amount of shared taxes that is collected within the existing unorganized borough and might be made available to unorganized boroughs.
 - c. Determining the basis on which they calculated their existing fiscal note for administration of an unorganized borough sales/use tax.
4. A "skull" session needs to be set up with the Department of Law to determine whether, in fact, unorganized boroughs actually may exercise municipal powers, whether they may make expenditures and whether, since the sales tax is, in a technical sense, a municipal tax, it may be expended upon collection rather than having to deposit it in the general fund and await a legislative appropriation annually.
5. We need to prepare a fact sheet for the Commissioner by Tuesday, the 14th, outlining major provisions of our study and its conclusions.
6. A working model of an unorganized borough (my suggestion is the Bering Straits or NANA region) needs to be prepared detailing how the unorganized borough would work and what its relationships with other governments would be. Hopefully, the model would include a sample budget.

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter, Director
Local Government Assistance

DATE: September 10, 1976

FILE NO:

TELEPHONE NO:

FROM: Patrick K. Poland
Local Government Specialist

SUBJECT: Regional Government Study

As you know, Chuck Orr and I have spent the last day and a half discussing how our regional government study might be presented to the public and a suggested timetable for presentation. This memorandum summarizes our conclusions and recommendations.

In terms of a presentation, it was concluded that a combination of visual aids and written statements would best serve our purpose given the technical nature of the subject matter. Essentially, the visual aids would consist of slides depicting, among other items, the maze of boundary lines throughout the State, an organizational chart showing the relationship of an unorganized borough with other organized units of government and a map showing the boundaries we are suggesting for division of the unorganized borough. Slides would be shown in conjunction with a verbal presentation by yourself or another staff member of the Division. Written materials would be passed out to the speaker's audience and referred to during the verbal and slide presentation while additional copies would be made available to interested parties following the presentation. The written materials most likely would consist of a comprehensive position paper which would state the problem as we perceive it, analyze alternative solutions to the problem, state our conclusions and explain how and why we arrived at them. Additional written material should include copies of draft legislation, a short summarized fact sheet and several pages of questions and answers. In my opinion, the above would provide the layman with a comprehensive explanation of our project without confusing him with a mass of technical data.

One item not mentioned above but one that could conceivably be included in a package of written materials is a "for instance" paper; that is, taking one of the regions we have identified in the State and using it as an example, running through, step by step, exactly what would be the effect of establishment of an unorganized borough.

In terms of a timetable, it is suggested that the first announcement of the Department's study and its proposed legislation be made during or immediately preceding the Commissioner's television appearance with the Governor in Fairbanks on September 16. It is envisioned that she would make only a general statement, concluding that the actual draft legislation is being finalized at the moment and would be available to the general public by September 23. On September 23, you would release to the public the proposed legislation at your speaking engagement before the Fairbanks Development Corporation. If all goes well, you will again appear before the Anchorage Chamber of Commerce the following Monday, September 27. From there, it will

September 10, 1976

be simply a matter of trotting our "horse and pony show" around the State to various chambers of commerce and other interested groups. We would, of course, attend the Alaska Federation of Natives convention in Anchorage on October 20-21-22 and give a presentation. It is anticipated that by early December public meetings would have been held in every major community affected by the proposed act. Following the public meetings, we would review the proposed legislation, make any changes and submit the same to the Governor's Office for introduction to the Legislature.

Basically, the wheels have been set in motion to accomplish the above. Chuck and I met with the Commissioner and she is willing to make the initial announcement during her television appearance; however, we did not discuss the point of having her refer to specific draft legislation being available the following week and your presenting it for the first time in Fairbanks. It is imperative, in my opinion, that the public have a specific proposal to respond to. Without a specific proposal, we will only get shrugging shoulders and comments that we don't want anything.

Would you please verify with the Commissioner the above schedule of events and manner of presentation?

PKP:me

cc: Chuck Orr

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

TO: Pat Poland
Local Government Specialist

DATE: September 3, 1976

FILE NO:

TELEPHONE NO:

FROM: Rebecca Burch
Research Analyst

SUBJECT: The Feasibility of Health Powers in proposed Regional Governments.

The proposed Regional governments in the unorganized borough are capable of being a vehicle for regional decision-making and accountability for health service delivery.

The government structures provide the transition to regional control of services, one step closer to the local control requested by rural residents using health services. Recently there has been talk of local control of services, however, frequently the reality is that local services evolve while the control of delivery patterns and financing is maintained at a state level. An illustration of this direction is HB 596 on local health districting introduced in the ninth legislature which would have provide regional locations for services with monitoring and decision-making by the state.

The intention of including health powers in an unorganized borough was to regionalize the decision making in addition to actual delivery of services. In the regional proposal the regional government would, within a framework of services determined as "comprehensive health care", be empowered to plan, administer and contract for health care service delivery in a manner appropriate for the needs of that region.

Initially it was thought that PL 93-64I would address this issue. This legislation established a State health coordinating council, three health service area boards and sub-area councils as well as a State agency to oversee the process. These bodies were designed to promote coordinated development of the range of health services meeting health needs within a given area of the state. Health Systems Agency Board Members (for the Health Service Area) would present recommendations to the State Health Coordinating Council and the State Health Planning and Development Agency. (The State Health Planning and Development Agency is also mandated under P.L. 93-64I). The SHCC would work with the health systems agencies to determine the functional definition of "comprehensive health care" and the actual certification of new health services and facilities.

The legislation further indicates that even the three Health Systems Agencies boards do not make all final decisions on plans for their areas. The SHCC has the authority to review and revise the HSA plans as necessary to coordinate state wide activities and needs.

On a level comparable to the proposed governmental regions PL 93-64I established sub-area boards. We considered that regional government assemblies could serve the function of these boards. However, in actual practice it seems that the sub-area boards will have a limited and advisory capacity. The Federal legislation stresses this advisory function and strongly discourages sub-area boards from taking on additional

power. So it is that decision-making, implementation, and accountability over federal monies and programs are not possible under the regional government structure, as currently proposed.

The Alaska Public Health program, funded in part by state monies, shows more opportunity for regional control. The Public Health program has been considered in terms of regional administration and service delivery. The components of this program (a department of Alaska Health and Social Services not to be confused with Federal Public Health Services) include environmental sanitation, public health nursing, and health aides who, although administered by the Native Health Service are functionally supervised and partially trained by the Public Health Nurses. The State department could establish standards for service and record-keeping (necessary to maintain continued levels of federal funding). Given these guidelines each region could administer its own Public Health Program.

However, in light of the Health Service Area Boards who will determine the patterns of service in programs with federal funding it could be difficult to plan for this state service without coordinated planning. So, at best the Region could make planning decisions for only part of its health services. As an added confusion it is still unclear what the relationship will be between the State Health Department and the HSA boards. And the HSA boards are still in a state of formation so they can not make statement on how this would work.

It seems then that the control of health service decisions is in a state of flux and it is premature to make pronouncements that this power is totally unavailable to regional government, but the thrust of recently enacted Federal legislation is divide the state into 3 large areas under one umbrella for health care planning.

RB:rmc

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter
Director

DATE: August 23, 1976

FILE NO:

TELEPHONE NO:

FROM: Patrick Poland
Local Government Specialist

SUBJECT: Proposed Legislation

The following is draft legislation that may be suitable for implementation of levy and collection of a sales tax in the unorganized borough together with redistribution to individual unorganized boroughs based upon an equalization formula.

Section 1. AS 43 is amended by adding a new chapter to read:

CHAPTER 77. SALES TAX

ARTICLE 1. LEVY AND COLLECTION.

Sec.

- 010. Levy of tax
- 020. Exemptions
- 030. Collection and enforcement
- 040. Proceeds of tax
- 050. Lien for tax
- 060. False statement
- 070. Regulations

Sec. 43.77.010. LEVY OF TAX. (a) A consumer's sales tax is levied on all sales, rents and services made within an unorganized borough unless the sale, rental or provision of service takes place within a home rule city.

Sec. 43.77.020. EXEMPTIONS. The following transactions are exempt from the tax levied in sec. 010 of this chapter.

- (1) a casual and isolated sale not made in the regular course of business;
- (2) a transaction which is prohibited from taxation under the Constitution and laws of the United States;
- (3) a sale directly to the United States government, the State of Alaska, or its political subdivisions;
- (4) the sale of newspapers and periodicals to a consumer by a carrier;
- (5) the sale of food and beverages to the public in school cafeterias or lunchrooms;

Sec. 43.77.030. COLLECTION AND ENFORCEMENT. Every business which engages in transactions subject to taxation under the provisions of sec. 010 of this chapter shall collect the tax at the time of the sale, and remit the total collected at the end of each calendar quarter of each year to the Department of Revenue by the last day of the month following the close of the calendar quarter. A penalty of ten percent shall be added to delinquent taxes and interest at the rate of six percent a year shall accrue on all unpaid taxes, excluding penalties, from the due date until paid in full. Collection of the tax levied in this chapter shall be carried out by the Department of Revenue.

Sec. 43.77.040. PROCEEDS OF TAX. Money collected under this chapter shall be deposited in the general fund.

Sec. 43.77.050. LIEN FOR TAX. The tax levied under this chapter and penalty and interest set out in sec. 030 of this chapter are liens upon all of the property of the person owing the tax. The lien rises upon delinquency and continues until the liability is satisfied or the lien is foreclosed. With respect to property located outside a city, the tax liens provided by this chapter are prior and paramount to all other liens or encumbrances against the property. With respect to property located within a city the tax liens provided by this chapter are prior to all liens and encumbrances against the property except liens for taxes levied by the city.

Sec. 43.77.060. FALSE STATEMENT. A person who knowingly makes a false statement in a return required under this chapter as to the amount, location or value of a sale subject to taxation with intent to evade the taxation is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than five days, or by both, together with the costs of prosecution.

Sec. 43.77.070. REGULATIONS. The Department of Revenue shall adopt regulations governing the administration of this program including the manner by which exemptions may be determined and reimbursement to business¹ for costs incurred in collecting the tax made.

ARTICLE 2. REVENUE SHARING AMONG
UNORGANIZED BOROUGHES

Sec.

- 080. Distribution of proceeds
- 090. Direct return
- 100. Distribution
- 110. Distribution index

Sec. 43.77.080. DISTRIBUTION OF PROCEEDS. The legislature is authorized to appropriate each year as shared revenue for the benefit of unorganized boroughs an amount equal to the net amount of revenue raised under this chapter in the preceding year. Revenue so appropriated shall be administered by the Department of Community and Regional Affairs. The department shall distribute for the benefit of each unorganized borough an amount determined in accordance with secs. 080-110 of this chapter.

Sec. 43.77.090. DIRECT RETURN. From the appropriation authorized under sec. 080 of this chapter an amount equal to the net revenue raised by a one-half percent tax on sales taxable under this chapter within each unorganized borough shall be held and used for the benefit of the unorganized borough where the particular sales took place.

Sec. 43.77.100. DISTRIBUTION. Revenue appropriated under sec. 080 of this chapter, less revenue allotted in accordance with sec. 090 of this chapter, shall be held and used for the benefit of each unorganized borough in accordance with

the ratio of its distribution index to the sum of the distribution indices of all unorganized boroughs.

Sec. 43.77.110. DISTRIBUTION INDEX. The distribution index of each unorganized borough is based upon its wealth, cost of services, population and area and is determined by the following formula:

$$D = \frac{F_a CP}{2F_p}$$

where

D = distribution index

F_a = average fiscal capacity of unorganized boroughs

F_p = fiscal capacity of the particular unorganized borough

C = cost of service which is the cost as determined by the state assessor for each tax year in each particular unorganized borough of providing education, planning, health, police, fire, administrative and other government services expressed as a percentage of the average cost of such services in all unorganized boroughs.

P = population of the particular unorganized borough as a percentage of total population of unorganized boroughs.

PKP:ljd

MEMORANDUM

State of Alaska

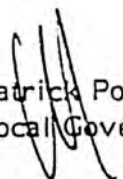
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Palmer McCarter
Director

DATE: August 20, 1976

FILE NO:

TELEPHONE NO:

FROM:  Patrick Poland
Local Government Specialist

SUBJECT: Regional Government

The following is a first draft of legislation that might provide for organization of the unorganized borough.

Section 1. AREAS DESIGNATED. (a) The following areas are designated as unorganized boroughs and possess all the powers and privileges prescribed by AS 29.03. The areas designated are:

- (1) Regional Education Attendance Area #1
- (2) Regional Education Attendance Area #2
- (3) Regional Education Attendance Areas #3, #4 and #5
- (4) Regional Education Attendance Areas #6 and #7
- (5) Regional Education Attendance Areas #8, #9 and #10
- (6) Regional Education Attendance Areas #11, #12, #13 and #14
- (7) Regional Education Attendance Areas #15 and #16
- (8) Regional Education Attendance Area #17
- (9) Regional Education Attendance Areas #18, #19 and #20
- (10) Regional Education Attendance Area #21

(b) Within 180 days of the effective date of this act the Local Boundary Commission shall hold public hearings in each of the unorganized boroughs to determine whether or not boundary adjustments are necessary. If determined necessary, the Local Boundary Commission shall proceed in accordance with law governing

changes of boundaries of municipalities and shall submit any proposed changes for review in accordance with Article X, Section 12 of the Constitution.

(c) If a portion of any unorganized borough becomes incorporated as an organized borough the Local Boundary Commission shall determine whether the remaining portion of the unorganized borough should continue as a separate unorganized borough or be annexed to another unorganized borough.

Section 2. AS 29.03 is amended to read:

CHAPTER 03. ~~[THE]~~ UNORGANIZED BOROUGHS.

Article

1. Administration
2. Assembly
3. Other officers and employees
4. Elections
5. Recall
6. Powers
7. Home rule charters

ARTICLE I.
ADMINISTRATION.

Sec

- 10. Chief executive officer
- 20. Chief administrative officer

Sec. 29.03.010. CHIEF EXECUTIVE OFFICER. (a) The chief executive officer of an unorganized borough is an elected borough mayor who has, consistent with the provisions of this chapter, the same functions as those of the mayor of a manager-plan city under AS 29.23.240.

(b) An unorganized borough voter is eligible to be borough mayor.

(c) The unorganized borough mayor's regular term of office is three years and until a successor is elected and has qualified and begins on the first Monday following his election which is held at the time of the regular unorganized borough election.

Sec. 29.03.020. CHIEF ADMINISTRATIVE OFFICER. (a) The chief administrative officer of each unorganized borough is a manager selected by the assembly who has, consistent with the provisions of this chapter, the same functions as the manager of a manager-plan borough under AS 29.23.140.

(b) The chief administrative officer serves at the pleasure of the assembly and may be hired or dismissed only by a majority of the authorized assembly membership.

ARTICLE II.

ASSEMBLY.

Sec.

- 30. Assembly
- 40. Composition, apportionment and reapportionment
- 50. Regular term of office
- 60. Qualification
- 70. Filling a vacancy

Sec. 29.03.030. ASSEMBLY. Each unorganized borough shall have an advisory assembly. The assembly may participate in the development and implementation of state programs and projects relating to the borough and may enact legislation necessary to carry out the purposes of this chapter.

Sec. 29.03.040. COMPOSITION, APPORTIONMENT AND REAPPORTIONMENT. (a) The assembly shall be composed of five, seven or nine members elected at large or from designated sections within the unorganized borough equal as near as practicable in population. The initial number of assembly members, a determination as to at large or sectional representation and the initial boundaries of the sections, if any, shall be determined by the department in consultation with the communities within the unorganized borough.

(b) The qualified voters of an unorganized borough may increase or decrease the number of assembly members or alter the manner of representation by submitting a petition to the department requesting a change and bearing the signature of a number of voters equal to at least 25% of the number who voted in the last unorganized borough election.

Sec. 29.03.050. REGULAR TERM OF OFFICE. (a) Assemblymembers are selected for three year terms and until their successors are elected and have qualified.

(b) The initial elected assembly shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected.

Sec. 29.03.060. QUALIFICATION. A resident of the borough is eligible to be an assemblymember if he or she is a borough voter. An assemblymember who ceases to be a borough voter immediately forfeits his or her office. An assemblymember elected from or selected to represent an area less than the unorganized borough area at large and who becomes a resident of another area may continue to serve only until the next regular election.

Sec. 29.03.070. FILLING A VACANCY. A vacancy is filled by the majority of the remaining assemblymembers, who designate a voter and, if the assembly seat vacated is other than on an at large basis, a resident of the unorganized borough area to which the seat was apportioned, to serve until the next regular election.

ARTICLE III.

OTHER OFFICERS AND EMPLOYEES.

Sec.

080. Appointment of officers

090. Combining offices

Sec. 29.03.080. APPOINTMENT OF OFFICERS. The manager, acting as chief administrative officer of the unorganized borough, shall appoint a clerk-treasurer,

health officer, public safety officer and planner. Appointments by the chief administrator are subject to confirmation by the assembly.

Sec. 29.03.090. COMBINING OFFICES. At the direction of the assembly no more than two of the above offices shall be combined.

ARTICLE IV.

ELECTIONS.

Sec.

100. Administration

110. Election dates

Sec. 29.03.100. ADMINISTRATION. The Department of Community and Regional Affairs shall adopt regulations for conducting elections in unorganized boroughs. The regulations shall specifically address the issues of candidate nomination, voter qualification, notice requirements, majority elections and election contest and appeal.

Sec. 29.03.110. ELECTION DATES. (a) The date of an unorganized borough's regular election is the first Tuesday of October annually except that the commissioner may, upon receipt of a petition requesting a change and bearing the signature of a number of qualified voters equal to at least 25% of the number of voters who cast ballots in the last regular election, change the date of the regular election.

(b) The commissioner may, with concurrence of the assembly, call a special election upon no less than 20 days notice.

ARTICLE V.

RECALL.

Sec.

110. Procedures

Sec. 29.23.110. PROCEDURES. The members of an unorganized borough assembly are subject to recall in accordance with the provisions of AS 29.28.130 - 29.28.150.

ARTICLE VI.

POWERS.

Sec.

120. General powers

130. Areawide powers

140. Additional areawide powers

Sec. 29.03.120. GENERAL POWERS. Unorganized boroughs have the following general powers, subject to other provisions of law:

(1) to enter into agreements for cooperative or joint administration of any functions or powers with a local government, with the state or with the United States;

(2) to acquire, manage, control use and dispose of real and personal property for a purpose authorized under this title, federal law, or other law, or

in accordance with such law, and irrespective of whether or not the property is situated within or outside the municipal boundaries;

(3) to acquire membership in organizations which promote legislation for the good of the municipality.

Sec. 29.03.130. AREAWIDE POWERS. (a) Unorganized boroughs have the following areawide powers, subject to other provisions of law:

- (1) educations as provided at AS 14.08;
- (2) planning, platting and zoning as provided at AS 29.33.070-245;
- (3) health as provided at AS 29.48.030 (5); and
- (4) police and fire protection as provided at AS 29.48.030 (7) and (18).

(b) Subject to the provisions of (c) of this section, unorganized boroughs shall exercise the powers specified in (a) of this section both inside and outside cities within their boundaries.

(c) No unorganized borough may exercise a power within a home rule city unless the city has, in the manner provided by AS 29.33.260, transferred the power to the unorganized borough.

Sec. 29.03.140. ADDITIONAL AREAWIDE POWERS. Unorganized boroughs may not acquire additional areawide powers.

ARTICLE VII.

HOME RULE CHARTERS.

Sec. 29.03.150. ADOPTION OF CHARTER. An unorganized borough established under this chapter may adopt a home rule charter in the manner prescribed by

AS 29.40.010 - 29.40.030 and AS 29.85.110(a) - (d), except that the assembly elected in accordance with sec. 30 of this chapter shall perform the duties assigned to city councils, and except that the charter commission shall consist of 11 members. Vacancies on the charter commission shall be filled in the same manner as vacancies on the assembly.

Sec. 29.03.160. ORGANIZATION. The charter commission shall initiate organization of the borough in accordance with the terms of the charter by submission of their charter to the Department of Community and Regional Affairs. The charter shall be submitted within one year of the first meeting of the commission. The department shall review the charter in light of the circumstances of the particular borough and, within 120 days from receipt shall transmit the charter, together with its findings and recommendations, to the Local Boundary Commission.

Sec. 29.03.170. HEARING. The Local Boundary Commission shall hold at least one hearing in the area proposed to be organized for the purpose of hearing public comment on the charter.

Sec. 29.03.180. LOCAL BOUNDARY COMMISSION DETERMINATION. The Local Boundary Commission, within 90 days from receipt of the charter and the recommendations and findings of the Department of Community and Regional Affairs, shall determine whether the charter meets standards for organization established by the laws and the Constitution of the State of Alaska and by regulations adopted by the commission.

Sec. 29.03.190. REJECTION OF CHARTER. If the Local Boundary Commission determines that the charter fails to meet the standards for organization it shall reject the charter stating in writing its reasons for the rejection.

Sec. 29.03.200. AMENDED CHARTER. A charter commission, within 60 days of rejection, may prepare and submit to the Department of Community and Regional Affairs an amended charter fairly meeting the stated objections to the original charter. The amended charter shall be evaluated in the same manner as the original charter. No more than one original and one amended charter may be submitted within one 12 month period.

Sec. 29.03.210. RATIFICATION OF CHARTER. If the Local Boundary Commission determines that the charter meets the standards for organization it shall notify the lieutenant governor. As soon thereafter as practicable the lieutenant governor shall provide for an election in the borough on the question of whether or not the charter is ratified and for election of the officers provided for in the charter. The election shall be preceded by publication and posting of the proposed charter by the lieutenant governor substantially in the manner provided for other charter elections in AS 29.85.150.

Sec. 29.03.220. CERTIFICATION OF RESULTS. If a majority of the votes cast by the qualified voters of the borough are against ratification the lieutenant governor shall so certify and shall certify that the charter is defeated. If a majority of the votes cast by the qualified voters on the question are in favor of ratification the lieutenant governor shall so certify and declare that the borough in which the election was held is an organized borough and a municipal corporation in accordance with the terms of the charter. The lieutenant governor shall also certify the names of those candidates who received the greatest number of votes for the offices established by the charter.