

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

3063 SCOMM 140: ADVISORY COMMISSION ON LOCAL GOV. 2005-2006



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LIST OF FILES

SCOMM 140: ADVISORY COMMISSION ON LOCAL GOVERNMENT, 2005-2006

MEMBERS:

SENATOR G. STEVENS, CHAIR
REPRESENTATIVE COGHILL
REPRESENTATIVE SALMON
SENATOR STEDMAN
REPRESENTATIVE THOMAS
SENATOR WAGONER

Established by SCR 14, 2005

Contents: 4 files. The only minutes of the meetings are in these files; there are no audio recordings.

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2. 10/21/05
3. 11/9-11/10/05
4. 1/6-1/7/06

SCOMM

140:1

Advisory Commission on Local Government
Organizational Meeting

Anchorage LIO, Room 220
September 1, 2005
11:00 am

Agenda

- | | |
|------------------|---|
| 11:00 am | Call to Order
Introduction |
| 11:15 – 12:30 pm | Background and Overview, History of Local Governments – Kevin Ritchie, AML

State and Tribal Government Relationships and Responsibilities |
| 12:30 – 1:30 pm | (Catered Lunch)
Overview – Incentives and Disincentives to the Formation and Sustainability of Local and Regional Governments – Mike Black, Director, Division of Community Advocacy, Dept. of Commerce, Community & Economic Development

Discussion – Rural Capacity for Self-Governance → Revenue Sources, Taxation |
| 1:30 – 2:30 pm | Public Comment |
| 2:00 – 4:00 pm | Strategies and Solutions
Possible Legislation |
| 4:00 – 4:15 pm | Define Role of Legislature in Serving as Assembly to the Unorganized Borough |
| 4:15 – 4:30 pm | Identify Subsequent Projects, Meeting Times and Locations |
| 4:30 pm | Adjourn |

Advisory Commission on Local Government

Minutes – Organizational Meeting

September 1, 2005

- I. Call to Order at 11:03 a.m.
- II. Members present: Senator(s) Gary Stevens, Chairman; Bert Stedman, Tom Wagoner; Representative(s) Bill Thomas, Co-chair; John Coghill, Woody Salmon; Public members: Scott Brandt-Erichsen, Marvin Yoder (online); Lisa Von Borgen (online/present after noon); Also present: Rep. Reggie Joule, Arliss Sturgulewski, Vic Fisher, David Case, Greta Goto.
- III. Background and Overview, History of Local Governments – Kevin Ritchie, AML

Mr. Ritchie provided a power point overview that is available for download at this link: <http://www.akaclg.com>. The presentation included a history of the evolution of local government in Alaska since Statehood, and a summary of the conclusions and focus of two previous local government advisory efforts that were conducted in 1979 and 1992. He said that the 1979 Local Government Symposium emphasized the constitutional mandate for creation of voluntary organized and unorganized administrative units where comprehensive regional planning would take place. He noted that the lack of regional administrative units was considered a roadblock to the efficient delivery of services, and that sharing state revenues was implicit in those findings.

The 1992 committee on governmental roles reached conclusions including that the state should directly provide basic services either directly or funded with state revenues. He noted another key conclusion was that citizens should bare a portion of the costs. Mr. Ritchie highlighted a significant finding that core services should be delivered at the state level and they are typically provided at that level in other geographically large states. Other findings included opposing federal mandates and transfers of those mandates to local governments, and ensuring that state revenue sharing programs should take into account local need.

Mr. Ritchie noted the overall decrease in the smaller local government budgets of 40% due to the cuts in revenue sharing. He said that the smallest cities represent 2/3 of all cities that received revenue sharing most of which have a population of less than 100. Using Ambler as an example of a small city in the unorganized borough (incorporated as cities, but without a property tax base due to large federal or state land holdings) being hardest hit by elimination of revenue sharing. Typically fuel prices are double the cost in small communities as they are in the larger communities, and there are not a lot of jobs, he said.

Mr. Ritchie referred to the State Assessors report on property values, entitled Alaska Taxable found at <http://www.commerce.state.ak.us/dca/osa/pub/04Taxable.pdf> noting the average property value per capita in areas in and outside of organized boroughs. For example the total value of everything in Ambler is listed as \$3.5 million, due to so much federal land that is not taxable it would not make sense to have a property tax. Also most residents don't purchase the bulk of their goods in Ambler, so a sales tax would not generate a great deal of revenue.

Referring to a list of cities in fiscal failure, Mr. Ritchie noted the increase (currently 13) in cities that are in various stages of dissolution, and added that to do so requires additional expenditures for hiring an attorney. Mr. Ritchie noted that many cities have eliminated their public safety budgets, and dialing 9-11 in many areas will not reap a response. He added that many states share revenue with remote or poor cities to ensure a basic level of services, and it's a normal thing to do. Rep. Thomas noted that many of the communities were in jeopardy of having their bulk fuel grants seized by the IRS. Alaska is facing a significant and important lack of services that requires a statewide solution, he said.

In response to a question by Rep. Thomas, Kevin said larger cities (with a property tax base) such as Haines are in a different situation, they have typically made up the lost revenue sharing and state support for services with increased local taxation. In response to a question from Rep. Joule, whether the sales tax paid by rural city residents equates to an equal or typical percentage (of annual income) paid per capita in property taxes by an urban taxpayer, Mr. Ritchie noted that would have to be studied.

Mr. Ritchie referred to a chart related to local contributions (for the larger school districts) for education funding and noted how the average cost that municipalities contribute has been increasing (from 28% to 36%). He noted that the state does not pay 100% of the cost of education in rural Alaska as some speculate, but approximately 69% of total funding for REAA's comes from the state (whereas 61% of funding for borough school districts comes from state funds). He noted that including impact aid (Title 1 federal funding), for which certain rural areas of the state are eligible (due to the impact from federal landholdings and thereby presenting a lack of a property tax base) closes, to a large degree, the ratio of difference between what larger communities contribute in the education formula as the local contribution. He also pointed out that several cities (18) in the unorganized borough function as home rule cities which includes the responsibility for education, Skagway Pelican, Tanana, Petersburg, Nome, being examples.

Rep. Coghill requested additional information on portions or conditions of impact aid, for education in the unorganized borough (REAA's), that can't be counted in the calculation that determines the amount of state funding for education.

Regarding the additional revenue that the state is realizing due to the high price of oil, Mr. Ritchie noted that there is a disproportionate additional cost in the rural areas from the high price they have to pay for their fuel. The formula used by the Department of Revenue is that for every \$1 increase in a price per barrel of oil, the state treasury gets \$65 million in revenue, but Alaskans will pay \$20.0 million for that extra cost (to buy the more expensive fuel), assuming little markup.

Mr. Ritchie concluded with a long list of functions and costs that have shifted from the state to the local governments and the property taxpayer, including alcohol treatment, police, and senior citizen property tax exemption. Senator Stedman asked how much of the shift is due to inflation. Mr. Ritchie said the good news is that the local governments have gotten leaner and more efficient by absorbing inflation. Mr. Ritchie referred to the constitutional mandate to divide the state into multiple organized and unorganized boroughs to move towards identifying particular administrative units and boundaries, and mentioned that the USDA is focused on regional economic development and is studying regional divisions in conjunction

with the Denali Commission (CEMPRA). The state needs to provide services in a consistent, coordinated way to through common regions, he said.

Rep. Thomas commented that several municipalities may be in a position to make money on the municipal sales tax on fuel in their communities. There was further discussion regarding the Senior Citizen tax exemption that local governments are required by statute to offer, but for which the state reimbursement has been discontinued.

Rep. Salmon noted that the bigger villages like Ft. Yukon and Galena where the city budget has decreased while the tribal budget has gone up. He said that private enterprise is experiencing barriers to entry.

IV. State and Tribal Government Relationships and Responsibilities

Greta Goto, Sr. V.P. and Director for the Native Policy Center, First Alaskans Institute.

Ms. Goto noted that First Alaskans Institute is a nonprofit charitable organization created to develop the capacity of native people through three emphasis areas.

1. Leadership Development (internship program)
2. Public Policy Institute (research center)
3. Education (improve education for Alaska Natives)

She noted that their Alaska Native Policy Center has been working closely with ISER on an analysis of their work: *Status of Alaska Natives*, and have circulated that work among seven of twelve ANCSA Native Associations for feedback. She noted the importance of recognizing the demographic impact of Natives in the state. There are over 120,000 Alaskan Natives in Alaska and that 58% live in rural Alaska, and that 44% is 19 years old, or younger, she said. Ms. Goto also noted that the organization has undertaken a literature review focusing on rural governance studies over the past 30 years, however it is still under construction. Upon completion she noted it would be available to the Commission.

Ms. Goto referenced another project they have just initiated: Rural Development Performance Measures, which will link economic growth activity to poverty reduction. She noted that their review of the state is structured around the 12 regional corporation boundaries. Looking at the data, and considering statistics on poverty it is indicated that statewide the poverty rate is 20% for Natives; whereas for non-natives it is 7%, but the poverty rate by ANCSA region varies. In response to a request by Rep. Coghill, Ms. Goto indicated that she would keep Commission members informed of progress.

Rep. Joule asked if there was current data or studies contemplated regarding the economic impact of trade between urban and rural Alaska. Mr. Ritchie responded that he was aware of a study prepared in the mid-90's (commissioned by the North Slope Borough) that concluded that one out of five jobs in Anchorage exist due to rural economic trade.

Vice-chairman Thomas asked what the outcomes of the earlier studies had been or whether ideas of the efforts were ever implemented. Mr. Ritchie noted that following the first 1979 Symposium revenue sharing was increased and reached its highest level in 1984 (\$140.0 million).

Chairman Stevens referred to a legal opinion characterizing the role of the Legislature in its mandate to act as an assembly for the unorganized borough. He asked Mr. Ritchie for clarification on the character of the home rule charter within the unorganized borough. Mr. Ritchie responded that the key concept is that creating regional administrative areas, not necessarily formal boroughs, allows for greater regional control and decision-making.

Rep. Coghill commented on the lack of a tax base in much of rural Alaska due to federal and tribal nontaxable lands, and economies that are not sustainable. He supported looking for relief where assets are present but unavailable, and to look for ways to create a tax base, recognizing that some areas are just not going to be able to show any assets on which to build. He noted that the DCCED reports are helpful but hopes this commission will be able to answer the question how to catalog the assets of an area - including a whole array of human, resource and economic - so that an area can, if possible, govern itself.

Rep. Salmon spoke about the various governing entities that exist in an area he represents. In Fort Yukon he noted the activities of: Tanana Chiefs, city, native village, state, federal, village corp., regional village corporations, regional health corporation, have a tendency to overlap and that the buck gets passed.

Lunch Break: 12:30 - 1:30 p.m.

V. Overview - Incentives and Disincentives to the Formation and Sustainability of Local and Regional Governments - Mike Black, Director, Division of Community Advocacy, Dept. of Commerce, Community & Economic Development

Mr. Black provided the members with a one-page overview, http://www.alaskapolitics.com/akacalg/pdfs/black_2005090101.pdf noting the premise that people want to take control of their local governments. The statutes provide people with the means to take control of land use, education, police, recreation, and utility operations, if they so desire. With that comes responsibilities, and resources. The state provides access to loans and grants. Generally disincentives are uncertainty, legal responsibilities for elections, and relationships with the state and federal governments.

He noted organizational grants are given upon formation according to statute; \$600,000 is allowed for forming boroughs, \$75,000 for cities. Other grants, such as federal revenue, PILT, national forest receipts, and shared fisheries taxes are distributed throughout the unorganized borough. He explained how PILT payments are determined, "Congress appropriates a certain amount of money nationally for areas containing large federal landholdings. In Alaska the money goes first to the state; in the unorganized borough, based on the acreage where large federal land holdings are present, for example, the large federal landholdings of the Yukon Wildlife Refuge in the Wade Hampton census district, the payment is calculated per acre and distributed based on population.

Rep. Coghill noted that a national legislative committee (CSG) on which he sits has been scrutinizing the issue of PILT payments in Alaska, and perhaps preparing to challenge Congress on the appropriation.

VI. Discussion – Rural Capacity for Self-Governance → Revenue Sources, Taxation

In response to a comment by Scott Brandt-Erichsen regarding national forest receipts formulas in and outside of organized boroughs, Mr. Black noted that due to the census district distribution Wrangell may not have the amount of federal land acreage to substitute for what Ketchikan gets via the census district. He also noted that forest receipts represent a tremendous revenue source for Southeast Alaska.

Rep. Salmon asked what kind of benefit Fort Yukon, which sits in the middle of a refuge, could expect by forming a borough given the vast amounts of federal land. Mr. Black said a PILT payment goes to Fort Yukon currently, if a borough encompassing more of the refuge were included that might change according to the final acreage.

Senator Stedman and Rep. Thomas noted that much of the national forest receipts go to Juneau, an area that has not had a great degree of logging activity.

Chairman Stevens touched on the subject of mining taxation and severance taxes and the impacts on local government and borough formation. Mr. Black said that a mining property tax was a strong incentive for borough formation, in the ability to provide a substantial, local tax base from major resource development.

Senator Stedman said that the biggest stumbling block against borough formation is the resistance to paying property taxes. Mr. Black agreed that was true and that the fears are not always based on a good understanding of the facts. For instance the 4 mil education equivalent is based on property values and the amount of tax that would be required by each property owner would be rather small in the smaller, less economically developed areas of the state, he said.

Chairman Stevens asked Mr. Black about the department's position on dividing the unorganized borough into regional units, one of the recommendations of the earlier studies on local government. Mr. Black responded that from a coordination standpoint it would be immensely helpful to manage (as a borough assembly would help) from a common region than what currently exists which is often a multitude of coordinating organizations. It made sense to him to correlate common regions when it comes to the investments of the state and federal government in those regions. This was identified as an area for further review.

Rep. Thomas noted that Valdez, Unalaska, Skagway and the North Slope Borough, are successful cities, but the legislature asks them to pay more for education, so success appears to be a disincentive. He noted the situation was difficult to explain. Mr. Black acknowledged the cases cited, in that these areas felt that they didn't receive a fair level of service from the state. He noted that in some cases it is an incentive to form a borough in order to avoid being taken over by another local government. Mr. Coghill noted that these results are due to statutory mandates, and that for instance Valdez chose to pick up extra responsibility.

Chairman Stevens asked Mr. Black to give the Commission further thought regarding the notion of dividing the unorganized borough into regional/administrative units. His response was received: http://www.alaskapolitics.com/akacg/pdfs/dcced_info.pdf

VII. Public Comment

Arliss Sturgulewski, former Senator and Co-Chair of the 1979 local government study, commented that it was refreshing to see that this Commission was looking backwards on earlier efforts. She noted that confusion regarding the multiplicity of governing entities was one of the prime reasons for the final unifying efforts of the Anchorage Charter Commission in 1975. It was a major undertaking that took two years including a rewrite of city codes and zoning at the time of oil and gas development. Deciding issues such as how much the North Slope would get from oil and gas, she said.

Ms. Sturgulewski noted that the recognition of 226 tribes by the federal government further contributes to the "multiplicity" equation of how services are delivered. As a revenue stream, tribal recognition has benefited communities, but nothing is done in a coordinated way.

There are sterling examples of things coming together, the Municipality of Galena along with the Loudon Tribe have engaged in very cooperative efforts, she said. She complimented Mr. Yoder for a coordinating effort in Galena called 'The Breakfast Club'. She lamented that "the rural voices don't come to Juneau anymore," noting that the rural tribal governments go directly to Washington, D.C.

Ms. Sturgulewski said that boroughs form when there is an economic incentive. She said that there is a lack of money for an area northwest of Fairbanks to work towards a potential Doyon Region borough which could use oil and gas taxation. She brought up the efforts of Delta (near the Pogo mine), which is moving towards possible borough formation, and suggested the Commission receive input from the chairman of the effort. Lake and Peninsula is faced with expanding their boundaries (Pebble); and in the Calista region, Kuskokwim village corporation is examining borough formation (Donlin Creek). She noted there are actions the legislature and state could take that would have either a negative or positive impact, for encouraging the formation of boroughs. She added that the state is not visible in rural communities; representatives from state departments are not known, unlike the elected representatives.

In response to a question from Chairman Stevens about why prior recommendations were not implemented, Ms. Sturgulewski said "the money came." She noted that there was a corresponding increase in revenue sharing, but that the preoccupation on spending money on capital projects sidetracked efforts to concentrate on the policy and statutory fixes to the unorganized borough boundary problems. She added that since then there have been good efforts but they often equate to reinventing the wheel. A good step would be the division of the unorganized borough into smaller segments.

In response to a question from the Chairman concerning her thoughts on severance taxes, Ms. Sturgulewski said that because there isn't a real state policy on severance taxes, changes to statute concerning types of local option taxes, such as severance taxes need to be considered very carefully. Specifically she identified SB 179, a bill held over the interim by the Senate CRA Committee, which along with a mining property tax in the unorganized borough, proposes to restrict mining severance taxes from local options. She noted that fish

taxes are considered a severance tax. She noted that areas along the pipeline corridor have an incentive for oil and gas severance taxation, and could have formed as boroughs.

Rep. Thomas asked for Ms. Sturgulewski's input regarding the idea of the incentive for borough formation such as organizational grants in lieu of land. She noted that ISER received grant monies to expand the University's role and to get a picture of areas with land deficiencies. She noted that even Anchorage never received their full entitlement. She said she promoted the idea of a community dividend, which would go a long way towards helping sustain rural communities, many of which are dying even while they're rich in resources.

Vic Fisher, former Senator and participant in the Constitutional Convention, said that he's been involved in local government in Alaska for 55 years. He said that the Constitution provides for maximum local self-government, and the borough provides for maximum *regional* self-government. Mr. Fisher noted that at the time of statehood Congress specifically prohibited counties in Alaska so they couldn't tax mining properties, canneries, etc. The borough concept was designed to be flexible, to provide for 1st class boroughs and other boroughs that might be established. The concept (envisioning areas such as Kotzebue, Southeast, etc.) was that those able to run their own affairs would form organized boroughs. It was not conceived that there would be one unorganized "amorphous mass," rather that all of Alaska would be divided into regional boroughs; either organized or unorganized to provide basic state services with maximum local participation. Each would be the basis for exercising some measure of maximum local self-government appropriate for that area, not necessarily with organization, as a means for regional planning and for coordinating state activity. He said that this basis exists in the REAA's, and in the model borough study done by LBC. He suggested using those existing delineations as a point of departure, and then to create something, make decisions, hold hearings and starting to move in that direction. He reiterated that the subject has been studied over and over again but we just haven't moved ahead.

Mr. Fisher said a disincentive, aside from concern and fear and the unknown is the existence of mandatory *powers* that have to be exercised by the organized borough. He said those mandatory powers are a creation of the legislature. There is no reason why an area would have to jump from unorganized status to immediately have to exercise those particular powers. The other aspect is home rule, he said. He suggested that the Commission look at that issue in terms of adding flexibility to make the idea work. The Constitution provides 1st class cities and boroughs can move to home rule. Sitka, and Juneau and Anchorage have exercised home rule very effectively as urban boroughs. Areas such as the Northwest Arctic, Lake and Peninsula Borough, North Slope have exercised it well. Each region can decide on its own, subject to state law, to adopt a charter adapted to its particular region. He said that even the least capable unorganized borough should have a voice and be able to craft a home rule charter to meet their needs as far as how they organize and what they do and don't do.

He said that the rural governance commission discussed boundary delineations in relation to jurisdiction. Mr. Fisher said that during the writing of the constitution tribal governments were not an issue, as subsistence was not an issue in those days. They established a local government system where only cities and boroughs could tax. Tribal governments that

function as governments cannot be recognized as part of the local government system, however, in retrospect he wishes there wasn't that restriction. He said that Lake and Peninsula Borough has demonstrated that they can use tribal governments for delivery of services. Lake and Peninsula Borough treats communities with a tribal government the same as they do small city governments.

Rep. Coghill asked if Mr. Fisher was aware of the intent in creating REAA's and limiting their taxing authority, and whether the boundaries followed the ANCSA regions? Ms. Sturgulewski responded that a tremendous amount of work and public hearings went into the work of the LBC in determining the model borough boundaries, as well as court decisions. Mr. Fisher added that REAA boundaries relate in some ways to the ANCSA boundaries, however it's not formulaic (some ANCSA contain several REAA's). Ms. Sturgulewski suggested that there be a public forum to get support for regional borough restructuring, if legislation is developed. She said when there's economic incentive they will form. Mr. Fisher added that the state has the ability to raise revenues in a way that no local government has. Resources that provide revenue to the state are in rural Alaska he said, and the state can serve as a "collection agency" to then channel the money back out for local services at the local level. But, he warned, there needs to be operational money for the local governments from the state on a continuing basis.

VIII. Strategies and Solutions/Possible Legislation

Issues Identified:

- Revenue sharing options: safe communities per capita?
- Governmental stratification working with other entities in regional areas on common concerns.
- Create regional/smaller unorganized units of the unorganized borough
- Encourage the 2-3 most likely areas ready to form boroughs
- Examine Incentives/\$ Endowment - targeting above areas
- Severance tax as revenue base for forming borough government
- Examine effect (incentive/disincentive) of 4 mil tax on unorganized borough (valid valuation/labor income statistics available? ISER? Bunde's bill: SB 112)
- Property tax exemptions
- Statutory changes necessary to remove the disincentives to forming borough (narrow zoning, taxing, other powers explicit in Statute)
- Exemption of TAPS from local valuations in unorganized borough (HB 217)
- Extending Home Rule powers to sub areas of the unorganized borough
- Examine forest receipts distribution
- Dissolution procedures/e.g. all debts paid, leftover assets
- Examine structure of REAA's why organized as service districts as opposed to Borough?

Marvin Yoder spoke to the need for providing services for issues of statewide interest such as law enforcement. He cited incidents where police could not respond due to manpower shortages and the increase in criminal activities such as meth labs.

Scott Brandt-Erichsen, referring to the interest in extracting revenue from rural areas to pay for education, emphasized the need to know what income and assets are available in the unorganized borough. He asked if there are statistics on per capita income levels in the unorganized borough vs. the organized borough. If the ratio of per capita tax burden to per capita income might be in the same range as an actual mil rate or sales tax rate, it might shed light on the assumptions.

Mr. Fisher noted that ISER has received U.S. Census permission to provide relevant information on regional income data. Rep. Coghill noted that the Dept. of Labor only has half of the information.

Discussion continued relating to the structure and boundaries of the REAA's, and the statutory requirements for provision of education to those areas as a disincentive to organize as a borough.

Rep. Joule commented that the present group is akin to "preaching to the choir" they collectively know what people in rural Alaska are capable of, and that what these areas need is empowerment. That would put less of a burden on the Legislature. He wanted the group to recognize that mandating changes threatens a community's ability to feel empowered. There needs to be an effort to work with these communities and not simply do something to them. He encouraged the Commission to work with the local governments and groups, and to resist condemning for instance that some communities with limited public and private services may rely on income such as Bingo receipts, and understand the unique situations that exist in the rural communities.

There was discussion regarding the limited lifespan and mandate to the Commission and, and how the next meetings should be concentrated on narrowing the scope to specific legislation ~ keeping in mind that like the Salmon Task Force there were many ideas that did not move forward. Sen. Stedman emphasized a need to concentrate on areas that are truly needy (without an economic base) as opposed to other areas that have an economic base but just chose not to tax themselves.

Rep. Coghill suggested that one emphasis should be on the capacity of areas to tax themselves; one approach could be that if the area is willing and able to take on certain levels of governance, then there would be some incentive or formula that recognizes that greater independence. Keeping in mind that some areas have federal lands, and state lands that are not taxable, and that we should strengthen partnerships between other entities.

X. Identify Subsequent Projects, Meeting Times and Locations

The next meeting of the Commission was suggested (and later determined to be) October 21, 2005 in Fairbanks, during AFN. Other meetings suggested were November 10th in Bethel or Anchorage (AML meets there then). A possible meeting in December was discussed, with a final meeting suggested to occur a few days prior to the first day of next session

XI. The meeting adjourned at 3:45 p.m.

Advisory Commission on Local Governments

September 1, 2005

Overview-Incentives and Disincentives to the Formation and Sustainability of Local and Regional Governments- Mike Black, Director Division of Community Advocacy

Broad terms

Incentives of forming local government include taking control of your community and region and entering a higher level of dialogue with other governments-whether state, federal, tribal or regional. Taking control occurs through both mandatory powers such as platting, planning, zoning and education; and optional powers such as police and public safety; recreation; utility services; road maintenance; economic development; and, receiving grants and loans for the benefit of the residents of a community and region to implement improvements.

Disincentives of forming local governments are that with each of these and other powers there are attached responsibilities. The responsibility to operate as a legal subdivision of the state; to conduct business in a manner that requires accountability and fairness of process; to honor the fiduciary responsibility of government; to perform as a democratically elected governing body and to provide for the financial participation of the residents and property owners of the local government unit.

Specifics

Incentives

- Organizational grants (\$600k for boroughs; \$75k for cities);
- Entitlement and designated financial grants (PILT, Shared Fisheries Business taxes; National Forest Receipts)
- Financing capabilities of local government for infrastructure and services (bonding)
- Taxing and other powers to provide needed services
- Land entitlements from the State (10% of vacant, unappropriated, unreserved State lands)
- Capacity to supplement education funds (operating and capital) provided by the State
- Regional influence and more control of activities (alcohol control, land use regulation)
- Avoids takeover from other local governments (virtually eliminates prospect of being annexed to adjoining government)
- Avoids legislative actions directed at unorganized borough (e.g., prospect of mandatory incorporation, school consolidation, taxation)

Disincentives

- Lack of adequate organizational grants (level has been unchanged for 20 years)
- Loss of general financial aid from the State (Revenue Sharing and Safe Communities)
- Loss in local control of schools by larger area school boards
- Perception of additional layer of local government
- Demands of conducting business as a local government unit
- Taxes/Fees on residents and property
- Required 4-mill contribution for education (HB 217 TAPS exclusion)
- Restrictions on use of private land
- Accountability

Background

Status of Distress in Small Communities

Summary of information gathered by the Alaska Municipal League

No agency of the State or other organization has up to date reports on the economic status of small communities. This appears to be due to both the lack of a process and sufficient staff to do so, and the fluidity of the situation as communities struggle to find new ways to make ends meet in the face of rapidly rising costs. Attached is a brief analysis by AML with the information available.

- ◆ As shown below, according to state figures, most small cities have virtually no property tax base due to large amounts of nontaxable federal and low value land. Also, while most small municipalities have sales taxes, the local sales tax base is extremely small because the communities are generally poor and most purchases are made in urban centers. Property and sales tax are the primary revenue sources for municipalities in Alaska.
- ◆ The "Status of Alaska Natives 2004" by the UAA-ISER, "only about 35% of all native jobs are full-time and year-around", "natives are three times as likely as other Alaskans to be poor," and "all the economic problems natives face are worst remote areas, where living costs are highest." Most small rural cities have a high native population.
- ◆ The current cost of fuel for some small communities is reported to be as high as \$6 a gallon as of last month (July, 2005). In remote areas, where transportation costs are such a high percentage of the cost of all goods and services, and the communities are generally cash-poor, the cost of fuel alone appears to be a huge and growing problem that may break the back of the local government and the families in these communities.
- ◆ According to native municipal leaders, when oil development was beginning, native leaders asked how they could get their share of resource revenue to improve the quality of life in their community. The State's answer was to form a municipality. **In fact, 84 of Alaska's 145 cities were organized since 1969, the year when municipal revenue sharing was initiated.** The end of the sharing of state resource revenues with cities and boroughs may mean the end of 50% or more rural cities over the next several years as financial reserves are exhausted and short-term strategies, such as failing to make payments to the IRS, fail.
- ◆ Alaska is in the midst of an oil boom, but this one comes with a heavy price to cities, boroughs, businesses, and families. According to OMB, the State treasury receives \$65 million for every dollar in the cost of a barrel of oil, while cities, boroughs, businesses, and families pay \$20 million for every dollar in the cost of a barrel of oil (Per federal estimates of fuel use by Alaskans at 20 million barrels per year). For example, a \$40 increase in the price of a barrel of oil gives the State treasury \$2.6 billion in additional revenue, while Alaskans pay \$800 million more for heating fuel, motor fuel, and transportation. The impact of the increasing cost of fuel in remote communities is the greatest.

January, 2005
Local Government Issue Paper
Alaska's Small Cities in Crisis



In 2003, there were 94 cities with annual local government operating budgets under \$300,000 per year, and averaging \$164,000, to provide public services for an entire community (according to State figures, DCED). From 2003 to 2005, those 94 cities (out of a total of 146 cities in Alaska) **lost an average of approximately 42% of the revenue required to provide basic public services.** The crises are due to massive State cuts to cities at a time of skyrocketing local costs and economic downturns. In 2004, Alaska became one of two states that eliminated its local government revenue sharing programs. Most small rural cities operate in a cost effective manner with many part-time or volunteer positions. However, most of Alaska's small rural communities have very little local tax base due to cash poor subsistence economies.

2003 Average Operating Budget for two thirds of AK Cities	\$164,000
<u>Examples of Approximate 2003-04 Cuts/cost increases:</u>	<u>-\$69,000</u>
2003 State Cuts to Revenue Sharing/Match Grants	-\$10,000
2004 State Eliminates Revenue Sharing	-\$40,000
Fuel/electricity/goods rise due to oil prices	-\$7,000
Community insurance increases	-\$6,000
State mandated increases (PERS)	-\$4,000
New state inspection fees, service transfers, etc.	-\$2,000

Growing Impacts of Loss of Revenue Sharing, etc.

It is difficult to know the status of small rural communities. Few that fail have the administrative capacity to take steps to formally dissolve. They simply layoff their employees, cease being able to hold elections, cancel insurance for community facilities, stop providing services, etc. In some cases tribes or other organizations take over key government services.

See following update on cities generated by the State.

Alaska Municipal League, 213 Second St, Juneau, AK 99801 (907) 586-1325

General Rural Alaska Conditions

Extremely High Costs	E.g., Gas at \$5.15 to \$6.00 a gallon
Extremely High Unemployment	Unemployment is 50% or more
Virtually No Property Tax Base	E.g., All of Ambler is assessed at \$3.5 million (i.e. low property values and much non-taxable land.)
Low revenue from sales tax	Despite the fact most cities have sales tax and many are raising it, it won't save them because the base of local sales is so small. E.g., Each 1% of sales tax in Ambler nets \$7500/year.
Very Strong Stable Communities	Most rural communities have existed for thousands of years. The problem is that they are cash poor.

Impacts of the loss of State support

State impacts of loss of insurance	It appears that the State is the logical "deep pocket" for losses of uninsured cities in the Legislature's Unorganized Borough. <u>One loss</u> could exceed the cost of a municipal revenue sharing program that would allow communities to purchase insurance.
Statewide economic impacts	Rural residents are moving to urban areas in accelerating numbers while urban jobs serving rural Alaska are declining. Currently an estimated one out of five urban jobs directly or indirectly serve other regions in Alaska. Rural communities attract a large amount of federal and foundation resources that cycle through urban economies.

Loss of City Government Status as of 3/05

Per State DCCED,

- ☐ 13 cities no longer functioning
- ☐ 18 cities in deep debt
- ☐ 39 cities have terminated key local services this year (e.g. police, road/utility/facility maintenance)

Per AML Joint Insurance Association :

- ☐ 10 cities insurance canceled
- ☐ 33 cities on month to month payment plans due an inability to pay

Conclusion

Alaska faces the loss of half its city governments. Unlike an occasional western U.S. boom town that becomes a ghost town, this represents a growing widespread loss of municipal governments in historically stable (2,000 years or more) and culturally rich communities.

Status Update (DCCED, Division of Community Advocacy, 3/1/05)

Municipal Governments

There are 20 first class and 113 second class cities in Alaska. These municipal governments are responsible for providing core services to the residents in those communities. The revenue they receive to provide these services is categorized in to three classes. Locally generated revenue is a category and includes sales taxes, profits from gaming operations, user fees from services, rental of buildings and equipment and administrative fees from management of grants. Grant revenue as a second category is frequently used to provide social services, or assist in paying for governmental services such as police. A third category of funding for municipalities is state-shared revenue. This includes Payment in Lieu of Tax (PILT), Shared taxes (fish tax, telephone coop taxes), and up to the past year Revenue Sharing/Municipal Assistance/Safe Communities/Temporary Fiscal Relief Payment.

In the past few years we have seen a reduction in funds distributed to municipalities at the same time as an increase in cost through higher insurance premiums, fuel costs (and thus transportation costs), and retirement plan costs. This set of circumstances has put many municipalities in hard financial times.

In examining the financial status of municipalities we can break them out into several categories:

- Closed down or transferred operations to another entity;
- Accrued significant debt or financial problems yet to be dealt with; and,
- Struggling with financial situations or have made significant reductions to core services.

Getting situational reports that can be used to evaluate the financial health of every municipality is extremely hard. While the communities in the first and most financially distressed category are relatively easy to define, it is likely that there are additional communities in the other two categories that we are not aware of.

Closed down or transferred operations to another entity,

Currently there are 9 municipal corporations in the State of Alaska that have ceased day to day operation. These nine are Ahkiok, Kiana, Kivalina, Kupreanof, Mekoryuk, Nikolai, Platinum, Quinhagak, and Russian Mission. Two of these cities, Kiana and Quinhagak continue to maintain a shell of a municipality (no employees, but hold elections and joint council meetings) in order to maximize revenue coming into the community.

Accrued significant debt or financial problems yet to be dealt with.

There are 18 communities that we know about that have extreme managerial or financial problems. These problems are severe enough that they could be considered to be insolvent. The problems include:

- Not completing the basic function of municipal government including holding elections, holding regular council meetings, or adopting a yearly budget,
- Large debt to vendors, including; the IRS, fuel companies or the state for delinquent fuel loans, or insurance companies,
- Operating without workers compensation insurance,
- Having lawsuits filed against them (or unpaid judgements) and not able to afford legal council,
- Having to transfer operation of water/sewer to other entities in order to eliminate expenditures. Sanitation is considered a core service that is almost always the major capital investment made by state and federal agencies in the community. Remaining services provided by city are minimal.

Struggling with financial situations or have made significant reductions to core services.

There are 39 communities that we know about that have significant financial problems. These problems could become severe enough in the next 24 months to cause closure of the city administrative offices and result in the financial insolvency of the municipality. These municipalities have already eliminated a core governmental service. The problems include:

- Eliminate core municipal services such as police protection, closure of washeteria, or elimination of road maintenance due to lack of available funds,
- Large PERS debts from terminating from the PERS program,
- Large IRS debts or default fuel loans to the Alaska Energy Authority,
- Significantly behind on payment for insurance or fuel.

The following listing of municipalities by category of distress is based upon evidence provided from various sources to the Division's Local Government Specialist staff. There is no way to completely and accurately predict the future. These are estimates of the municipalities we believe to be in various levels of financial distress.

Closed down or transferred operations to another entity (9 municipalities)

Ahkiok	Kiana	Kivalina	Kupreanof
Mekoryuk	Nikolai	Platinum	Quinhagak
Russian Mission			

NOTE: AML has also been notified that the cities of Kobuk, Ambler, Noatak, and Kwethluk are no longer functioning as of 4/20/05

Accured significant debt or financial problems yet to be dealt with (18 municipalities)

Allakaket	Buckland	Chevak	Goodnews Bay
Grayling	Holy Cross	Hydaburg	Lower Kalskag
Napaskiak	Nunam Iqua	Pilot Point	Point Hope
Saint George	Shageluk	Shishmaref	Toksook Bay
Upper Kalskag	Wales		

Struggling with financial situations or have made significant reductions to core services (39 municipalities)

Akiak	Alakanuk	Ambler	Anaktuvuk Pass
Angoon	Atquasuk	Chignik	Chuathbaluk
Clark's Point	Diomedea	Eek	Emmonak
Gambell	Golovin	Hooper Bay	Kaktovik
Kobuk	Kotlik	Koyuk	Koyukuk
Mountain Village	Napakiak	Nightmute	Noorvik
Nuiqsut	Old Harbor	Pelican	Pilot Station
Port Lions	Ruby	Saint Michael	Scammon Bay
Selawik	Shaktoolik	Shungnak	Teller
Tenakee Springs	Togiak	Wainwright	

OUTSTANDING FEDERAL TAX LIENS
ALASKA MUNICIPAL AND TRIBAL GOVERNMENT ENTITIES
EFFECTIVE JUNE 1, 2005

Entity	Date Lien Recorded	Lien Amount	Total Lien Amount Outstanding
Akiak, City of	11/12/97	8,728.51	188,764.39
	01/30/04	35,572.20	
	01/30/04	123,627.09	
	08/30/04	11,406.39	
	01/18/05	9,430.20	
Alakanuk City Council	07/20/04	86,728.88	125,710.19
	08/17/04	24,232.25	
	12/20/04	15,235.76	
Anaktuvuk Pass City Council	12/28/04	15,117.90	15,117.90
Chefornak Traditional Council	12/28/04	47,814.50	47,814.50
Chevak City Council	08/04/03	77,873.65	196,600.07
	11/20/03	7,633.62	
	05/10/04	34,567.89	
	06/01/05	76,524.91	
Circle Village Council	01/13/03	125,990.51	248,700.43
	05/16/03	26,236.05	
	07/02/03	14,878.98	
	02/14/05	82,594.89	
Diomedes, City of	03/14/05	15,283.52	15,283.52
Grayling, City of	11/12/97	42,353.79	118,969.53
	02/04/00	9,621.99	
	02/18/00	63,497.65	
	06/09/03	3,496.10	
Hooper Bay Traditional Council	10/07/03	24,858.58	24,858.58
Kivalina City Council	03/25/04	57,486.31	93,623.95
	06/14/04	14,614.44	
	09/07/04	10,761.60	
	09/07/04	10,761.60	
Lower Kalskag, City of	05/31/05	33,249.34	36,152.34
	06/01/05	2,903.00	
Mary's Igloo Traditional Council	04/25/05	29,876.95	29,876.95
Bingo			
Nondalton, City of	12/08/97	39,562.46	39,562.46
Northway Village Council	08/06/04	79,260.56	144,633.87
	03/07/05	65,373.31	
Pilot Point, City of	10/05/04	30,214.54	30,214.54

Entity	Date Lien Recorded	Lien Amount	Total Lien Amount Outstanding
Pilot Point Village Council	04/14/05	79,171.10	79,171.10
Point Hope, City of	04/21/04 04/26/04 12/13/04 03/07/05 03/07/05	56,691.22 20,672.89 595.03 11,471.03 16,778.82	102,208.99
St. Michael, City of	11/14/97 08/23/99 08/23/99 10/30/00	23,375.41 91,837.99 8,818.91 65,276.62	189,308.93
St. Paul, Aleut Community of	12/10/97 10/11/04 04/14/05	35,155.09 104,299.64 145,776.00	Undetermined
Saxman, City of	01/24/04	200,269.11	200,269.11
Shishmaref, City of	05/14/02 02/17/05	85,335.75 16,431.47	101,767.22
Solomon Native Village	03/02/04	8,517.36	8,517.36
Teller Traditional Council	05/17/04	5,831.76	5,831.76
Tetlin Village Council	02/28/96	5,950.92	5,950.92
Togiak Traditional Council / Togiak NAHASDA Housing Program	11/18/04	10,201.21	10,201.21
Tununak Traditional Council	06/07/01 11/27/01 11/27/01 02/03/04	21,188.88 88,288.82 88,943.71 9,292.79	207,714.20
Tununak Traditional Tribal Elders Council	11/12/97 12/09/97	6,430.56 6,430.56	12,861.12
Venetie Native Village	06/26/84 02/08/85 02/08/85 03/20/96	242,260.00 196,245.85 1,637.59 6,482.02	Undetermined
Wales, City of	02/23/05	5,339.21	5,339.21

Notes: Liens assessed against village corporations in April/May 2005 were:

04/13/05 – Kake Tribal Corporation -- \$13,100.00

06/01/05 – Kake Tribal Corporation -- \$14,975.30

04/18/05 – Atkasuk Corporation -- \$188,570.33

Source: Alaska Department of Natural Resources.

SCOMM

140:2

Alaska State Legislature

Senator Gary Stevens, Chair
Alaska State Capitol, Room 103
Juneau, Alaska 99801-1182
Phone 907-465-4925
Fax 907-465-3517



Committee Members:
Rep. Bill Thomas, V. Ch.
Sen. Tom Wagoner
Sen. Bert Stedman
Rep. John Coghill
Rep. Woody Salmon

Advisory Commission on Local Government

~~~Draft agenda~~~

October 21, 2005

Fairbanks LIO

8:30 a.m. – 12:00 and 1:00 p.m. – 3:30 p.m.

(Teleconference: Wagoner, Stedman, Coghill 1-800-395-5073)

1. Roll Call
2. Approval of Minutes
3. Presentations:

Bill Allen, USDA, Rural Development Division/CEPRA – Council on Economic Policy for Rural Alaska/regional efforts

Lamar Cotten, Deltana Borough Commission, ((via: teleconference))  
Process and progress/status report

Mike Black, Director Division of Community Advocacy, DCCED, Review of questions regarding forms of government - changes to Title 29, Home Rule Light...

4. Public Comment Period

Lunch break

5. AML, Kevin Ritchie (and/or Denali Commission - who are meeting during AFN as well....)
6. Review of Legislative options: current legislation, ideas for legislation, support (subcommittees?)
7. Rep. Mary Kapsner, Bush Caucus update on Rural Energy Action Council recommendations - bulk fuel problems
8. Adjourn

# Alaska State Legislature

**Senator Gary Stevens, Chair**

**Public Members:**

Lisa Von Borgen  
Scott Brandt-Erichsen  
Marvin Yoder



**Committee Members:**

Rep. Bill Thomas, V. Ch.  
Sen. Tom Wagoner  
Sen. Bert Stedman  
Rep. John Coghill  
Rep. Woodie Salmon

## Advisory Commission on Local Government

### Minutes

October 21, 2005

Fairbanks LIO

**Roll Call:** Members present: Chair, Sen. Gary Stevens, Vice-chair Rep. Bill Thomas, Rep. Woodie Salmon, Lisa Von Borgen, Scott Brandt-Erichsen, Marvin Yoder (Teleconference: Rep. John Coghill 1-800-395-5073). Not present: Sen. Bert Stedman, Sen. Tom Wagoner, Also present: Sen. Gary Wilken, Rep. Mary Kapsner, Rep. Reggie Joule, Bill Allen, USDA, Rural Development; Michael Black, Director, Division of Community Advocacy, DCCED; Kevin Ritchie, Alaska Municipal League;

**Approval of Minutes:**

Minutes of the September 1, 2005 meeting. Lisa Von Borgen moved for approval, no objections.

**Presentations:**

Bill Allen, USDA, Rural Development regional director

**Rethinking Rural Economic Development**

Sustainable Utilities Committee was formed in 2001. Look at what state and federal agencies could do to provide rural Alaska with sanitary conditions. Have invested a lot of money toward that goal. USDA Allen is required to report to Denali Commission about systems installed. In July was writing report to Denali Commission. Came to realization that all systems in Rural Alaska are not sustainable. What do we do about making those systems sustainable so they can have an economic life of 25 to 50 years? Need to generate activity in the rural areas to generate revenues. Most challenging problem is getting communities on firm financial footing. Federal dollars are being reduced and will continue to be reduced. Financial problems for survival will continue. The root of problem is how do you create sustainable economies in rural Alaska. Success should not be measured by the number of grants a community receives. Using more effectively the resources we have. Public safety utility, post office, village store, teachers, health aides are the jobs available in rural communities.

Task force is often a way to put off doing something. In this case a task force is the way to go. Denali Commission is well equipped to be that task force. Work group will serve as council on economic policy. Council on Economic Policy of Rural Alaska eight regional task forces of the state are being formed. CEPRA will present a proposal to governor and legislature impediments of economic development and ways to deter the impediments.

CEPRA's initial meeting on Aug. 17<sup>th</sup> established a steering committee. That presentation is posted on Denali Commission website. Steering committee is comprised of leaders and entrepreneurs and representatives from on road and off road communities. High cost of energy, lack of adequate transportation, lack of skilled workforce, lack of acceptable housing, lack of available land, lack of universal communications. USDA loan application is intimidating just because of size.

Have asked people from rural Alaska to serve on task force to look at potential economic development projects statewide. If a village is not interested we move on to another village. Looking at starting with small projects. The Project Evaluation Committee is action oriented. It will evaluate projects and move on to the Capital Committee to seek funding if the evaluation committee finds the project workable.

Alaska Native Health Trust, USDA, Rural Development, SBA can share the funding of a project. The impediments to the success of a project are on the table to resolve. Identify various organizations and entities that provide economic development services and funding. Alaska Native Health Trust, USDA, Rural Development, SBA can share the funding of a project. The impediments to the success of a project are on the table to resolve. Identify various organizations and entities that provide economic development services and funding. There were 42 economic development groups in FNSB when he was mayor and the population was 75,000. He consolidated them into a single entity.

Find out what the entities have tried, what works, what didn't work. Recently met with three ARDOR directors from SE and Kenai. Discussed state of Ohio website. It is business friendly not structured for government convenience. Chris Buckhold's job is going to communities to set up Internet and broadband. People in communities need to be trained to utilize the potential. Agency has money to fund several million dollars for Internet and Broadband. Training for ecommerce is a necessity. Impressed by ARDOR representatives.

Third step identify solutions to impediments for local economic development, establish local cash flow and create local jobs. As CEPRA develops will create a plan to kick this into action and identify projects improve lives

Demand from China and India ensures that oil prices are not going to decrease. Current practice is to sustain present lifestyle. Find ways to generate revenues in communities. Alaskan bankers need to step up to the plate and fund economic development projects in rural Alaska. As a banker his practice was to fund only projects in Fairbanks, maybe in North Pole but certainly not Galena. Bankers have a tendency to sit at their desk and wait for projects to come to them. He suggests they get out of their chair and go to rural Alaska to look for projects to fund that will create real economic development. Need to grow small business sector statewide.

Let's not borrow money to fix band-aids. The biggest challenge is to believe in us and invest in ourselves. Hope the legislature will help makes this happen. At initial steering committee an elderly fellow from Barrow, Nelson Angivak said let's get beyond talk and get something done.

Bill asks the legislature to give him one long-term project and one short-term project to fund. Bill will be there as ex-officio for the steering committee to help with funding but will not be making any of the decisions. Marvin Yoder is on the steering committee.

Gary Stevens has toured some of the mining projects lately and has found that the mining companies are trying to work with subcontractors locally for supplies and housing. Bill said, "we need to make sure that training is provided for local workforce". Stopped in Kotzebue recently and met a family nurse on the plane. She had been in Kotzebue for three months gets room and board plus transportation and \$45 an hour. Why can't we fill these jobs with Alaskans. Palmer hospital is being vacated in January and he is looking at making it a training center for health care providers.

Economic development is one job at a time. We are not going to get GM to relocate production plant to Valdez. That is a reality. He is obsessed with this project. People in rural Alaska need to be able to get up in the morning and go to a job. The suicide rate is horrible.

Bill Thomas commented that in SE they get a project to the end and the environmentalists rip the heart out of it. He said the steering committee needs a representative from the environmental community to nip the problems ahead of time.

Lisa asked about where the University falls into this committee. Bill noted that Wendy Redman represents President Hamilton on Denali Commission. Said the keystone of success is identifying the solutions to impediments. Transportation task force just met last night. Impediments for most economic development prospects are transportation.

Woody Salmon said the economy in the bush is nil, but can economy be enhanced with high oil prices. Allen said you cannot be a production community with 54 cents KWH and high oil prices. AVEC board said if people are not paying their bills, turn off their power.

Scott Brandt-Erichsen noted that the August 17<sup>th</sup> minutes provided to the Commission contained a theme presented by an economic development specialist regarding the need to have individual entrepreneurs help generate a cash economy in rural Alaska. In Scott's experience a committee looks at community-wide larger economic development projects. Allen has spent a lot of time with Vernon Smith, Nobel Prize winning economist. Flowchart of CEPRA needs to be turned upside down. Want CEPRA members to go out in villages to help communities to look at what resources are available to create a cash community.

Example: Elim has marble granite and would like to manufacture tombstones. The idea came from an individual who is doing his research and will need funding to carry the project out.

CEPRA is asking communities to form local economic development groups to identify projects to present to CEPRA.

Lisa: How do you protect the proprietary rights of an entrepreneur's projects? Allen doesn't have an answer for that. Because you are dealing with government funds the project has to be transparent. USDA is asking people to write down a concept and sign it. He will protect the idea the best he can. He can make assurance of protection. Hopefully people will have integrity.

Bill Thomas was concerned about match money. He doesn't want match to be an obstacle. He wants to create a cash economy in rural Alaska. If he had an idea that cost \$3 million, he sure as heck can't come up with \$300,000. Allen said a project might have to be subsidized for three years, which is okay as long as the project can become sustainable in three years.

#### **Lamar Cotten, Delta Borough Commission process and progress/status**

The area considering borough formation includes 5,000 people 900 of which live in the city that maintains public services. Two broad issues occurring in the area are the increase of construction and operation of Greeley BMS and Teck-Pogo's investment in the mining operation. To date they have 300 million invested. Projecting 300 jobs at site. Third thing is increase in Slavik population. 45% of grade school population is Slavik and roughly 23% of population is Slavik.

LBC identified model borough boundaries for the unorganized borough that includes the Delta area with the Alaska Gateway REAA (Tok). LBC completed a recent analysis of the areas that minimally met the LBC incorporation standard and it included Delta/Tok. Other factors creating interest in incorporation include SJR 12 by Sen. Wilken several years ago supporting formation of boroughs and FNSB has looked at annexing Pogo-Teck.

The commission came up with a unified home rule borough consolidating the REAA, city, state planning and platting powers. The boundaries would be those of the Delta-Greeley REAA. The local revenues would be a 3% fuel tax and 10% energy tax along with the Teck-Pogo PILT agreement. All assembly and school board seats would be at-large.

The city is studying the PILT and will address it on November 1<sup>st</sup>. The PILT would be a ten-year contract and if there is no borough formed by January 1, 2008, the contract would expire. The assembly with the Mayor's concurrence can appoint a borough administrator.

If no borough is formed Pogo would pay \$500,000 to city in 2005. In 2006 Pogo would pay \$500,000 to city or borough and \$1 million to city or borough in 2007. Once a borough is formed, in 2008 Pogo would pay 10 mills or \$2 million, whichever is higher. Teck-Pogo has agreed to pay a portion of bonded capital projects at a rate of 1.35 mills up to 2020, not to exceed \$350,000 annually.

There has been discussion on why to vote for this. People aren't really against a borough they just don't want to pay for it. The ballot on the revenue issue will be designed as one vote. The ballot issue is all or nothing. The voters have to approve the tax package and the incorporation together.

Mr. Cotten noted concern about legislation that has interfered with their Borough formation efforts. SB 179 may be an honest effort to weed through the complicated issue of severance and property tax in rural Alaska. He is leery of any bill that creates two classes of boroughs. The state cannot promote local government and probably should not set different standards for local government. Pogo, Donlin Creek, Pebble are three major mining projects. Pebble is in an existing municipality. He is perplexed that the mining operations haven't sat down with the people surrounding the operation to see what the problems are and what they are trying to achieve.

Marvin Yoder said it seems the areas mentioned are areas with large economic development projects. He also speculated that areas with the TAPS are ripe for a borough. He was interested to see Rudd attorney saying there will be other taxes raised. Lamar said he thinks it is unfair to require one industry to be the taxpayer. It is unwise to rely on one source of taxes. He thinks regions need to find a fair way to pay for services without gouging the mining industry.

Marvin asked about a statewide severance tax. Lamar said there are so many unknowns, the number of new people moving in, gold prices, and oil prices. There is a Kodiak severance tax on fish. There is a 1986 Alaska State Supreme Court decision about Red Dog

Letter from Guess & Rudd attorney James De Witt discussing the Payment in Lieu of Taxes proposal between Teck-Pogo and Deltana Charter Commission discusses how Fairbanks North Star Borough was established by the legislature in 1964 and the legislature has the ability to form any borough without the permission of the residents. It discusses that most, but not all, boroughs use property taxes as the primary source of revenue. The Deltana Charter Commission intends to form a borough without property taxes so the focus of discussions with Teck-Pogo is a mineral severance tax. Denali Borough imposes a mineral severance tax on Usibelli Coal Mine and Northwest Arctic Borough imposes a mineral severance tax on Red Dog Mine. Mineral severance taxes are not addressed in state statute and the legality of it is questionable but to date there have been no court challenges.

Negotiations were disrupted by the SB 179 legislation that would limit a mineral severance tax to 4 mills on a portion of the mine's assets. Legal challenges would require the Deltana Borough and the City of Delta Junction to spend dollars they don't have.

Scott said Article IX section 1 of constitution states the power of taxation shall not be suspended. What if someone gets tired of paying an energy tax and files a public interest litigation? DeWitt's letter states there is a chance of that.

HB 217 is language from SB 48 which gives flexibility to communities along the pipeline the state is not obliged to pay the 4 mills required under AS 43.56

### **Mike Black, DCCED, Review of questions regarding forms of government - changes to Title 29, Home Rule Light**

Mike Black is inspired by Vic Fischer's comments of thinking out of the box. State law says if you are a borough you have areawide school operation responsibility, platting requirement, and taxes. There are many discretionary powers from solid waste to police powers. They have applied light-borough concept for Haines borough having school operation responsibility and deleted the requirement of regulation of land use. The commission might consider a new idea. Everyone involved with state services realizes there is a difficult time with overlapping of all agencies involved with some or all the authorities in an unorganized borough. If you form a mandatory borough make the assembly work with those agencies with their decisions affecting that borough. Receive, review and comment of proposed capital projects in the borough. Provide a sounding board for legislative proposal. Become a clearinghouse, like 'A95 Process' federal clearinghouse, where all agencies provided comments in a regional basis.

#### **Light Borough Concept:**

- Receive, review, and provide written comments and recommendations with respect to proposed capital improvements and agency programs and services that involve legislative appropriations and that affect the people and resources of the borough.
- Serve as a clearinghouse for information, data, and other materials that may be helpful or necessary to government entities in the discharge of their responsibilities or in obtaining technical or financial assistance.
- Prepare and maintain a regional planning report that established goals for the borough; assesses and reports the needs of residents of the borough; and analyzes alternative ways of meeting the needs of the residents of the borough.

Black considers this minimal but valuable; the toe in the water. A light borough is anticipated to get a light level of funding if revenue sharing was reinstated, but could certainly move to the next level of taking over schools.

Scott: What would be the interaction with existing home rule cities in the light borough? Home rule cities could have issues just as they do now. Gary said the city would maintain all the powers they have now. Marvin said when he first read this he thought we were going back to the third class borough. How does this affect ARDOR's? Black we have ARDOR's working in existing boroughs and some operating is a combination of boroughs. Black said the ARDOR's will have to work with ARDOR's. The light borough would be the focusing entity for the state and we would give deference to them. This would eliminate the confusion for what entity should be the voice for an area.

Marvin: How do you relate to tribal entities? Black: The Home rule concept gives boroughs great flexibility. NW works with tribal entities. Lake and Pen Borough revenue shares with tribes. Lisa: Is Mike Black recommending that all unorganized borough be broke up into light boroughs and should there be a timetable for the formation of these boroughs. Black said it could be based on timeframes or the ability for the borough to take on the education responsibility.

Lisa wanted to know if Valdez would ever have to move out of light borough status because the City of Valdez already has 95% of the area paying for education. Black really didn't have an answer.

Thomas: In SE there isn't much state land. Give them money to entice them. Put the carrot out there for four years to encourage people to form. Haines would end up with 3,500 to 4,000 acres which is just enough to hag themselves. Give them money to create a permanent fund that can't be spent. They would have to invest and use the income.

Woodie: He thinks rural Alaska has learned the lesson from forming cities in rural areas. The state offered money and took the money away leaving rural cities in financial trouble. Learn from the past.

Black said he has proposals for the legislative session with incentives of money and putting the details together for the proposed borough. Based the money incentive on a varying rate based on the amount of land available in an area.

Scott: Administrative units were discussed in first meeting. The borough could have contracts with non-profits and tribes, if administrative units were used would there still be the capacity to contract. Administrative units through Black's department would have to follow the procurement statutes. Black would find it something difficult for the division to deal with because they would have to deal with multiple entities.

Scott: Looking at a new type of borough. Would it be feasible to start with appointed people by the governor to represent areas in a light borough that are not in an organized city. Black said it is best practice to elect representation.

Marvin: What concerns him is what becomes of the water system or sewer system when the city, like Woody said, dries up because the state has taken the revenue sharing money. Black said in a light borough you could have a public works director that could help the municipal utility workers with their problems. The borough would be in a better position to attract dollars because they wouldn't be competing with each other. When there is conflict you would work that out in the charter. Example: A city does have a public works director and doesn't want a borough public works director running the show.

#### **Public Comment Period**

Senator Gary Wilken thanked the commission for the work. This is a difficult issue and will not be solved in one meeting.

Chart shows eleven ways to structure local government. If you see some enhancements to the chart, let him or Sheila know. He wants to touch on four things for report. Why you are here is not a short term fix but look at the headlines of the next generation.

- Those in our state are able to pay for local government must pay for their local government. They can do it under their own terms or the state's term. There are places in the state that need money to create wealth. We can't do anything until we generate the first dollar. If we continue to place money in hands of people who can self governance we are taking them away from those who can't.
- Hope the commission has courage to recognize NPRA North Slope era, Kuparak era now NPRA era. Courage to recognize state and federal law and make sure money flows to all of Alaska not just NS borough.
- There should be some recognition that the current structure of Congress keeps the access to federal resources available but that is going to change. That cliff got closer when Young told the U.S. to kiss his ear. Rep Coghill and Wilken analyzed federal spending. In 2004, 60% total state and federal 10.6 billion was federal. Take out military, state's money (GF) and federal money is equal and 20% permanent fund. The point we are going to be forcefully and painfully weaned away from federal money.
- We all should recognize and appreciate is what the commission is doing is about the next generation and it requires some tough love. We need to figure out a way to have a soft landing. The state needs to move ahead but not at the expense of local economies.

We are caught up on \$1.5 billion sitting on the table as a proposed surplus. Two years ago break even was based on \$34 a barrel, last year it was based at \$42 a barrel and today it would take \$54 a barrel. He encouraged restraint. Don't throw your money at our problems.

Stevens asked what do we do when those who can pay continue to refuse to pay? Sen. Wilken has watched Delta move toward organizing the borough. When it goes to a vote and gets voted down 49 to 51, the state needs to step in and form a method for taxation and make Delta residents pay for their schools. You have to base decisions on what is set forth in the constitution and what benefits the state as a whole.

Stevens thinks there needs to be a way for people to write a check to pay for education and be a part of the decisions to be made about education so they have to generate revenue and create some level of self-governance.

Scott: What sort of revenue program would be palatable to the legislature. Sen. Wilken doubts this legislature would go back to revenue sharing, as we know it. It is not prepared to support a municipal dividend based on head count without other provisions added. He is supportive of using permanent fund earning. If you surveyed people without disclosing their names, you would find a surprising number of people in the legislature ready to spend the earnings.

Marvin: Criticism of a local governments being tied to resources, the truth is the state is tied to one resource. Commend Delta by dealing with Pogo, but if they form a borough it is going to have to be longer than ten years they want the agreement for. Wilken doesn't buy the ten-year-mine life theory. He doesn't think the future should shirk us away from moving ahead with self-governance. Alaska is a resource state and we'd better use it well to the benefit of all. A part of that benefit is self-governance.

**Rep. Reggie Joule**, public comment.

Don't rob Peter to pay Paul with NPRA. NPRA was set up by Congress to help people who were impacted. The state has not contributed to these impacted communities.

One unfortunate truth most of the rural Alaska has gone to the federal government because Alaska didn't step up to the plate. The state at the legislative level chose not to make monies available in certain areas so they went to the federal government.

As you discuss local government, he was listening to Mike Black about the light borough and Marvin's question about relationship about tribes. The state has made a decision not to deal with tribes. If the state continues not to recognize tribes by implementing light boroughs that do not have to deal with tribes, there will be a problem. When you come from ignorance and fear you can't talk reason. The process has to be disseminated well so people feel inclusive not exclusive. Tap all resources, human and government.

As Reggie talked to Bill Allen, Reggie admits his left knee is connected to his elbow. As we strive for more independent government as we develop resources we must demand that human resources are developed as well. It's high fuel prices this year that deter progress and improvement of life, it will be something else next year.

Stevens asked Reggie for thoughts on revenue sharing. The state gets better than 85% of its revenues from rural Alaska. It's a travesty that the state is not sharing it with rural Alaska. He agrees with Wilken that it could come from the earnings reserve. He would not eliminate the personal dividend and he thinks there is enough money to do both the personal dividend and the municipal dividend. He talked to one community yesterday that might have 2,000 gallons of heating fuel left. Without revenue sharing, communities are ordering smaller amounts at a time instead of buying a winter's supply. He is from a hub community and they're paying \$4.65 a gallon for gasoline.

Stevens wants to know how to help cities that can't acquire an attorney to close up shop.

Arliss Sturgelewski thanked the committee for amount of dialogue and the positive tone of the discussions. Be cautious not to deter an area's ability to become self-governing. A government close to the people is the government our constitution wants. She likes the "light borough" concept because it gives smaller units a voice in the decisions

#### **Lunch break**

**Kevin Ritchie Executive Director, Alaska Municipal League and Dave Talerico incoming President of AML**

Two sides to look at:

Immediate short-term types of programs to involve small communities so there is a base for economic development.

For each \$1 increase in a barrel of oil:  
State treasury gets \$60 million  
Everybody else pays \$20 million

As of 10/05 the price for gasoline:

|                              |                        |
|------------------------------|------------------------|
| Urban on the road – unleaded | \$2.85                 |
| Rural – good port            | \$3.50                 |
| Bush-remote of river         | \$4.20 - \$5.25 gallon |

Massive impacts on government, business, and homeowners

Maximum local self-government is intent of constitution. Commission should keep focused on constitutional intent.

Scott Brandt Erichsen list

Kevin's list to achieve Maximum Local Self Government

- Sharing state oil revenue (not raise local taxes or deprive Alaskans of critical public services.)
- Develop local administrative capacity – constitutional "Local Government Agency"
- Develop real incentives to organize self-governing boroughs. Eg. Community dividend or borough endowment
- Defeat bills that reduce local decision-making or revenue generation. (eg. Mining bill pre-emption of local taxation of mining industry, SB 179/HB 280)

- Uniform state regional service delivery in the unorganized borough with maximum local participation

Different departments have different geographical regions for delivery of services. We have to have a regional approach to handle the small projects.

Two reasons for failure of local government:

- Not enough resources
- Lack of administrative capacity  
In a small community they have to fill out the same paperwork for federal grants as New York City. If someone moves on with these skills, there may not be anyone to replace them.

Formulas to share revenue:

1. Goals

- Accountability
- Meet local needs/ equity
- Local empowerment
  - Encourage local service provisions
  - Encourage local revenue generation
  - Long term/permanent source
  - Strengthen local administrative capacity

2. Source of funds

- Community dividend (Rep Moses bill)
- General Fund or CBR

3. Source of funds:

- Community Dividend (Rep Moses bill, or excess earnings of PF or endowment with current excess oil revenues)
- General fund or CBR

Base funding required:

- Due to the lack of a local tax base in most small communities, there simply must be a base funding to allow small communities to support basic administration

- For example, Rep. Rokeberg's bill to share \$50,000 per community

Formulas to share revenue \$ Base + formula

- \$ for services (1969 formula for revenue sharing worked for 11 years)
  - eg. \$25 per capita for police
- Local revenue/local tax base X population (1980 "tax equalization" formula)
  - If tax effort is equal to capacity = 1
  - Tax effort lower = fraction of one
  - Tax effort higher "more than one"
- Per capita (1980 municipal Assistance) in existence until a couple of years ago.
- Match local sales tax or other form of local tax (with minimum per % say \$12,000)

Stevens asked Kevin Ritchie about match to local tax. Many communities have a sales tax but don't have a lot of sales, so tax brings in \$10,000 to \$15,000 not enough to fund government. Stevens said Kodiak would benefit not the smaller villages around Kodiak because there aren't stores and they have to buy groceries and goods in Kodiak.

Stevens wanted to know what short-term solution would help small communities considering that Senator Wilken is in an important position to determine what gets passed.

Dave was fascinated with Bill Allen's concept of working from the bottom up and also likes light borough concept. Is reluctant to create new municipalities when we are seeing existing municipalities growing out of business. Need to concentrate on getting failing municipalities back on their feet. He agrees with Gary about assembly members being elected as he too was appointed, like Gary and had people say you weren't elected. Dave has grandchildren and is big fan of western and northern Alaska. As structures fail, it is not a good thing to the State of Alaska to force them to go to the federal government or the tribal source of funds.

Dave sees the community dividend as a way to save communities and get them on their feet so Bill Allen's concept can be implemented.

Kevin said maybe one of the new features of the community dividend could be the regional concept. The real solution is jobs in rural Alaska. You have to have a government to get there. While they talk about unorganized boroughs there is only one unorganized borough, state government.

Bill Thomas wanted to know why AML didn't support the people voting on whether to go into the earnings reserve. Dave said the average household income in Denali Borough is \$76,000, but the PFD is the most important check. Bill thinks people may vote for it if it could lower mil rates.

Woody wanted to know if Kevin would include tribal governments. Kevin said you have to include the tribal government because in many places that is one-half of the local government. Coghill said he doesn't know if he wants to have government to government relationship with the tribal government. We have to be really careful to have government to government relationship in Title 28 with tribal councils.

Woody said there are places where the tribe is the only form of government. Whether you like it or not sooner or later you are going to have to include the people. The tribe is the people in rural Alaska. He'd like to see the mayor of New York solve the problems in Nulato. Chalkytsak does not have a city government. School districts are good example of how regional government does not work. He was on the city council of Ft Yukon for two years. The big city, Ft. Yukon, gets everything and the small villages get scraps. In old revenue sharing, Klawock got money Bill Thomas commented. The oil line is owned by the people and no one should be left out.

Gary Stevens said he does not understand why Woody Salmon is cutting up the process bringing the tribal government into the picture.

Kevin said in most cases it is the same people who serve the city and the tribal council. Stevens said he wants the committee to get along and hollering is only going to make enemies.

Salmon said this is why we have the urban rural divide. What are we getting in rural Alaska? Where is our police protection? Coghill said the regional education areas should be looked at and if it is true that people aren't being represented properly then we need to rethink it. Committed to getting the history of REAA's. Gave an area to local authority to provide education but didn't give them the authority to find funding for education. If they have not been good representatives of education polices why would we think they would be good representatives of other services.

Marvin said he thinks the state will have to fund bandaids for a couple of years.

Kevin Ritchie's quoting Stevens saying perfect solution would insure nothing is done. Revenue sharing is really a critical issue. Especially in times when high oil prices impact the Alaskan people and economy, the state should share the surplus with the communities of the state. AML will support the committees concepts and legislation. The long-term concept of the light borough with population distribution of funding can be supported.

Bill Thomas talked about a raw-fish tax. And how it goes back to the communities that generate the revenues. How do you get the money back to the people impacted Anchorage or Fairbanks. Rural communities should get four to one monies. The rural communities have generated the revenue and Bubba from Texas gets the jobs at the expense of the local workforce.

Coghill said the administrative costs are a major concern of forming light boroughs. It wouldn't be a bad idea if we look at administrative costs under the old program. Give the municipalities a windfall time to reinvigorate their government and what they are going to do to develop a stable

economy. We have to produce our way out of it; we can't spend our way out of it. They have assets and they need to use their assets. He said he hasn't heard what their capacity to produce is. He would like to see recommendation that there has to be an identification of the resources to be developed, the impediments to development, and solution on the table for the economy.

Dave appreciates the time and energy the committee is putting in and thinks what the committee is very important. Kevin said this is not a simple job and AML will support what they put out.

Woodie said community dividend bills in CR & A Moses, Kapsner, and Rokeberg leave out 72 villages because they are not organized. Moses does pay. Stevens said they need a hybrid bill to solve the problem.

#### **Update on legislative solutions (Gov./Rural Energy Action Council)**

Mary Kapsner thinks we need to deal with worse situations in rural Alaska. Urban areas have miscalculated their \$585,000 their fuel needs with the increase of fuel oil prices. Marine Highway system has asked for supplemental. This isn't anything that one group or any person created. She thinks Gov Murkowski and legislators who voted to eliminate the revenue sharing and municipal assistance are to blame for the situation. She hoped the committee would see it as a given for expansion of PCE and energy problem. Expand to snowmachine gas, electricity, and heat. If we all benefited from 9 cent a KWH power Napakaque 64 cents KWH with PCE credit. The Powerstat system – prepaid power system is being brought into villages. AVEC has a remote switch where they cut them off from Anchorage. AML provided an energy survey. Told Dave Donaldson that was the good picture because they had a fax to receive survey and answer it. Last year received \$6.145 million in supplemental from governor that some villages are still living on. It would have been better if they could use it for telephone bills, electricity, PERS/TRS. Suggests this year's supplemental is worded broader to include all utilities. Communities that were no longer were incorporated did not qualify.

Stevens said Wilken talked about "tough love" and the fact that Ted isn't going to be around forever.

Kapsner said there needs to be equal love. There is a perception that rural employees are irresponsible or lack of capability. That's not a fair assessment. Many local people are working for free.

- Fuel assistance program framed after PCE.
- Impose a fuel tax waiver program
- Energy rebate – when the state receives a bonus from higher per barrel price, consumers get a rebate

Bill Thomas go out fishing for three days costs \$500 for fuel alone. Fishing plants are going to shut down. Haines pays 15 cents a KWH on hydroelectric plant. Cheaper to heat with

electric than with fuel oil. Passed out oil price comparisons. Was pleased Nels Anderson called task force Action Council but there have been no actions.

Handout includes recommendations of the Governor's 2005 Rural Energy Action Council.

- Fully fund the PCE Program
- Front-load the PCE endowment
- Create bulk fuel operator technical assistance program
- Including downstream tanks and pipes into upgrades
- Support the creation of regional bulk fuel cooperatives
- Enable single and cooperative applicants to receive higher loan limits for the bulk fuel revolving loan program
- Improve power plant operational efficiencies and remote capabilities
- Increase support for alternative energy systems, such as coal, instream, wind and gas projects' Accelerate renewable energy programs and implement energy conservation measures
- Continue Low Income Home Energy Assistance Program (LIHEAP) funding and programs

A lot of communities not have the capacity to buy a year's worth of fuel oil at one time.

People want the \$19 billion surplus to go into corpus and the CBR. Bill Thomas said we need to forward fund education. Not a fan of POMV.

Dave said he has asked it's \$31 billion, when will it be big enough to allow us to use it for government. The answer is there will never be enough for most people to agree to using the corpus for government.

#### **Review of Legislative options: current legislation, ideas for legislation**

Gary Stevens said forward funding and transportation revolving fund.

Gary Stevens would like to see the Commission bring forward recommendations for:

- Legislation to help for dissolution
- Revenue sharing
- Light boundary
- Make sure that those who can afford to organize will be organized – toss the carrot and if they don't bite force them to organize without the carrot.

**Woodie Salmon:**

Borough is good concept if you have the population and the economy. On the other hand in rural areas you don't have the population your back into the situation with the city that failed, the borough will fail too. He totally disagrees with the light borough concept. He doesn't think anyone including Delta should be forced to become a borough. Unorganized areas should share with revenue sharing.

**Lisa Von Borgen:**

She is more concerned with sustainability being addressed than figure a delivery mechanism for services or a new form of government. Makes sure the incentives are not disincentives. She doesn't want to see existing communities running good punished by losing their revenues.

**Scott Brandt-Erichsen:**

- Orderly dissolution
- Revenue sharing
- What characteristics of previous system were unfair

North Slope Borough gets lots of revenue. North Slope Borough may not have the need but western Alaska has the needs. Eight light boroughs would get \$1.3 million. Light borough what should be provided. Basic services identified are public safety, roads, administrative function, water and sewer, and landfill. A regional government could provide high level of grant writing skills and public works expert. It does not address education funding. If there is nothing done to address the split between those who tax themselves and those who don't we are still going to have a problem.

**John Coghill:**

When you talk about government you talk about people being able to decide how they live. When it comes to government services people want we need to pay for them. It is fair to share resources when we have the resources to share. How do we get to the place where people get an incentive for people to serve themselves. Where he comes from people don't want government. If he wants his kids education he would take money out of pocket and educate them. That's what he did. He likes the incentive method. Create another form of local government that provides only education with incentives. Need a solid, practical, maintainable, doable without creating another tier. Home rule gives best possibility of obtaining that. If you want to work with tribal entities home rule is the best way to do that. Looking at what is on the table already instead of creating another form of government might be the right answer. Basic service of government is administering. Light power and water should be born by the people of the area. He is going to stay to the structural side of it. Don't let the perfect get into the way of the doable.

**Marvin Yoder:**

- At some point, Alaskans need to decide what services state government is responsible for providing.
- If government is responsible to do certain things are they responsible to provide it directly or indirectly through local government. Instead of putting a trooper in every community provide funding for the local community to provide law enforcement.
- It makes sense for a public works director to be responsible for more than one community to provide licenses or give expertise to communities in a regional government
- On long-term basis there has to be a method of providing revenue to communities that is not tied to an annual budget appropriation. Community dividend would be great.

**Representative Thomas:**

- Incentive for boroughs
- Legislative process takes one year to react-that's why he likes the idea of using earnings reserve
- Get rid of senior citizen tax exemption – Haines 47% of homeowners have tax-exemption. Seniors vote on bonding propositions and don't pay taxes. Have a 10 mil cap. New school bond is 2.4 mil.

**Adjourn**

Next meeting will be in Anchorage November 11<sup>th</sup> during the Alaska Municipal League, which is Nov 9 –11 at Hilton in Anchorage. Thomas suggested the meeting be split into two days so there is minimal on AML. At 3:00 p.m. on the 10<sup>th</sup> AML is holding a broad meeting on revenue sharing and community dividend. Meeting in January on Friday the sixth in Juneau. Be prepared to stay over into Saturday.

Advisory Commission on Local Government  
October 21, 2005  
Scott Brandt-Erichsen

In looking at the commission's charge I have been thinking about how our work might be organized so as to reach our designated objective of delivering findings and appropriate legislative proposals by January 15, 2006. The commission duties include reviewing prior work on these issues and looking at the relationship and roles of the State and local governments. Much of the focus is on the financial relationship and the provision of local government services in those parts of the state which are either economically disadvantaged or in the unorganized Borough or both.

With these thoughts in mind, I believe that the commission needs to have some sort of framework or roadmap for dealing with the issues raised if we are to accomplish the desired goal of making specific recommendations. I believe that a good way to do this (I acknowledge that it is not the only way or necessarily the best way), is to identify specific goals which we can agree on that recommended legislation should achieve, and then to look at the tools we have available and determine which combinations of tools is most likely to achieve the stated goals. The goals are statements of the public policy objectives we would be identifying with our findings.

The following information is something I have put together for discussion purposes. I have started trying to organize some points regarding both the goals which any legislation we recommend might be designed to achieve and the tools or components which might be included in a package of legislation. The goals may need additions or deletions, and not all tools listed would be needed or wanted, but most have been mentioned in the course of past debate on these issues. I believe that if we are able to focus our discussion in this way we can identify pros and cons of specific legislative proposals and perhaps narrow down the possible approaches into a recommended approach. Please circulate this for consideration by the commission.

#### Draft Goals

- The State should provide the tools to allow for sufficient funding of a basic level of local public services across the state through legislation enabling local taxes and fees and through direct fund transfers to local governments.
- The State should adopt legislation which requires all residents of the state to contribute some equitable amount towards paying for the costs of basic local services.
- The State should adopt legislation requiring all residents of the state to contribute some equitable amount towards paying for the costs of educational services.
- The State should adopt legislation which provides an orderly procedure for transitions as may be appropriate to a given area for 1) formation of administrative units in the unorganized Borough; 2) transition from administrative units of the unorganized Borough to an organized Borough; 3) dissolution of cities; and 4) transfer of assets essential to basic public services from dissolved or non-functioning cities to successor entities.
- The State should adopt legislation which would allow local Boroughs or administrative units of the unorganized Borough to incorporate interaction with traditional local groups such as tribal entities for the provision of local public services.
- Any legislation which would implement a significant change which decreases existing revenues relied upon by communities or significantly increases cost burdens on communities should be designed to be phased in to allow for a transitional period.

## Tools

- Legislation placing all areas on the state in Boroughs – Mandatory Boroughs
- Legislation establishing administrative units within the unorganized Borough, or smaller unorganized Boroughs, and giving those units certain powers and duties (related to standards for unorganized Borough, LBC 2005 p. 132-145).
- Administrative order doing the same with advisory “assemblies” (Kevin Ritchie draft Executive order).
- Require contribution to education in some form from the unorganized Borough (LBC 2005 p. 115-122).
  1. 4 mill minimum (current standard for education)
  2. Revenue target (whether from sales tax property tax or other sources) adjusted in relation to per capita income as compared to a standard
  3. Revenue target
- Legislation to funnel any financial assistance only through Boroughs or administrative units of the unorganized Borough (maybe phase in over a 2-3 year period) (LBC 2005 p. 123-124).
  1. Timber receipts (LBC 2005 p. 129)
  2. Shared Fisheries tax (LBC 2005 p. 131)
  3. Funding for REAA's
  4. Funding to City School districts
- Legislation to provide additional entitlement lands or payment in lieu of lands in connection with Borough annexations (LBC 2005 p. 128-129).
- Change the treatment of pipeline property with respect to borough property taxes (LBC 2005 p. 126).
- Village Safe Water program and similar grants limited so that they are only given through Boroughs.
- A revenue sharing program which provides funds only through Boroughs or administrative units of the unorganized Borough.
- A revenue sharing program tied to specific local services (e.g. public safety, roads, health and sanitation, school contributions).
- Establish an endowment for revenue sharing.
- Establish a format for home rule unorganized Boroughs.
- Legislation to require a municipal fiscal note as a means to draw attention to the impacts on Municipalities of state legislation.
- Don't decrease a city's share of revenue sharing if they are in a Borough.
- Take a percentage of any aid to municipalities and earmark it for Borough functions such as areawide planning and economic development and require regional committees to determine spending priorities for affected projects (i.e. use a program like the RAC's for the 15% of the timber receipts which are restricted to trails and such).
- Direct grant incentives for Borough formation.
- Mandate the consolidation of REAA's into districts organized into administrative units of the unorganized Borough.

# OPTIONS FOR A NEW TYPE OF ORGANIZED BOROUGH

Presented to the Advisory Commission on Local Government by  
The Alaska Department of Commerce, Community, and Economic Development  
Division of Community Advocacy  
October 2005

## I. Legislature Determines Borough Classifications and Functions.

Alaska's Constitution does not specify the types of boroughs or their functions. Instead, the Alaska Legislature has a duty under the Constitution to establish classifications, powers, and functions of organized boroughs. Article X, Section 3 of Alaska's Constitution provides in relevant part that, "The legislature shall classify boroughs and prescribe their powers and functions."

## II. Five Classes of Organized Boroughs Have Been Established; Existing Boroughs Fall into Three of Those Classifications.

Current classifications of organized boroughs and the classifications of the 16 existing organized boroughs are listed below.<sup>1</sup>

| CLASSIFICATION             | EXISTING ORGANIZED BOROUGHS                                                                                                                                                                                                                                                             |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Home-Rule (unified)        | <ul style="list-style-type: none"><li>▪ City and Borough of Juneau</li><li>▪ City and Borough of Sitka</li><li>▪ Municipality of Anchorage</li></ul>                                                                                                                                    |
| Home-Rule (non-unified)    | <ul style="list-style-type: none"><li>▪ North Slope Borough</li><li>▪ Northwest Arctic Borough</li><li>▪ Lake and Peninsula Borough</li><li>▪ Denali Borough</li><li>▪ City and Borough of Yakutat</li><li>▪ Haines Borough</li></ul>                                                   |
| First-Class (general law)  | (none)                                                                                                                                                                                                                                                                                  |
| Second-Class (general law) | <ul style="list-style-type: none"><li>▪ Bristol Bay Borough</li><li>▪ Ketchikan Gateway Borough</li><li>▪ Kodiak Island Borough</li><li>▪ Fairbanks North Star Borough</li><li>▪ Matanuska-Susitna Borough</li><li>▪ Kenai Peninsula Borough</li><li>▪ Aleutians East Borough</li></ul> |
| Third-Class (general law)  | (none)                                                                                                                                                                                                                                                                                  |

<sup>1</sup> Unified and non-unified home-rule boroughs are characterized above as two distinct classifications of organized boroughs. This is done in recognition of the technical differences between the two types of boroughs and to address the widespread misunderstanding that a "unified municipality" (i.e., a unified home-rule borough) is a city government. Details regarding such are provided in *The Nature of a Unified Municipality in Alaska*, Local Boundary Commission Staff, August 2004.

**III. State Law Imposes Identical Fundamental Areawide Duties on All Existing Organized Boroughs.**

State law requires that each existing organized borough exercise only three fundamental duties. Those must be exercised on an "areawide" basis (i.e., throughout the borough).<sup>2</sup> Those three duties are:

| FUNDAMENTAL AREAWIDE DUTY                                                                                                                                              | STATUTE IMPOSING DUTY |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 1. Establish, maintain, and operate a system of public schools as provided in AS 14.14.060                                                                             | AS 29.35.160          |
| 2. Assess and collect property, sales, and use taxes that are levied in the borough's boundaries, subject to AS 29.45                                                  | AS 29.35.170          |
| 3. Provide for planning, platting, and land use regulation (general law boroughs must do so in accordance with AS 29.40; home-rule boroughs need not follow AS 29.40). | AS 29.35.180          |

**IV. Many Discretionary (Non-Mandatory) Powers are Available to Boroughs.**

Beyond the mandatory duties noted above, organized boroughs may (in some cases subject to voter approval) exercise a full range of public services within any of three formally defined geographic areas of the boroughs.

Those geographic areas are (1) "areawide" (i.e., throughout the entire borough); (2) "nonareawide" (i.e., in the area of the borough outside of the boundaries of city governments); or (3) "service area" (i.e., some portion of the borough other than the areawide or nonareawide portions that is specifically defined by the borough ordinance creating the particular service area).

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<sup>2</sup> Not included in the above discussion are numerous general duties of organized boroughs, many of which apply to city governments as well. Five such examples are the requirement to (1) cooperate with the Alaska Department of Corrections in establishing and maintaining an automated victim notification system required under AS 12.61.050; (2) adopt a conflict of interest ordinance (AS 29.20.010); (3) determine the composition and form of representation of the assembly (AS 29.20.070); (4) prepare a journal of the official proceedings of the assembly (AS 29.20.160); and (5) prepare an annual independent audit of the accounts and financial transactions.

#### **V. Alaska Previously Experimented with a "Light Borough" Option.**

Following three unsuccessful attempts to incorporate a first-class or second-class borough in the greater Haines region, the 1968 Legislature provided for a new type of borough – a third-class borough. An ensuing fourth attempt to incorporate a Haines Borough – this time as a third-class borough – was successful.

The third-class borough was distinct from other organized boroughs in that its duties were limited to areawide education and tax assessment and collection. Moreover, third-class boroughs were prohibited by law from exercising any power other than education and tax assessment/collection on an areawide basis (AS 29.35.220(b)). Third-class boroughs could, with voter approval, exercise other powers within a service area (AS 29.35.220(d)).<sup>3</sup>

Thus, unless voters authorized a third-class borough to take on additional functions within service areas, it was nothing more than an areawide school district with taxing powers.

The experiment with the third-class borough option met with limited success. In practice, the education power of the third-class borough was interpreted very broadly to include functions well beyond the traditional role of school districts. Under its broadly construed education powers, the third-class Haines Borough operated a cultural facility center, public museum, and public library. It even funded the promotion of tourism. Additionally, the legal restrictions on areawide and nonareawide powers of third-class boroughs could be readily circumvented through the creative drawing of service area boundaries.<sup>4</sup>

Moreover, the third-class borough option failed to overcome borough incorporation disincentives in any other unorganized area of Alaska. From 1968 to 1985, no unorganized region other than Haines took advantage of the third-

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<sup>3</sup> Third-class boroughs were later permitted to exercise a single power on a nonareawide basis (i.e., contain, clean up, or prevent the release of hazardous substances).

<sup>4</sup> As noted above, a service area is some geographic area of the borough that is less than the entire borough. Nonetheless, a third-class borough could, in effect, exercise an areawide power by simply creating, subject to voter approval, a service area encompassing all inhabited and taxable territory and activities within the borough. For example, such a service area might be drawn to encompass the entire borough with the exception of the peak of the highest mountain in the borough.

The borough could, in effect, exercise nonareawide services through similar creative drawing of service area boundaries.

class borough option. The 1985 Alaska Legislature ended the option for incorporation of new third-class boroughs (AS 29.05.031(b)).<sup>5</sup>

#### **VI. Options for a New Type of "Light Borough."**

There are almost boundless options for a new type of borough government. However, the lack of enthusiasm for a borough that could be nothing more than an areawide school district with taxing powers reflects the extent to which responsibility for education appears to be a deterrent to borough incorporation.<sup>6</sup>

The Department of Commerce, Community, and Economic Development suggests an alternative approach. The suggested alternative is one that fulfills the need for the following functions on a regional basis:

- (1) Receive, review, and provide written comments and recommendations with respect to proposed capital improvements and agency programs and services that involve legislative appropriations and that affect the people and resources of the borough.
- (2) Serve as a clearinghouse for information, data, and other materials that may be helpful or necessary to government entities in the discharge of their responsibilities or in obtaining technical or financial assistance.
- (3) Prepare and maintain a regional planning report that establishes goals for the borough; assesses and reports the needs of residents of the borough; and analyzes alternative ways of meeting the needs of the residents of the borough.

If the duties of a new type of borough were limited to the three essential functions listed above, and if the State provided a modest amount of general financial aid for each borough, arguments about the fiscal viability of new boroughs would seem to be eliminated.

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<sup>5</sup> The Haines Borough was not required to reclassify under the 1985 law. However, in 2002, voters in the Haines Borough adopted a home-rule charter, thus eliminating Alaska's only third-class borough.

<sup>6</sup> A 1984 study by the Institute of Social and Economic Research noted public policy makers have long recognized that, "School district officials [in the unorganized borough] wanted to avoid loss of autonomy . . . and Alaskans living outside cities and school districts wanted to preserve their tax-free status while receiving school and other state services." *Alaska's Urban and Rural Governments*, p. 43.

To deal with legitimate and long-standing public policy concerns over equity,<sup>7</sup> and to promote efficiencies in the delivery of essential public services,<sup>8</sup> some provision should be made for transition from the new type of borough to more traditional forms of borough government. One approach to such could be to reinstate a State revenue sharing program for all boroughs (not just the new type of borough) based on services provided (e.g., education, planning, taxation, police, fire protection, road maintenance, etc.). That approach was discussed at the Commission's September 1, 2005 meeting.

Another approach could be to require a borough to reclassify when the area within its boundaries reaches a particular threshold. Thresholds might relate to per capita value of taxable property, per capita income, or other relevant and objective criteria.

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<sup>7</sup> For example, more than 80 percent of Alaskans live in boroughs that were formed by legislative mandate more than four decades ago. Residents of those boroughs have had no choice in whether their boroughs incorporated or whether they operate areawide school districts. Moreover, boroughs receive millions of dollars less each year in State aid for schools as a result of the local contribution of 4-mill/45 percent of basic need as set out in AS 14.17.410(b)(2).

<sup>8</sup> For example, to increase the quality of education in school districts with fewer students, some legislators have long advocated consolidation of small school districts. School districts in the unorganized borough comprise about 70 percent of all school districts in Alaska. About 40 percent of the school districts in the unorganized borough have fewer than 250 students. In 1986, the Legislature enacted a law (AS 14.12.025) prohibiting the formation of new school districts with fewer than 250 students (barring a best interest determination). However, existing small districts were not required to consolidate.

A majority of the school districts in the unorganized borough have difficulty meeting a 1998 State law (AS 14.17.520) that requires each school district to spend a minimum of 70 percent for instruction. If a district is unable to comply "due to circumstances beyond the control of the district," the State Board of Education and Early Development may grant a waiver. For the most recent year on record, the State Board granted waivers to more than two-thirds of the school districts in the unorganized borough.

## Summary of Proposed Deltana Borough

### Background

The Delta Borough area has roughly 5,000 residents. There is one local government-City of Delta Junction-with about 900 residents. City services include library, recreation, landfill, airport, road maintenance, cemetery and volunteer Fire/EMS/Ambulance. The Delta-Greely REAA provides educational services. Platting and planning in the area outside the city are conducted by the state of Alaska. There are no local taxes.

### Internal

#### Growth-Population and Employment

1. Build up of Ft. Greely-Placement of Missile System at site
2. Construction and eventual operation of Pogo Mine by Teck-Pogo
3. Increase in Slavic population

### External

1. State Administration/Local Boundary Commission Action
  - a. Model Borough Boundaries for the unorganized borough include the Delta area with the Alaska Gateway REAA (Tok).
  - b. Recent analysis of areas that minimally met the LBC incorporation standards included Delta/Tok area
2. Legislative efforts to mandate borough formation (SJR 12).
3. Interest by Fairbanks North Star Borough to annex adjacent area including Teck-Pogo mining district.

### City Response

1. City appointed a Deltana Borough Charter Commission of nine members with the task of writing a charter and incorporation petition and submitting it to the LBC to allow for a vote on borough incorporation. Members represented different local interest groups and geographic areas in the region. Most members reside outside of the city boundaries.

## Deltana Borough Charter Commission

1. Commission developed a charter and petition that entails the following key points.
  - a. The new borough will be a unified home-rule borough in which there shall only be one local government. The assets and liabilities of the City of Delta Junction will be assumed by the borough. The new borough will assume education and planning powers along with the current powers and services of the City of Delta Junction.
  - b. The boundaries shall be those of the Delta-Greely REAA.
  - c. Local revenues shall include a 3% fuel tax and 10% energy tax along with the Teck-Pogo PILT agreement
  - d. All Assembly and School Board seats shall be elected at large.
  - e. Assembly with the Mayor's concurrence call appoint a borough administrator.

## Teck-Pogo Agreement

Listed below are the key points to the Teck-Pogo Agreement

1. Agreement would be with the City of Delta Junction and would be assumed by the borough upon borough formation.
2. 10 year term
3. If no borough is organized by 12.31.08, the agreement would terminate
4. Payment schedule by Teck-Pogo
  - a. 2005-\$500,000 to City
  - b. 2006 \$500,000 to City or Borough
  - c. 2007 \$1,000,000 to City or Borough
  - d. If payments b and c are made subsequent to any negative public vote 1/2 goes to City and 1/2 retained by Teck-Pogo.
  - e. 2008 and each year after annual payment of \$2 million or 10 mills on value of Teck-Pogo property, whichever is more.
  - f. Contribution by Teck-Pogo for bonded capital cost not exceed \$350,000 annually. Payments by Teck-Pogo may go to 2020. Teck-Pogo contribution for G.O. Bonds requires local contribution as well
5. Ballot on revenue issue shall be designed as one vote. Entire package has to be approved by voters.

SCOMM

140:3

# Alaska State Legislature

Senator Gary Stevens, Chair  
Alaska State Capitol, Room 103  
Juneau, Alaska 99801-1182  
Phone 907-465-4925  
Fax 907-465-3517



**Committee Members:**  
Rep. Bill Thomas, V. Ch.  
Sen. Tom Wagoner  
Sen. Bert Stedman  
Rep. John Coghill  
Rep. Woody Salmon

## Advisory Commission on Local Government

~~~Draft agenda~~~

November 9 - 10, 2005
Anchorage LIO ~ 716 W. 4th Ave. Suite 200

November 9th 1:30 - 4:30 p.m.
November 10th 8:30 a.m. - 12:00 and 1:30 p.m. - 3:00 p.m. *and*
3:30 - 4:30 AML/ACLG session at Hilton AML Conference

(Teleconference: 1-800-395-5073)

Wednesday, November 9, 2005

1. Roll Call
2. Approval of Minutes
3. Public Comment
4. Work Session: Administrative Borough Concept

Thursday, November 10, 2005

5. Work Session: Community Dividend/Revenue Sharing Concept
6. Report structure
7. Adjourn
8. 3:30 - 4:30 AML/ACLG session at **Hilton AML Conference** (Community Dividend/
Revenue Sharing Rally -- Alaska/Denali Ballroom)

Discussion Draft based on discussions by the Advisory Commission on local government and other state and local officials.

Why a Community Dividend is good for Alaskan citizens and business

1. Creates a **sustainable benefit to Alaskan citizens and business**. Avoids using too much of current oil revenue surpluses on capital projects that increase long-range operating costs.
2. **Uses oil revenue to offset significantly higher local government and school costs caused by higher oil prices**. (Each \$1 increase in a barrel of oil provides \$60 million of new revenue to the State but costs communities, schools, businesses \$20 million.
3. Promotes the **delivery of key local public services** critical to business and community quality of life, especially in the poorest communities in the state that currently have no other options.
4. Provides a **sustainable level of property tax relief** to citizens and businesses.
5. **Funds the state mandated senior citizen/disabled veteran property tax exemption**.
6. Promotes **local economic development and job creation**.
7. Promotes "maximum local self-government" and **local responsibility and accountability** as mandated by the constitution.

Discussion Draft based on discussions by the Advisory Commission on local government and other state and local officials.

"An Act relating to the community dividend program; regional economic development and job creation; and providing for an effective date."

Finding:

When Alaska achieved statehood it was widely recognized that Alaska (with sparse population and high transportation costs) required resource revenues to maintain government public services at both the state and local government levels.

Purposes:

8. Develop a **sustainable plan** to provide needed financial support to communities, especially remote communities that have very small local tax bases.
9. Promote the **delivery of key local public services** critical to business and community quality of life.
10. Provide a **sustainable level of property tax relief** to citizens and businesses.
11. Promote **local economic development and job creation**.
12. Promote "maximum local self-government" and **local responsibility and accountability** as mandated by the constitution.

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

* **Section 1.** AS 29.60 is amended by adding new sections to read:

Article 10. Community Dividend Program.

Sec. 29.60.800. Community dividend fund. There is established in the department the community dividend fund consisting of money transferred to the fund under AS 37.13.145(e). Subject to appropriations for the purpose, the amount transferred to the fund shall be distributed each fiscal year by the department as dividends to cities, boroughs; and unorganized boroughs as may be created by the state for improved service delivery, economic development, and local responsibility.

Sec. 29.60.810. Community dividends.

(a) **Option # 1 - Straight per capita option:** The amount of a community dividend for a fiscal year equals \$250 for each resident of the municipality or unorganized borough.

OR

(a) **Option # 2 - Provide support for key public services:** The amount of a community dividend for a fiscal year equals up to \$250 for each resident of the municipality or unorganized borough depending of the local services provided the previous year as documented by an audit or financial report, or a new service budgeted for the coming fiscal year and detailed in a resolution by the council or assembly. Funds will be allocated as follows:

- i. Police - \$75 per resident
- ii. Road and Public Works Maintenance - \$75 per resident
- iii. Fire Protection/Emergency Medical Services - \$50 per resident

Discussion Draft based on discussions by the Advisory Commission on local government and other state and local officials.

- iv. Economic Development planning and implementation of job creation projects - \$25 per resident
- v. Basic municipal administration or local contribution to schools - \$25 per resident

or

(a) Option # 3 - Encourage local services but do not specify amounts: The amount of a community dividend for a fiscal year equals \$250 for each resident of the municipality or unorganized borough. Community Dividends received by a municipality, above the minimum prescribed for that population in (c) of this section, must be used for one or more of the following public services:

- i. Professional financial audit
- ii. Local property tax relief
- iii. Public safety including police, fire protection, emergency medical services or other related public safety services.
- iv. Capital improvements and community infrastructure maintenance
- v. Local contribution to schools

Annually, each municipality must submit a report to the department detailing how funds under this section were spent supported by a professional financial audit.

(b) Resident Population determination: The population of each municipality or unorganized borough shall be determined annually by using the latest numbers of permanent fund dividend recipients or other population data that, in the judgment of the department, is reliable. In determining the population of a borough, or unorganized borough, the population of all cities in the borough and of all municipalities described under (g) of this section in the borough shall be deducted from the total population of the borough.

(c) Base funding for small communities: Notwithstanding (a) of this section, the minimum amount of a community dividend for each municipality or unorganized borough, with a population 150 or less is \$50,000, and the minimum amount of a municipal dividend for each municipality with a population 151 or more is \$100,000. Notwithstanding (a) of this section, the first \$50,000 received by a municipality may be used for basic administrative costs such as a municipal clerk, accounting services, and office expenses including heat.

(d) Reimbursement of senior citizen/disabled veteran property tax exemption mandated by AS 29.45.030 (e)-(1): If a municipality has a property tax, at least the amount of the loss of revenue from the senior citizen/disabled veteran property tax exemption mandated by AS 29.45.030 (e)-(1) must be used for direct property tax mill rate reduction.

(e) Improving the sustainability of small communities and promoting regional economic development: (a-d) of this section,

Discussion Draft based on discussions by the Advisory Commission on local government and other state and local officials.

in addition to any other distribution of funds for a borough, each borough, and unorganized borough created by the state, shall receive \$200,000 that must be used to provide administrative assistance and support to cities and unorganized communities within the borough, and regional economic development services. Administration includes services such as training, direct assistance on an interim basis such as providing an interim municipal clerk or accountant, support or capital grants performing financial or performance audits and evaluations, and joint services such as bill collection, utility maintenance, or accounting. Regional economic development services shall be provided by or jointly with an ARDOR, if a functioning ARDOR exists in the opinion of the department. Regional economic development services includes those specified for ARDORS in AS ---. Such services and assistance may be provided to cities or, outside of cities, to tribal governments or community organizations that in the opinion of the borough provide public services to their community.

(f) If the amount appropriated is not sufficient to fully fund municipal dividends for a fiscal year under (a) and (b) of this section, the amount of each dividend shall be reduced on a pro-rata basis.

(g) In this section, "municipality" includes a municipality organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection.

*** Sec. 2.** AS 37.13.145 is amended by adding a new subsection to read:

(e) **Funding:** After the transfers under (b) and (c) of this section, on June 30 of each year, the corporation shall transfer from the earnings reserve account to the municipal dividend fund established under AS 29.60.800 the amount needed to fund municipal dividends for the next fiscal year, or the balance in the earnings reserve account, whichever is less.

Or

(e) **Funding:** Funding from Amerada Hess as sustainable funding plus an X % share of current oil revenues when oil prices rise above Y \$ per barrel to offset higher costs driven by higher fuel prices.

OR

(e) **Funding:** Funding from General Fund for the next one (or two) years to allow the communities, taxpayers, and business to see if program should be made sustainable in conjunction with a POMV management of the Permanent Fund

*** Sec. 3.** This Act takes effect June 30, 2006.

Conceptual Guidelines for Drafting Bill Creating New Type of Organized Borough

Recommended Classification: General law, administrative borough.

A threshold question regarding the broad classification of the proposed new type of borough is whether it should be home rule or general law.

Both are municipal corporations and political subdivisions of the State of Alaska. A home rule borough is one that has adopted a home rule charter; it has all legislative powers not prohibited by law or charter. (AS 29.04.010). A general law borough has no charter; it has legislative powers conferred by the State legislature. (AS 29.04.020)

DCCED recommends general law status for the proposed new type of borough for four principal reasons.

1. The distinction between the powers available to home rule and general law boroughs is nominal.¹ Alaska's Constitution, statutes, and case law extend what can be reasonably described as home-rule like powers to general law boroughs. For example, AS 29.35.200 allows a first class general law borough to acquire "any power not otherwise prohibited by law."² Commerce is unaware of any greater capacity of a home rule borough over a general law borough to cooperate with Native American Tribes (as the home-rule Northwest Arctic Borough does under Section 1.12.010 of its Charter). Moreover, Commerce is unaware of any greater power of a home rule borough to share revenues with unincorporated communities (as the home-rule Lake and Peninsula Borough does under Section 15.11 of its Charter), or to provide for nonvoting representatives of communities not represented by

¹ A more meaningful distinction between the two types exists in terms of the ability of the voters to place restrictions on borough powers. For example, AS 29.45.670 provides that a sales tax by a general law borough is subject to approval by a majority of the voters at an election. A home rule borough, however, is not subject to that limitation. Thus, a home rule borough may be, and some actually are, restricted by charter from implementing a sales tax unless approved by a "super majority" of the voters.

² Regarding the broad constitutional provisions, see Article X, Section 1 of Alaska's Constitution, for example. Regarding powers conferred by the Legislature to general law municipalities, see, for example, AS 29.35.200(a) and (c); AS 29.35.210(c) and (d); AS 29.35.220(d); AS 29.35.250(a); AS 29.35.260(a); AS 29.35.400 and AS 29.35.410. For favorable court rulings, see *Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 (Alaska 1978) and *Gilman v. Martin*, 662 P.2d 120, 124 (Alaska 1983), for examples. These examples and other information regarding the broad powers of general law municipalities are discussed in *Local Government in Alaska*, Local Boundary Commission Staff, March 2004.

- an elected person on the Assembly (as provided under Section 15.12 of the Lake and Peninsula Borough Charter).
2. Preparation of a home rule charter is a time consuming and expensive proposition. For example, the Deltana Home Rule Charter Commission has reportedly spent approximately two years developing its proposed charter. That effort required extensive funding. In that particular case, federal funds to mitigate impacts from the Fort Greely missile defense project were used to support the activities of the Deltana Charter Commission. Funding for the development of charters is not available generally.
 3. Because home rule boroughs have all legislative powers not prohibited by law or charter, it would be much more involved to list all of the prohibited powers of this new type of borough. (See AS 29.10.200 for a current list of limitations in AS 29 that apply to home rule boroughs.) In contrast, since general law boroughs only have those powers conferred by law, granting of narrow powers (much more than now exists for other types of general law boroughs) is more easily accomplished.
 4. Constitutionally, home rule boroughs are the highest form of local self-government in Alaska. To create a new class of home rule borough that is far more restricted than any class of general law borough turns the constitutional principle of home rule on its head.

A subsidiary question regarding classification of the proposed new type of borough is what should the new class of general law borough be called. There are three classes of existing general law boroughs. Those are first class, second class, and third class. It is proposed to deviate from the system of giving numerical designations to the classifications of boroughs in order to emphasize the distinction between the proposed new type of borough and existing classes of borough. In this case, it is proposed to call the new class of borough an "administrative borough."

Recommended duties (mandatory powers): The mandatory fundamental powers of administrative boroughs should be limited to the following:³

- (1) Receive, review, and provide written comments and recommendations with respect to proposed capital improvements and agency programs and

³ Administrative boroughs would also be subject to the various general duties of organized boroughs. These include, for example the requirement to (1) cooperate with the Alaska Department of Corrections in establishing and maintaining an automated victim notification system required under AS 12.61.050; (2) adopt a conflict of interest ordinance (AS 29.20.010); (3) determine the composition and form of representation of the assembly (AS 29.20.070); (4) prepare a journal of the official proceedings of the assembly (AS 29.20.160); and (5) prepare an annual independent audit of the accounts and financial transactions.

services that involve legislative appropriations and that affect the people and resources of the borough.

- (2) Serve as a clearinghouse for information, data, and other materials that may be helpful or necessary to government entities in the discharge of their responsibilities or in obtaining technical or financial assistance.
- (3) Prepare and maintain a regional planning report that establishes goals for the borough; assesses and reports the needs of residents of the borough; and analyzes alternative ways of meeting the needs of the residents of the borough.

Thus, administrative boroughs should be expressly exempt from the **duty** to:

1. establish, maintain, and operate a system of public schools as provided in AS 14.14.060 (AS 29.35.160);
2. assess and collect property, sales, and use taxes that are levied in the borough's boundaries, subject to AS 29.45 (AS 29.35.170);
3. provide for planning, platting, and land use regulation (general law boroughs must do so in accordance with AS 29.40; home-rule boroughs need not follow AS 29.40) (AS 29.35.180).

Discretionary powers (voluntary powers): While the duties of administrative boroughs would be limited, DCCED is unaware of any argument for limiting the discretionary powers of such boroughs, except as noted herein such as in the case of the power to tax oil and gas property taxed by the State of Alaska. For example, if an administrative borough wanted to provide for areawide education, assessment and collection of property, sales, and use taxes, or provide for planning, platting, or land use regulation, it should be allowed to do so.

Commerce perceives a significant public policy benefit from the State's perspective in promoting boroughs as the principal representative for the region within the boundaries of the borough. Boroughs should be encouraged to take responsibility for local government issues within their regions, including coordination and engineering of public works projects, communicating on behalf of communities to agencies, elections, etc. To encourage such, provisions might be made for eligibility of boroughs to receive State financial aid to be passed through to communities in the borough.

Expand the duties of existing organized boroughs: Existing general law boroughs are required by AS 29.40.030 to adopt a comprehensive plan. That requirement addresses the third recommended duty outlined for administrative

boroughs. However, there is no requirement that existing borough carry out the first two recommended duties. Therefore, it is recommended that the legislation extend those duties to all organized boroughs.

Organization grants. Because of their limited duties, administrative boroughs should be entitled to an organization grant under AS 29.05.190 that is less than that which is available to other types of boroughs. Currently, new boroughs are entitled to \$600,000 over three years. That figure should be substantially increased for newly formed home rule, first class, and second class boroughs. The figure seems more than adequate for an administrative borough.

Municipal land entitlement. Again, because of their limited duties, administrative boroughs should not be entitled to general grant lands under AS 29.65.030. Existing boroughs that do not qualify for an entitlement under AS 29.65.010 or 29.65.020 are entitled to 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the borough between the date of its incorporation and two years after that date.

State Financial Aid. State financial aid for administrative boroughs would be most appropriately addressed in the context of any new revenue sharing proposal. Options for such might include graduated funding based upon particular responsibilities such as schools, planning, tax assessment and collection, police, road maintenance, et cetera. Alternatively, the State might make a direct grant annually to each administrative borough.

Incentives to reclassify to another type of general law or home rule borough. Significantly increased organization grants, municipal land entitlements, enhanced revenue sharing, and other options should be used to encourage administrative boroughs to reclassify to other types of existing boroughs.

Standards and procedures for incorporation: The standards and procedures set out for incorporation of existing boroughs set out in AS 29.05 are suitable for the creation of administrative boroughs.

Procedures and requirements for reclassification of administrative boroughs. Procedures should be established in AS 29.04 for reclassification of administrative boroughs to second class or first class boroughs.⁴

⁴ It is noted that the provisions in AS 29.06.190 would allow the proposed new administrative borough to become a home rule unified borough. Additionally, the provisions in AS 29.10.010 would allow an administrative borough to adopt a charter.

However, beyond the issue of procedures, a key question is whether an administrative borough should be required to reclassify when it gains the fiscal capacity to assume local responsibility for education, planning, platting, land use regulation, and the assessment and collection of property, sales, and use taxes. Appropriate measures of such capacity might include specific thresholds for per capita value of taxable property, per capita income, poverty levels, employment, or other reasonable and objective measures. It might also include reasonably anticipated resource development (e.g., Pogo mine).

While any requirement for reclassification of an administrative borough is likely to make passage of legislation more difficult, without such a requirement the creation of administrative boroughs will not likely advance the legitimate and long-standing public policy concerns over equity.⁵ Neither will it likely promote efficiencies in the delivery of essential public services.⁶

Should the entire unorganized borough be divided into administrative boroughs?

Another key question is whether the legislation should provide for the division of the entire unorganized borough into administrative boroughs. Here again, any requirement for such is likely to make passage of legislation more difficult. However, absent such a requirement, history suggests that a strong likelihood would exist that much of the unorganized borough will not take advantage of the opportunity to form an administrative borough.

⁵ For example, more than 80 percent of Alaskans live in boroughs that were formed by legislative mandate more than four decades ago. Residents of those boroughs have had no choice in whether their boroughs incorporated or whether they operate areawide school districts. Moreover, boroughs receive millions of dollars less each year in State aid for schools as a result of the local contribution of 4-mill/45 percent of basic need as set out in AS 14.17.410(b)(2).

⁶ For example, to increase the quality of education in school districts with fewer students, some legislators have long advocated consolidation of small school districts. School districts in the unorganized borough comprise about 70 percent of all school districts in Alaska. About 40 percent of the school districts in the unorganized borough have fewer than 250 students. In 1986, the Legislature enacted a law (AS 14.12.025) prohibiting the formation of new school districts with fewer than 250 students (barring a best interest determination). However, existing small districts were not required to consolidate.

A majority of the school districts in the unorganized borough have difficulty meeting a 1998 State law (AS 14.17.520) that requires each school district to spend a minimum of 70 percent for instruction. If a district is unable to comply "due to circumstances beyond the control of the district," the State Board of Education and Early Development may grant a waiver. For the most recent year on record, the State Board granted waivers to more than two-thirds of the school districts in the unorganized borough.

Discussion items:

Would a borough be able to begin assuming powers at some point, or do they have to move towards reclassification to another form of borough government?

Taxing powers? Expressly limit the taxing powers of administrative boroughs to the following ?:

1. a general sales tax;
2. a specific sales tax (e.g., "bed tax", vehicle rental tax, tobacco tax, fuel sales tax, or tax on utilities); and
3. a property tax subject to the same limitations as those for a second class city (i.e., require voter approval and limit the tax to 20 mills); additionally, prohibit an administrative borough from levying a property tax on oil and gas property taxed by the State under AS 43.56.

SCOMM

140:4

Alaska State Legislature

Senator Gary Stevens, Chair

Public members:

Lisa Von Bargaen
Scott Brandt-Erichsen
Marvin Yoder



Committee Members:

Rep. Bill Thomas, V. Ch.
Sen. Tom Wagoner
Sen. Bert Stedman
Rep. John Coghill
Rep. Woodie Salmon

Advisory Commission on Local Government

~~~Draft agenda~~~

January 6<sup>th</sup>, 2006, 8:30 a.m. – 12:00 and 1:30 p.m. – 3:00 p.m. *and*

January 7<sup>th</sup>, 12:00 noon – 4:30 p.m.

Room 519, Capitol Building, Juneau, Alaska

(Teleconference: 1-800-395-5073)

### Friday, January 6, 2006

1. Roll Call
2. AML/Borough Task Force Presentation
3. Review draft ACLG Report
4. Discuss draft Legislation
  - Administrative Boroughs
  - a. Scott Brandt-Erichsen amendments

### Saturday, January 7, 2006

5. Discuss draft Legislation
  - Revenue Sharing
6. Report direction
7. Adjourn

January 20, 2006

Senate President Ber Stevens  
Room 111  
State Capitol  
Juneau, Alaska 99801

House Speaker John Harris  
Room 208  
State Capitol  
Juneau, Alaska 99801

Dear Senate President Stevens and House Speaker Harris,

We present this report to the 24<sup>th</sup> Legislature in response to SCR 14.

### **Introduction**

Senate Concurrent Resolution 14 (SCR14) created the Advisory Commission on Local Government during the first session of the 24th Legislature. This resolution was the result of longstanding concern, revisited in 2005 during hearings in the House and Senate Community and Regional Affairs committees, over the state of local government and the perception that the standstill in the evolution of the unorganized borough was adding to the weakening health of local governments throughout the state. The Resolution directed Commission members to:

- Study the specific reasons for the hardships that communities in Alaska have experienced and develop proposals to continue the evolution of local government;
- Define the role of state government in the financing of local public services;
- Recommend specific means by which local governments, when desired, can move towards borough formation;
- Review findings of previous local government studies and incorporate useful information in its report; and
- Deliver a report of its findings to the Legislature.

This report highlights two main areas the commission focused and reached consensus on during the effort to examine the hardships, along with several closely related issues that were identified and perceived to be roadblocks or disincentives to borough formation.

The first area of focus centered on revenue sharing. Recognizing its important history in Alaska, and other states, the commission has recommended reconstituting the program and creating a new disbursement formula, based on services provided and category of the local government, with a basic grant and a per capita allocation, in conjunction with a sustainable funding source.

Keeping in mind the role of state government in relation to local governments, a second major focus and recommendation was to identify a 'next step' to allow the creation of a new category of borough to move toward regionally organizing areas of the vast unorganized borough, and to put in place incentives to do so.

## **Forward**

Under SCR 14, there were nine positions to be filled on the Advisory Commission. Three members were selected from the House of Representatives by the Speaker of the House, three were selected from the Senate by the Senate President, and three were filled by public members who were selected by both the Senate President and the Speaker of the House. The Commission included Senator Gary Stevens, Chair, Representative Bill Thomas, Co-Chair, Senator Bert Stedman, Senator Tom Wagoner, Representative John Coghill, Representative Woodie Salmon, Lisa Von Barga, Marvin Yoder and Scott Brandt-Erichsen.

The Commission held four public meetings between September 2005 and January 2006. Membership, materials reviewed, minutes and other information considered by the Commission during its short existence can be found at the Commission's website: [www.aclg.com](http://www.aclg.com). The Commission met at the expense of individual members, and there was a zero fiscal note associated with the enabling resolution. The outcome of SCR 14, and meetings held during the fall of 2005 including the review of previous related studies are three draft pieces of legislation that are attached to this report that represent the consensus on behalf of all members.

There is a vast body of knowledge and critical analyses, not to mention a fluid legislative history on these subjects. Many of the research papers can be found as links on the Commission's website. The Commission spent several days reviewing two major studies: The Local Government Symposium held in August of 1979 focused on service delivery in the unorganized borough and local/state responsibilities and relationships. The other major study reviewed by the Commission was the Task Force on Governmental Roles that occurred in 1992. Overviews on the topics were provided by the Alaska Municipal League and the Department of Commerce, Community and Economic Development's Division of Community Advocacy Director Mike Black, an individual who has decades of experience with communities and the department.

## **Revenue Sharing**

Charged with identifying key issues leading to the economic hardships of local governments across the state, the Commission recognized the loss of income to communities with the termination of the program, and examined the history of revenue sharing in Alaska and in other states, as well as invited testimony by the Alaska Municipal League. The Legislative Research Agency prepared a report at the Commission's request containing a detailed history of the program and the changing statutory authority that guided revenue sharing up until the program was vetoed in 2003, when it was forecast that state revenues would decrease and the program would be unsustainable; a link to the entire study is included in the appendix.

### Full History of Municipal Revenue Sharing in Alaska

*Excerpted from House Research Agency Request 87.073:*

- Revenue Sharing started in 1969, long before oil revenue.
- Revenue Sharing was a bigger percent of the State budget in 1969 than it was last year.
- In 1979 the Legislature ended sharing the Gross Business Receipts Tax with municipalities in exchange for a promise to replace the revenue with equivalent "Municipal Assistance."

### 1969 to 1980 - State Revenue Sharing Program

The state revenue sharing program (SRS) came into being on July 1, 1969 with the passage of HB 350 (Chapter 95, SLA 1969). Its five purposes were:

1. Help ease fiscal problems facing local governments.
2. Stabilize or reduce local property taxes.
3. Encourage local governments to provide adequate levels of public services.
4. Inject a measure of budget planning and stability into local governments.
5. Improve allocation of State funds by sharing them with local governments.

Approximately 75% of the funds were distributed on a per capita basis for services provided, and 25% based on other criteria (e.g. miles of road maintained). The categories and evolution of the program are shown in the table below:

### Comparison of State Revenue Sharing in FY 70 to FY 80

| <u>Category of Service Provided</u> | <u>1970</u>     | <u>1980</u>                  |
|-------------------------------------|-----------------|------------------------------|
| Police                              | \$5.00 / capita | \$12.00/capita               |
| Fire Protection                     | \$2.50 / capita | \$7.50/capita                |
| Road Maintenance                    | \$1,000/ mile   | \$1,500/mile                 |
| Air/water Pollution                 | \$1.00 / capita | \$2.00/capita                |
| Land Use Planning                   | \$1.00 / capita | \$2.00/capita                |
| Ice Roads                           | NA              | \$900/mile                   |
| Parks and Recreation                | NA              | \$5.00/capita                |
| Transportation Facilities           | NA              | \$5.00/capita                |
| Health Services                     | NA              | \$2.00/capita                |
| Hospital (facility)                 | NA              | \$25,000to\$75,000           |
| Health Facilities                   | NA              | \$1,000/bed,\$4,000/facility |
| Hospital Construction               | NA              | \$2,500 / bed                |
| TOTAL Revenue Sharing               | \$2.0 million   | \$26.9 million               |
| TOTAL / Capita Sharing              | \$9.50 / capita | \$35.50 / capita             |

1979 - "Municipal Assistance" Program created to replace municipal share of the Gross Business Receipts tax: Until 1979, the State shared 20% of the Gross Business Tax

Receipts generated in each municipality. When the State repealed its tax on January 1, 1979, the State promised to replace the lost revenues to municipalities. Revenues were distributed with a "hold harmless" amount (based on what each municipality received in 1978), plus a per capita distribution.

1980 - Revised State Revenue Sharing Programs: HB 192 (Chapter 155, SLA 1980) repealed and replaced the "per capita" revenue sharing program primarily with an "equalization" revenue sharing program. Key elements of the new State Revenue Sharing Program are:

1. "per capita" type categories were abolished except Roads, Fire Protection and Health Facilities. Road revenue sharing was increased to \$2500 / mile
2. A "minimum entitlement" was created to protect the smallest municipalities.
3. A cost of living differential was established.
4. The majority of funds were distributed under an "equalization" formula that takes into account: population; local tax base; and actual local tax effort.

1997 - "Municipal Assistance" changed to "Safe Communities": The Municipal Assistance Program did not direct how the money was to be used by municipal governments. The Safe Communities Program directs that revenues be allocated to various public safety and health services in priority order. However, a municipality may allocate the funding to other public services.

2004 - All Revenue Sharing Programs eliminated:

- Local property taxes have gone up 29% in the last six years largely due to revenue sharing cuts, underfunding education inflation, and state/federal mandates.
- Over 40 small communities have ended or severely cut key municipal services including police, fire, road maintenance, etc.
- By 2005 at least 14 small communities have closed their doors

#### State Revenue not trickling down

Contrary to conditions when oil prices were predicted to steeply decline, oil prices continued upwards, and Alaska's unrestricted general fund revenues have grown; yet cities across the state are increasingly unable to provide basic services or are shutting down completely. More than 14 communities across the state have shut down their local governments and many more are seriously close to doing so. With increasing costs and decreasing revenues, communities are feeling the crunch. This is, of course, compounded annually by inflation.

Ironically, as high oil prices benefit the State of Alaska (currently projected as a \$1.2 billion surplus for FY 06, with likely similar surplus in the next fiscal year), people are paying fuel prices at the pump end much higher than last year. Not only are high fuel

prices causing enormous problems for individuals and cities large and small, but those cities are also paying higher costs for important basics such as insurance and required retirement contributions in lieu of Social Security.

To compensate for the extensive list of additional expenses on local governments, many areas have had no choice but to raise local property and sales taxes. However, despite increases in tax revenue, many cities are still not able to provide the basic services that they were once able to provide. As well, many cities have a small tax base due to the close proximity for purchasing goods from larger municipalities outside the community, or a geographically limited property tax base, due to large federal landholdings.

#### **Statement of Support for a Community Dividend/Revenue Sharing by Alaska Businesses**

The following is excerpted from the State Chamber of Commerce's letter of support to reinstate revenue sharing. They offer evidence of the economic health implications in support of a sustainable community dividend program using an endowment management method (POMV, Amerada Hess) to provide local tax relief to business and families, to assist in providing basic public services throughout Alaska:

- "It is time for long-term local tax relief for businesses and families;
- A community dividend maintains good private sector jobs in urban Alaska; and
- A community dividend gives small local governments the revenue boost they need to afford to provide basic public services and a reasonable quality of life for rural residents.

Upward pressures on local taxes in all Alaskan communities are accelerating due to federal and state unfunded mandates, state and federal budget cuts, the elimination of all municipal revenue sharing programs, a \$3 billion local government debt from the state's retirement programs, very high fuel prices and insurance costs, and general inflation."

Additionally the State Chamber recognizes, as does the Commission, that:

"Anchorage, Fairbanks, and Juneau are the *economic downtown* for rural Alaska. Rural Alaska spending supports at least one out of eight jobs in urban areas: Why do small communities matter economically to Alaska's larger communities? In rural communities there are very few service or retail businesses, so "coming downtown" means calling or visiting Anchorage, Fairbanks, Juneau, and a few other larger communities. In addition, whether goods are purchased in the larger communities or on-line, Alaska's huge intrastate transportation and communication systems are also based in Anchorage, Fairbanks, and Juneau. As rural local governments continue to fail and urban migration continues, urban communities gain unemployed residents and lose jobs at the same time.

The bad news for small communities is that they have almost no local tax base due to very high levels of non-taxable federal land, and very little money spent directly in the

community. While most small communities have substantial local sales taxes, they simply can't generate enough local revenue to support minimum local public services. A smaller community can usually expect to generate only \$8,000 to \$12,000 from local sales tax.

The good news for urban communities is that rural residents spend most of their money in Anchorage, Fairbanks, Juneau, and a few other larger communities. This supports a lot of urban jobs in retail, services, construction, and, especially, transportation. According to economic studies, trade with other parts of Alaska is directly or indirectly responsible for 1 out of 5 to 1 out of 8 jobs in the Anchorage-Mat-Su area.

In the past year several of Alaska's small local governments have closed, and more than half are in financial crisis significantly worsened by the elimination of revenue sharing by the State."

### **Local Government Structures – the Administrative Borough Concept**

The Commission acknowledged the need to continue to form regional government structures and to identify and support the missing link to full boroughization: economic incentives. The Department of Commerce Community and Economic Development, Alaska Municipal League and individuals with economic development organizations contributed their input. In addition, former Senators Vic Fischer and Arliss Sturgulewski provided members with a vast amount of personal knowledge and historical data on the genesis of borough government in Alaska. The Commission reached consensus on a concept that they believe will bridge the gap between existing communities without an organized borough structure, and a phased approach to borough self governance, termed the "Administrative Borough". They reviewed the Constitutional and statutory basis for boroughs as well as getting first person interpretations of actual intent by drafters of the constitution itself through Senator Fischer's testimony. Primary focus related to the factors linked with the lack of incentive to organization, and the presence of real disincentives to borough formation, resulting in stagnation in the evolution of self-sustaining local governments. It was Senator Arliss Sturgulewski who called the single unorganized borough the "amorphous mass."

The website contains a link to fact sheet on the structures of city and boroughs in the state. There are only three unified home rule municipalities (Anchorage, Juneau, Sitka); 6 home rule boroughs (Denali, Haines, Lake and Peninsula, North Slope, Northwest Arctic, and Yakutat); 7 second class boroughs (Aleutians East, Bristol Bay, Fairbanks-North Star, Kenai Peninsula, Ketchikan Gateway, Kodiak Island, Mat-Su), 20 first class cities, and 114 second class cities. There are also numerous unincorporated organized communities.

The Commission recommends recognizing all forms of city and government in a revised revenue sharing program including the unorganized communities.

### **Regionalization Concepts**

The Commission heard from a subcommittee of the Denali Commission, known as the Council for Economic Policy for Rural Alaska (CEPRA), that creating regional governmental structures was critical to economic development. They also noted that the Alaska Regional Development Organizations (11 throughout the state) are a dynamic force more fulfilling regional goals with multiple resources: state, federal match, and local funds.

The commissioners' reason for proposing a new level of borough government is to encourage new borough formation. However, there is an additional issue that needs to be addressed.

The commissioners have received testimony that rigid adherence by the Local Boundary Commission (LBC) to regulations regarding borough boundaries have been a detriment to new borough formation. The commissioners therefore state their intent that the LBC apply flexible rules when reviewing local proposals. Priority should be given to the standards listed in statute. Minor consideration will be given to the model borough boundaries and other administrative boundaries.

### **Issues identified but not addressed by recommendations**

In the course of its deliberations, the Commission discussed a number of hardships and challenges to communities and impairments to borough formation. There is a value in identifying those issues so that future efforts may attempt to address these topics, including:

- The resolution of the dual track educational funding system using Regional Educational Attendance Areas (REAAs) and Municipal School Districts.
- Orderly dissolution of insolvent municipalities.
- Allocation of payments, such as federal timber receipts, as a factor impeding borough formation.
- Regionalization of state provided services.

1. The dual track educational funding system refers to the fact that city school districts and borough school districts fund educational services with a mandatory minimum local contribution while REAAs are primarily state funded and do not have a mandatory local contribution. This system of funding causes friction between the two divisions. Those who are in city or borough school districts feel that residents in REAAs should bear some of the funding burden. Most REAAs counter that 1) they lack the tax base to meet the minimum contribution, and 2) the treatment of federal educational funding is such that there is the functional equivalent of a local contribution, which is as large as that in city or borough districts. The proposed Administrative Borough legislation does not address this issue directly, but aims at creating an environment that should encourage areas of the state to move toward boroughs with educational powers. The Commission recognizes that it does not resolve the conflict in this area. The Commission believes that any legislatively imposed resolution of the conflict would not be a consensus solution.

2. Currently, dissolution of a municipality calls for a petition of the dissolving government or findings by the Local Boundary Commission. One of the guidelines is that all debts are paid. There is not a clear process for dealing with an insolvent non-functioning municipality that would address resolving debts and assumption of the authority to operate existing public infrastructure such as sewer or water infrastructure. While the Commission identified this as an issue requiring attention, it could not be adequately addressed in the time available.

3. The Commission received information regarding the current system for allocation of federal timber receipts (AS 41.15.180), which indicated that the method provides a significant disincentive to borough formation. Currently, areas in the unorganized borough in Southeast Alaska receive funds on a per capita basis, which are generated from the land area in the unorganized borough. Areas in boroughs receive funds based on land area. The result is that any annexation or borough formation will result in a reduction in revenues to all communities in the unorganized borough. Therefore they oppose borough expansion and resist borough formation.

The Commission recognizes the issue, but declines to propose a specific solution.

4. The Commission heard suggestions regarding the orientation of state services on a regional basis in ways that would have common boundaries or districts. It was suggested that this approach would promote regional thinking and thereby encourage regional (borough) organization.

The organization and delivery of services by state agencies is beyond the scope of the Commission's charge.

Thank you for providing us the opportunity and the support to examine these important topics during the summer and fall, the Co-chairs plan to introduce House and Senate Community and Regional Affairs Committee sponsored legislation next week.

Signed,

Senator Gary Stevens, Chair

Representative Bill Thomas, Co-Chair

## Alaska Advisory Commission on Local Governn



**Welcome. You've found our new on-line home.**

**This commission is charged with conducting a needs assessment on the unorganized Alaska. Crafting legislative solutions that will efficaciously address both short-term and sustainability issues will be dependent upon these efforts. Link to our enabling legislation.**

### **Final Report:**

- **Final Report** (PDF - 8 page(s) - 102 KB)

### **Meetings:**

**January 6-7, 2006: Room 519, Capitol Building, Juneau**

**6th: 8:30 am - 12:00 and 1:30 pm - 3:00 pm**

**7th: 12:00 noon - 4:30 pm.**

- **Draft Agenda** (PDF - 1 page(s) - 108 KB)
- **Scott Brandt-Erichsen Amendments Overview** (PDF - 1 page(s) - 60 KB)
- **Proposed Forest Receipts Allocation Legislation** (PDF - 3 page(s) - 84 KB)
- **Proposed Land Entitlement Amendment** (PDF - 1 page(s) - 59 KB)
- **Proposed Transitional Assistance for Boroughs Annexing Additional Territory Amendment** (PDF - 1 page(s) - 58 KB)
- **DCED's Comments on Draft Borough Legislation** (PDF - 11 page(s) - 178 KB)
- **Alaska Taxable 2005 Summary** (PDF - 85 page(s) - 574 KB)

**November 9-10, 2005: Anchorage Legislative Information Office, 716 W 4th Avenue.**

**9th: 1:30 pm - 3:30 pm**

**10th: 8:30 am - 12:00 and 1:00 pm - 3:30 pm.**

- **Draft Agenda** (PDF - 1 page(s) - 116 KB)
- **1980 Bill Draft - Multiple Unorganized Boroughs** (PDF - 16 page - 90 KB)
- **AML's Community Dividend Bill Concepts** (PDF - 4 page(s) - 105 KB)
- **Conceptual Guidelines for Administrative Boroughs** (PDF - 6 page(s) - 76 KB)

**October 21, 2005: Fairbanks Legislative Information Office, 119 Cushman Street, Suite 100  
am - 12:00 and 1:00 pm - 3:30 pm.**

- Minutes (PDF - 17 page - 158 KB)
- Agenda (PDF - 1 page - 104 KB)
- Delta PILT agreement (PDF - 9 page(s) - 523 KB)
- Local Governance Commission Ideas - Scott Brandt-Erichsen - October 21, 2005 (PDF - 2 page(s) - 104 KB)
- New Borough Option - AK Dept. of Commerce, Community, and Economic Development; Division of Community Advocacy - October 2005 (PDF - 5 page(s) - 30 KB)
- Outline of Delta Area Borough Project - October 12, 2005 (PDF - 2 page(s) - 22 KB)
- Council on Economic Policy for Rural Alaska, speech by Bill Allen - September 26th - 28th, 2005 (PDF - 106 KB)

**September 1, 2005:** The first organizational meeting was held in the Anchorage Legislative Information Office room 220 at 11:00 am.

- Agenda (PDF - 1 page - 21 KB)
- Minutes (PDF - 9 page - 136 KB)
- Audio (MP3 - 4+ hours - 320 MB)
- Alaska Municipal League Background Report - Status of Distress in Small Communities (PDF - 192 KB)
- Kevin Ritchie, Alaska Municipal League - Local Government Study 1979 (updated) (PDF - 30 KB)
- Mike Black, Director Division of Community Advocacy - Overview: Incentives and Disincentives for Formation and Sustainability of Local and Regional Governments (PDF - 1 page(s) - 61 KB)
- DCCED Information for Advisory Commission on Local Government (PDF - 15 page(s) - 510 KB)



(l-r) Sen. Gary Stevens, Sen. Stedman, Sen. Wagoner, Director Lisa Von Barga, Rep. Joule sitting at table

## Membership:

- Sen. Gary Stevens, Chair
- Rep. Bill Thomas, Vice-Chair
- Sen. Bert Stedman
- Rep. John Coghill
- Sen. Tom Wagoner
- Rep. Woodie Salmon
- Ms. Lisa Von Barga  
Director, Community and Economic Development  
City of Valdez  
PO Box 307  
Valdez, AK 99686