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Citing the recent Hawaii case, Burns v. Richardson, the court continued:

Alaska has a master voter registration list and the court takes judicial notice that active efforts have been made to register all eligible voters. Upon adequate notice and opportunity to register before use of such a registration list for reapportionment purposes, it would appear that an apportionment plan based on current voter registration would be permissible under the Federal Constitution. Likewise, plans based on accurate data of state citizenship or state residency could meet the standards of the Federal Equal Protection Clause.

In our view, these comments of the Alaska Supreme Court accurately reflect current federal constitutional law on this question. Moreover, as indicated by the basic one man, one vote cases, principles laid down for legislative apportionment apply to local government apportionment as well. Accordingly, if the bases become a part of the city and borough, the options stated in the quotation above would be available for assembly apportionment.

AS 29.23.020(a) provides in part:

. . . if a borough is already incorporated the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal protection standards of the Constitution of the United States.

In accordance with section 17, of chapter 118 SLA 1972, AS 29.23.020 was to take effect upon passage of an amendment to the Constitution of the State of Alaska relating to assembly representation. Such an amendment enacted as SJR 52 in the 1972 legislative session, was approved by the voters in the primary election on August 22, 1972. This new legislation removes any doubt that may have existed previously about the power of an assembly, under state law, to vary from raw census figures as the basis for apportionment.

Assuming that present assembly apportionment is on the basis of total population, it appears that the city would be entitled to a majority on the assembly as soon as the annexation occurred. Thereafter, the city would have the controlling voice on any proposal to change the population base by ordinance.

If the legislature wishes to insure exclusion of, non-resident military personnel, it may wish to amend AS 29.23.020(a) by adding language along the following lines:

Provided that, if 10% or more of the total population of a borough consists of military personnel and dependents living on a military reservation, representation on the borough assembly shall be apportioned on the basis of resident population

It should be noted that separating residents and non-residents has become increasingly difficult with the demise of durational residence requirements. In all likelihood, same sort of special census would be required.

Registered voters is also a permissible base, with the advantage of easy determination. A disadvantage of a registered voter base is that, absent vigorous registration efforts, it tends to under-represent areas with highly mobile population. If, for whatever reason, the registered voter list fails to reflect resident population with some accuracy, it becomes subject to challenge.

We trust the above discussion will be of assistance to you in dealing with this matter. If you have questions or comments, please do not hesitate to contact us.

Very truly yours,

JOHN E. HAVELOCK
ATTORNEY GENERAL

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RWG:mjj

STATEMENT OF ROBERT E. SHARP, CITY MANAGER, CITY OF ANCHORAGE, BEFORE
HOUSE AND SENATE COMMITTEES ON COMMUNITY AND REGIONAL AFFAIRS.

February 21, 1973

Senate Bill No. 151

This bill would annex to the Greater Anchorage Area Borough certain military reservation lands generally embracing the populated portions of Elmendorf Air Force Base and Ft. Richardson. A portion of these lands is now inside the boundaries of the City of Anchorage.

This bill would also annex to the City of Anchorage the balance of the populated portion of Elmendorf Air Force Base, and Ft. Richardson military reservations. This is the same area the Local Boundary Commission approved for annexation to the City of Anchorage.

The apparent purpose of this bill is to annex the populated portions of the two military reservations to both the City and Borough. We have no objection to this approach. However, we would strongly oppose the passage of House Joint Resolution No. 12 and thereby disapprove the annexation of these military reservation lands to the City of Anchorage on the assumption Senate Bill No. 151 will be enacted into law.

Senate Bill No. 150

Each section of this bill will be discussed.

Section 1 provides for the automatic annexation of military reservation lands to a borough if such lands are annexed to a city within the borough. We have no objection to this provision.

Section 2 - no comment.

Section 3 provides for the use of voter registration instead of population as the basis for apportionment of borough assemblies if a military reservation is annexed to or located within such borough. Notwithstanding the legality of using only voter registration this basis has many other problems. A person's name is not removed from the register until he has failed to vote in either a primary or general election at least once in four consecutive calendar years. With the transient nature of large segments of the population in Anchorage and other communities in the State some assemblymen might represent more "paper" than "people".

We note the "voter registration" basis for apportionment would apply in only those boroughs with military reservations in their boundaries. Accordingly, all boroughs in the State would not use the same basis for apportionment. Inasmuch as the final State apportionment has not been approved there could be still a different basis for apportionment for representation in the State Legislature.

We feel that the basis for apportionment for representation on Councils, Assemblies and Legislature should be the same; and that the resolution of this problem can be accomplished under existing law.

Section 4 relates to council representation and our remarks concerning Section 3 would generally apply to this section.

Sections 5, 6 and 7 provide for continued State operation of on base schools unless the Department of Education approves borough operation of such schools. We have no objection to these sections.

Section 8 provides for reduced State shared revenues. This reduction would apply to the portion of Elmendorf Air Force Base already in the city limits of Anchorage as well as to the area being annexed. The City of Anchorage objects this reduction and its discriminatory provisions as it relates to the

area already in the city limits. The limitation should apply to only military reservations annexed subsequent to the effective date of Act.

There were 6,544 people in the area of the City that embrace a portion of Elmendorf Air Force Base as of the last U. S. census in 1970. This produces \$163,600 in State shared revenues for police parks and recreation, transportation and fire services. Under this bill the amount would be \$89,980 for a loss of \$73,620. The Richardson Vista apartment complex in this area is provided all the municipal services furnished other areas of the City and it would be highly discriminatory to exclude this area from normal revenue sharing.

We concur with the State shared revenue limitations applied to the military reservation area to be annexed to the City under the Local Boundary Commission action or SB #151 except for parks and recreation which we feel should be fifty (50) percent rather than twenty-five (25) percent. The fifty (50) percent ratio more nearly represents the park and recreation programs provided at large compared with neighborhood facilities and programs which is a fair and equitable criteria for treating this matter.

To summarize this statement the City of Anchorage is desirous of annexing the balance of the populated area of Elmendorf Air Force Base, and the populated portion of Ft. Richardson, and we have no objection to the annexation of military area proposed in SB #151 to the Greater Anchorage Area Borough. The City strongly opposes the passage of HJR #12 on the assumption SB #151 will pass the Legislature. The Local Boundary Commission's action should stand. The subsequent confirmation by the passage of SB #151 poses no problem. The City of Anchorage does not think voter registration in itself is an equitable method of apportioning assemblies or councils. Further, the basis for reapportionment should be the same for all local governments and the State Legislative bodies. Existing law is

adequate for handling apportionment and Sections 3 and 4 should be deleted from SB #150. The reduction of State shared revenues to the City of Anchorage for the portion of Elmendorf Air Force Base that has been in the City limits for 53 years is highly discriminatory and Section 8 of the bill should be applicable to only military reservation areas annexed subsequent to the effective date of Act.

Reapportionment at this time would
set a stage.

Who is entitled to Representation?

LT Gov has not stated he will use
Voter Reg for reapportionment.

Separate Criteria for STATE + Borough

Impact Policy

IN LANE