

712

HCRRA

HB 585

-

HB 586

712

(7)

# COMMITTEE REPORT

## HOUSE

2/22

1/21/80

*"Sick-pink Copy"*

FURTHER: FINANCE

Date: 22 Feb 80

Mr. Speaker:

COMMUNITY AND REGIONAL

The Committee on AFFAIRS has had HB 583

"An Act relating to state aid to local governments; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 583  same title
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back with ~~one~~ <sup>individual recommendations</sup> ~~recommendation~~
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

*Bin Paul*

*Margaret Brennan*

*Frank W. Zaroff*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

*Falcoche Howell* *Do Not Pass*

*Charles Han* *Do Not Pass*

*Ray M. Staley* *Do Rec*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Bin Paul*  
CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 583  
 Title An Act relating to State Aid to Local Governments  
 Requested by C&RA Committee Date 4-4-80

II. FISCAL DETAIL

Agency Affected Community & Regional Affairs  
 Program Category Affected Development  
 BRU, Program, or Subprogram(s) Affected Local Government Assistance - Grants  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		1893.1	1893.1	1893.1	1893.1	1893.1
<b>TOTAL</b>		1893.1	1893.1	1893.1	1893.1	1893.1

FUNDING (Thousands of Dollars)

GENERAL FUND		1893.1	1893.1	1893.1	1893.1	1893.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Under the FY 1980 program 74 municipalities received less than \$25,000. It is assumed that all other municipalities eligible for the program will also apply in FY 1981, which is an additional 18 applicants, for a total of 92 municipalities eligible for the minimum grant entitlement of \$25,000.

Minimum Entitlement	\$ 25,000
Average COLA	x 123.65%
Total Minimum Entitlement	\$ 30,912
Eligible Applicants	x 92
	\$2,843.904
Already Funded in FY 81 Budget	- 950,820
Additional Funding Required for FY 81 Budget	\$1,893,084

IV. DATE 4-4-80 PREPARED BY Netta Crago  
 AGENCY Community & Regional Affairs  
 PHONE 465-4733  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H. B. 583 and S. R. 351

Title An Act Relating to State Aid to Local Governments; and Providing for an Effective

Requested by House Community & Regional Affairs Committee Date 1-18-80 Date

II. FISCAL DETAIL

Agency Affected Community & Regional Affairs

Program Category Affected Community Development

BRU, Program, or Subprogram(s) Affected Local Government Assistance - Grants

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	4,760.0	4,883.0	4,883.0	4,883.0	4,883.0
TOTAL	0	4,760.0	4,883.0	4,883.0	4,883.0	4,883.0

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
	0	0	0	0	0	0

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Assuming all municipalities are eligible plus the anticipated incorporation of three municipalities, for FY 81 and four for FY 82

FY 81

FY 82

see attached

IV. DATE 1-18-80

PREPARED BY Netta Crapo

AGENCY Community & Regional Affairs

PHONE 465-4733

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

CONTINUATION

FY 81

154 municipalities

x 25,000 additional entitlement

3,850,000

x 23.63% average of COLA's

909,755

3,850,000

4,759,755 FY 81 additional funding

FY 82

158 municipalities

x 25,000 additional entitlement

3,950,000

x 23.63% average COLA's assuming no changes

933,385

3,950,000

4,883,385 FY 82 additional funding

FY 83 through FY 84 is anticipated to remain at the same level

HB

584

(7)

# COMMITTEE REPORT

## HOUSE

1/21/80

FURTHER: JUDICIARY

Date: 13 Feb 80

Mr. Speaker:

The Committee on COMMUNITY AND REGIONAL AFFAIRS has had HB 584

"An Act eliminating third class boroughs."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

Don Paul

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

Don Paul

**CHAIRMAN**



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99801

Official Business

### COMMITTEE MINUTES

DATE: 2/13/80

BILL NUMBER AND TITLE: HB 584 Eliminating third class boroughs

ORIGINAL SPONSOR : House/Senate  
C&RA Joint Committee

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS: Judiciary

MEMBERS PRESENT: Bill Parker X  
Margaret Branson X  
Pat O'Connell X

Pat Carney X  
Charlie Parr X  
Fred Zharoff  
Ray Metcalfe

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

The Committee decided to move HB 584.

COMMITTEE ACTION: Signed out.

TAPE # 2 SIDE 2

Sections 626



Official Business

# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Senator Arliss Sturgulewski  
FROM: Marjorie  
DATE: 2/20/80  
RE: Issues raised re Local Government Package not acted upon by House C&RA Committee

HB 584 (SB 354) Eliminating the Third Class Borough

Stephanie Scott, Administrative Secretary for the Borough of Haines, raised the question of the need for financial support if Haines reclassification is mandated. I am directing calls on this bill to your committee since I believe the House bill is dead--Charlie Parr has indicated HB 584 will not be heard by his Committee.

The Haines City Council also has apparently recently passed a resolution in support of HB 584 (SB 354)



Official Business

# Alaska State Legislature

JOINT SENATE AND HOUSE  
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE  
LOCAL GOVERNMENT STUDY

Co-Chairmen  
Senator Arliss Sturgulewski  
Representative Bill Parker

Address all  
correspondence to:  
LOCAL GOVERNMENT STUDY

Pouch V  
State Capitol  
Juneau, Alaska 99811

Minutes for C&RA meeting 25 January 1980

HB 584

- Parker Intent of bill is to provide for elimination of third class borough because, from a "pure government" standpoint, it would be cleaner and better not to have them. Organized borough also needs overhaul, but Parker wasn't sure legislature can handle it at this time.
- Palmer  
McCarter  
(C&RA) Mr. McCarter presented a brief history of the third class borough statutes, pointing out that the state's only third class borough, Haines, opted for that status only because they wanted to keep their independent school district w/o becoming a second class borough; essentially, 68 legislation provided the option. McCarter also pointed out that without exception when the Department has asked groups if they wanted to go to third class status they have said that it did not provide the type of government they wanted. Dept. argues for maximum local control, yet 3rd class is very restrictive, and therefore should be eliminated.
- Parr Mr. Parr said his bill changed certain 3rd class statutes because of a '76 Fairbanks initiative to go from second class to third class (the measure failed in popular vote). The bill provided for planning and zoning on a service area basis only. "The reason I've always had trouble with this proposal is, the talk in the department is to give all the flexibility they can to local government. So if the people want something between a second class borough or no government at all, why shouldn't they have it?" So long as it doesn't hurt the state.
- McCarter Mr. McCarter gave an example of REAA 12. They would be held to be a third class borough, when in fact they are only an independent school district; that violates the intent of the act.
- Parr Mr. Parr said that, in his district, it was planning and zoning powers that people were afraid of. Third class boroughs were restricted to service areas in this regard.
- Parker "Couldn't they become second class boroughs and simply zone unrestricted?"
- Parr Mr. Parr said he believed it didn't happen that way, that zoning boards usually preferred to clamp restrictions on areas where ever they could.



Official Business

# Alaska State Legislature

JOINT SENATE AND HOUSE  
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE  
LOCAL GOVERNMENT STUDY

Co-Chairmen

Senator Arliss Sturgulewski  
Representative Bill Parker

Address all  
correspondence to:

LOCAL GOVERNMENT STUDY

Pouch V  
State Capitol  
Juneau, Alaska 99811

2

Parr

Mr. Parr felt another problem would be that, in unorganized boroughs, the Division of Lands would have zoning powers, and the division's "shoddy track record" made it a poor option. "My bias is, we ought to have a mandatory borough act, but I think we should have the third class borough option." Mr. Parr felt the step from unorganized to second class was too large a jump.

Parker

Mr. Parker asked if passage of this legislation would put the legislature on record as giving Division of Lands more power? Or, where in the state would such actually be the case?

Parr

Mr. Parr wasn't sure, but reiterated his fear that the division would get more planning and zoning power.

McCarter

Mr. McCarter said he understood that if the borough is not exercising its zoning power, then the Division definitely had the option, and that the decision should be left up to the local assembly, not somebody else.

Parr

Various  
Fairbanks  
borough

telling

"Lots of voters are dissatisfied with second class boroughs; in Fairbanks, the desire was for less government." Mr. Parr stated he had voted against the Fairbanks initiative replacing a second class borough with a third class borough. "But if I had been in some other place, I might (want) a third class borough. With this bill, what might happen is we're telling people if they become second class and don't like it, you can't go down a level. Why should they be denied? You've got to prove an overriding and compelling state argument (against it)."

McCarter

Mr. McCarter stated that third class boroughs had no area-wide powers except taxation and schools.

Parr

Parr thought those powers could be exercised.

McCarter

Mr. McCarter stated that, unofficially, Haines supports the repeal of third class boroughs, and would rather have the state do it so they don't have to deal with it at the local level.

Parker

(stating Parr's position) There must be a compelling state reason for taking away the option. (paraphrasing McCarter's position) The Department of C&RA believes that, as a practical matter, the third class borough



Official Business

# Alaska State Legislature

JOINT SENATE AND HOUSE  
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE  
LOCAL GOVERNMENT STUDY

Co-Chairmen  
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Representative Bill Parker

Address all  
correspondence to:

LOCAL GOVERNMENT STUDY

Pouch V  
State Capitol  
Juneau, Alaska 99811

doesn't work as an option. They are, in fact, glorified school districts.

Mr. Parker then asked Mr. Parr if he thought any region might want to become a third class borough.

Parr

Mr. Parr said he didn't know, but within his experience, in his own borough where the budget is mostly education, it made a lot of sense (to have third class boroughs). "People are afraid of being taxed. Under the third class set-up, there are no reasons for taxation.

# CITY OF HAINES

TELEPHONE (907) 766-2231

POST OFFICE BOX 576

HAINES, ALASKA 99777

February 6, 1980

To Whom It May Concern:

Re: Senate Bill No. 354  
House Bill No. 584  
An Act Eliminating Third Class Boroughs

The City of Haines has experienced frustrations with the Third Class Haines Borough in much the same vein that cities in the unorganized borough have experienced with the areas outside their corporate boundaries. For many years the City of Haines provided the following services at no cost or at subsidized rates to the Borough residents outside the City boundaries:

1. Fire protection
2. Emergency medical
3. Emergency police
4. Boat harbors
5. Road maintenance
6. Day care facilities
7. Parks

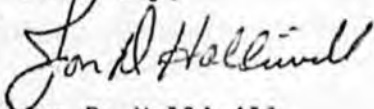
The City provided these services because the Borough has only the powers of "education and tax assessment and collection." In addition, on many occasions when controversial issues arose concerning the entire Haines Borough (e.g., Haines-Skagway Land Use Plan and Udall's HR 39, Section 308 Eagle Study for the Chilkat Valley) the burden fell on the City of Haines to represent the interests of the entire Borough because the Haines Borough lacked planning authority. Yet at the most recent municipal election held October 2, 1979, 77.3% of the Borough residents who live outside the City and who voted, rejected the opportunity for area-wide planning powers.

In the face of potential liabilities and financial constraints, the City Council recently decided that effective July 1, 1980, the City will place a moratorium on all services outside the City for which the City has no legal authority to proceed on an extraterritorial basis and/or for which the City is not compensated. As a consequence of this action, the Haines Borough Assembly has scheduled a

special election for March 4, 1980, to provide the people outside the City with the opportunity to establish five additional service areas. Currently, the Haines Borough has one service area to provide fire protection to the residents immediately outside the City boundaries.

In your deliberations on the subject Bills, I think it is also important that you be made aware of the legal opinion prepared by Rodger Pegues, Assistant Attorney General (copy attached) regarding powers of a Third Class Borough. In essence the opinion states that while the Third Class Borough Assembly is unable to provide noneducationally related services and facilities without voter authority, these same individuals by donning the hats of the Haines School Board can "provide for any number of educationally related facilities and services, e.g., libraries, swimming pools, playgrounds, gymnasiums, museums, cultural centers, and the like and to make them available to the public generally." The opinion, unfortunately, fails to define the scope of "education".

Sincerely,



Jon D. Halliwill  
Mayor

JDH:tce

Enc.

TO: Hon. Lee McAnerney, Commissioner  
 Department of Community &  
 Regional Affairs

DATE: April 24, 1979

FILE NO

J-66-481-79

TELEPHONE NO

FROM: AVRUM M. GROSS  
 ATTORNEY GENERAL

SUBJECT

Provision of library,  
 museum, and cultural  
 center by third class  
 borough

By:

Redger W. Pegues  
 Assistant Attorney General

You have asked whether, in the light of subsequent statutory amendments, we wish to reconsider our memorandum of advice of March 11, 1969, in which we concluded that a third class borough may provide for a library.

We believe that, acting in its capacity as an organized borough, a third class borough could provide additional services solely by the methods prescribed by AS 29.41.010(b), i.e., by popular ratification and in service areas only. However, in its capacity as a school district and as a part of its educational program, a third class borough has ample power under title 14 to provide for libraries, museums, and cultural centers and to make them available to the public at large as well as to students.

If our earlier memorandum has a fault, it is that it failed to emphasize the dual role played by the borough assembly as local governing body and as school board, AS 29.41.020, and the resulting consequences. While the assembly as an assembly might have no power to provide for a library until authorized to do so by the electorate, the assembly as a school board has ample power to provide for any number of educationally related facilities and services, e.g., libraries, swimming pools, playgrounds, gymnasiums, museums, cultural centers, and the like and to make them available to the public generally. It can even get state matching money to support many of these activities. We do not perceive the 1977 amendments to the Municipal Code's provisions on third class boroughs as in any way affecting their powers and functions as school districts.

RWP/pjg

RECEIVED

APR 25 1979

DEPT. OF COMMUNITY  
 AND REGIONAL AFFAIRS

February 8, 1980

Ms. Stephanie Scott  
Administrative Secretary  
Haines Borough  
Haines, Alaska

Dear Stephanie,

Enclosed you will find the material relative to the Local Government Study which we discussed, including: 200 copies of HEB 584; copies of the local government study report; and a press release on the legislative package.

Additionally, I have attached a copy of the House C&RA schedule for public hearings. You will note that HB 584 has been scheduled for Feb. 13 because of the legislative holiday on Feb. 15. The Senate C&R Committee has informed me that they will hear SB 354 (identical to HB 584) on Feb. 14 at 1:30 P.M. in the Butrovich Room of the Capitol Building.

Thank you for your interest and we continue to be available for any comments or questions you may have.

Yours truly,

(for Rep. Bill Parker)

Phone: 766-2471  
Business: 766-2160  
Magistrate: 766-2116  
Area Code: 907

Maj. Carl W. Heinmiller, Ret.  
Indian Arts and Crafts Specialist

Box 271, Haines  
Alaska 99827



Ex. Director: "Chilkat Dancers"

Feb. 6, 1980

Sen. Arliss Sturgulewski  
Chairperson  
Community and Regional Affairs  
State Senate  
Pouch V  
Juneau, Alaska

Dear Senator Sturgulewski:

I am writing in support of HB 584 which would eliminate the Third Class Borough. Over the last 30 years I have been on the School Board and involved with all the complications of the Special School District which finally became a "second thumb" under the State Constitution, i.e. a Third Class Borough. As the constitution required a limited strata of government, there should have never been a Third Class Borough. The making of such a form of government was a method to get out of a responsibility. I am happy to see the Legislature finally take on this change.

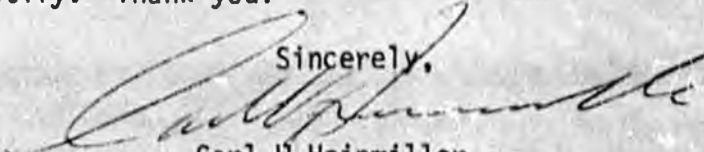
I'm enclosing a copy of the local paper which shows how a Third Class Borough, but adding on service district after service district, until it is in effect a Second Class Borough, or better. When a Fire District was setup several years ago, the Borough could not even get candidates to fill the require positions for the District. However, more areas are seeing that they can save considerable insurance by being under a Fire District, and now adding a medical service area. HOWEVER, what is heppening is that the Borough Government is duplicating the City Government.

It is understandable that many people in the outlying area do not want to have zoning and planning because they do not want to be restricted. The result is many shacks, improperly subdivided lands, poor water and sewer control and in some areas, lacking of garbage control. The "hue and cry" is "we don't want more government", but these people accept all the services available by the City without paying anything for such service.

It is almost impossible to explain to some that they will only pay for what they get. They do not pay for City sidewalks, road maintenance etc. If they do not have water and sewer, they do not pay for this utility. We have the possibility of industrial development in the outreach area and should that happen under our present type Borough government, a hodgepodge of growth will develop. Of course, these developers see a great advantages of low taxations so side in with those who don't want any control on their own interests, even tho against the developers.

I hope that when this bill (or a Sen. companion bill) comes up for a hearing that I will have the opportunity to testify. Thank you.

CWH/p  
CC: Rep. Parker, Duncan, Miller  
Sen. Ray

Sincerely,  
  
Carl W. Heinmiller

FROM THE DESK OF JUDGE CARL HEINMILLER  
HAINES, ALASKA

Feb.6th

Dear Bill:

This is a MUST...we are getting in more trouble every year. we have some people subdividing in the worst possible way...plus garbage dumps..shacks etc.

The hot shot developers who want to mine..and the loggers..want low taxes.. so are oddly enuf, lined up with the no growth people(or the shackers). The City is getting stuck with more and more services, which, while they could refuse ..such as fire serve, it is very difficult. someone burns out and then arrive in town for help etc.

I'd like to testify on this bill whenever it come up..

*Called 2/8/80  
See Heinmiller's name  
info re  
Haines  
date* Regards *Carl*

January 22, 1980

The Honorable Charlie Parr  
State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Parr:

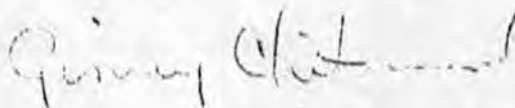
The Alaska Municipal League 1980 Policy Statement contains the following language on third class boroughs. "The League supports elimination of language from the Alaska Statutes which would allow for the future creation of third class boroughs. Any existing third class borough would be allowed to continue in existence until such time as it reclassifies. The League believes that a third class borough, as currently defined in statute, does not meet standards for a general purpose local government."

The third class borough filled the gap caused by the abolishment of the old independent school districts. Subsequent creation of rural education attendance areas, however, obviates the need for an entity, such as the third class borough, to provide local control over local educational districts.

In practice, the Haines Borough has encountered difficulties with the system under which it functions. For example, it is faced with a multitude of land use problems over which it has no statutory authority. In addition, the general local government problems that came before the assembly, and that in most cases cannot legally be resolved by the assembly, are interfering with that body's ability to perform its major function - running the Haines schools.

The League, therefore, is in favor of abolishing the third class borough form because it doesn't meet the maximum local self-government criteria set out in the Constitution, and from a practical point of view it doesn't seem to work.

Sincerely,



Ginny Chitwood  
Executive Director

FROM THE DESK OF JUDGE CARL HEINMILLER  
HAINES, ALASKA

Feb. 6th

Dear Palmer:

Please keep us informed on this bill..

as we have a strong group in support of it..  
Chamber of Commerce..Optimum Government Com  
and other.

We hope the Legislature finally has the guts  
to kill this dumb Third Class Borough..

Regards,

RECEIVED

FEB 08 1980

DEPT. OF COMMUNITY  
AND REGIONAL AFFAIRS

HB589  
SB354

# HAINES BOROUGH

P.O. BOX H  
HAINES, ALASKA 99827

February 4, 1980

Palmer McCarter, Director  
Division of Community and Regional Affairs  
Pouch B  
Juneau, Alaska 99811

Dear Palmer:

I am enclosing two sets of correspondence concerning two "gray" areas for the third class Haines Borough:

- 1) Our relationship to the management and disposal of land received from the state through the municipal entitlement procedures; and
- 2) The status of the present "chairman" of the Haines Borough Assembly and School Board.

I know this is a very busy time of year for you but if you would look into both of these areas for me I would appreciate it very much. My basic concern with the question of the chairman is how do we elect a borough mayor at large and still maintain our present form of apportionment and representation? It would be nice to be able to deal with this issue this October before dealing with the new forms of representation and possible reapportionment as laid out in the 1979 amendments.

Sincerely yours,



Stephanie K. Scott  
Administrative Secretary

RECEIVED

FEB 08 1980

DEPT. OF COMMUNITY  
AND REGIONAL AFFAIRS

February 12, 1930

SR 90675-Z  
Fairbanks, Ak. 99701

The Honorable Charles H. Parr  
Alaska House of Representatives  
Community and Regional Affairs  
Pouch V  
Juneau, Alaska 99811

RE: Opposition to H.B. 584

Dear Sir:

Concerning H.B. 584, "An Act eliminating third class borough", I oppose the bill. I understand a third class borough to be the simplest form of government for residents in a community to have in order for them to have a strong local government. It provides direct power to the people in which they have more direct power than people in a first or second class borough. I realize that the legislators understand the power of a third class borough, but I feel it is not as well understood by the people in general and that it is being misrepresented to the people. To think that in order to have a strong local government that it must be a large standardized complex governing body is, I feel, erroneous. When you have a complex government, people naturally tend to reject or lose the incentive to provide for themselves, due to high taxes and the forced understanding that the government knows what is best for you. To imply that a person does not know how to govern himself is a direct insult to their intelligence.

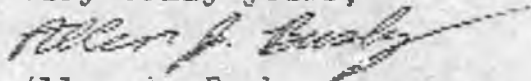
Working with the Salcha Secession Group, which is trying to detach from the Fairbanks North Star Borough, we are looking for a local government plan which will fit our needs. According to AS 23.03.030, there are five general law municipalities to choose from or become and Unorganized Borough. The residents of Salcha are looking at adopting a third class borough. I believe it will meet our needs better than the second class which now exists. Before the FNSB was formed, Salcha was a growing farming community in which the people were self providing. The community was involved in building a community hall; they were responsible for the establishment of the Salcha Elementary school; and provided the bus service for the elementary and high school students. Salcha residents brought power to the community and tried to build a farmers loop road. When the taxation started, it was a financial strain to the Salcha farmers who were just making ends meet. The borough went so far as to tax potatoes in their root cellars. Some residents had to dismantle buildings on their farms because they could not afford to pay the taxes. All of this in order to provide services that already exist and those services are still mainly funded by the original source.

When the borough was being formed, Salcha tried to be excluded. At that time it was known that the FNSB could not provide for Salcha and it still cannot in the best interest of the borough.

residents and the State of Alaska. If Sitka were allowed to detach and form its own third class borough, the people would have the direct power to provide for themselves again. By eliminating third class borough, I find this an act of breaking down true local government powers of the people of Alaska. This especially applies to Alaskans of rural and bush Alaska who might choose this type of local government in order to meet their needs.

I am in strong opposition to House Bill 584 and cannot stress to you the importance of this bill being defeated.

Very truly yours,



Allen J. Busby

cc: Parker, Bill  
Carney, Patrick J.  
Zharoff, Fred F.  
Branson, Margaret  
Metcalf, Ray H.  
O'Connell, Patrick M.  
Sturgulowski, Arliss  
Mulcahy, Bob  
Kelly, Tim  
Rodey, Patrick M.  
Stinson, Terry

Message phone: 488-2193 - evenings

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H. B. 584 and S. B. 354  
 Title An Act Eliminating Third Class Boroughs  
 Requested by Community & Regional Affairs Committee Date January 18, 1980

II. FISCAL DETAIL

Agency Affected Department of Community & Regional Affairs  
 Program Category Affected Community Development  
 BRU, Program, or Subprogram(s) Affected Local Government Assistance - Grants  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	0	0	25.0	0	0
TOTAL	0	0	0	25.0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	25.0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

AS 29.18.180(a) states that boroughs that reclassify are entitled to an organizational grant of \$25,000. This bill would force one existing third class borough to reclassify and thereby entitle it to a \$25,000 grant. No other municipality is affected by the bill.

FY 83 is the estimated year of reclassification, although it could conceivably take place any time between FY 80 and FY 85.

IV. DATE January 18, 1980 PREPARED BY Mary Foster  
 AGENCY Community & Regional Affairs  
 PHONE 465-4734  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

Form 01-006

STATE OF ALASKA  
OFFICE OF THE GOVERNOR

TO: Department of

- Administration
- Commerce & Econ. Develop.
- Community & Regional Aff.
- Education
- Env. Conservation
- Fish and Game
- Health & Social Svcs.
- Highways
- Labor
- Law
- Military Affairs
- Natural Resources
- Public Safety
- Public Works
- Revenue

ATTN: Commissioner McAnery

- Return letter w/draft
- Return letter w/comment
- Reply direct
- Your information
- Call me
- Appropriate action
- As requested
- 

REMARKS:

From: Georgette

Date: 4/15

April 11, 1980

Mr. Louis O. Nelson  
P.O. Box 297  
Haines, Alaska 99827

Dear Mr. Nelson:

Thank you for your letter of March 13, 1980 regarding House Bill 584.

That bill is currently awaiting action in the House Judiciary Committee. If and when it passes both houses, I will review it in its final form with your concerns in mind.

As additional information, that bill was initially introduced at the request of the Interim Local Government Study Committee after several public hearings were held all over the state.

Thank you again for your interest and concern.

Sincerely,

Jay S. Hammond  
Governor

bcc: Commissioner Lee McAnerney

JSH:bh:kms

April 11, 1980

Mr. Irvin N. Sogge  
Box 427  
Haines, Alaska 99827

Dear Mr. Sogge:

Thank you for your letter of March 11, 1980.

I appreciate being advised of your concerns about House Bill No. 584. That bill is currently awaiting action by the House Judiciary Committee. At such time as it should pass both houses of the legislature, I will consider it in its final form keeping your comments in mind.

Thank you again for your interest and concern.

Sincerely,

Jay S. Hammond  
Governor

bcc: Commissioner Lee McAnerney  
JSH:bh:kms

# MEMORANDUM

# State of Alaska

## DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: The Honorable Jay S. Hammond  
Governor

DATE: March 27, 1980  
FILE NO:

TELEPHONE NO:

FROM: Lee McCarney  
Commissioner  
Department of Community and  
Regional Affairs

SUBJECT: Attached correspondence

*OK -  
Jen*

Attached are replies to letters from Mr. Irvin Sogge and Mr. Louis Nelson from Haines requesting your opposition to House Bill 584 which would eliminate third class boroughs.

The reply informs Mr. Sogge and Mr. Nelson that you will give their request due consideration if and when the bill reaches you in its final form.

Recommendation: You sign letters.

Attachments

**RECEIVED**  
MAR 28 1980  
GOVERNOR'S OFFICE

Maj. Carl W. Heinmiller, Ret.

Indian Arts and Crafts Specialist

Box 271, Haines  
Alaska 99827

Home: 766-2471  
Business: 766-2160  
Magistrate: 766-2116  
Area Code: 907

Ex. Director: "Chilkat Dancers"

Feb. 6, 1980

Sen. Arliss Sturgulewski  
Chairperson  
Community and Regional Affairs  
State Senate  
Pouch V  
Juneau, Alaska

Dear Senor Sturgulewski:

I am writing in support of HB 584 which would eliminate the Third Class Borough. Over the last 30 years I have been on the School Board and involved with all the complications of the Special School District which finally became a "second thumb" under the State Constitution, i.e. a Third Class Borough. As the constitution required a limited strata of government, there should have never been a Third Class Borough. The making of such a form of government was a method to get out of a responsibility. I am happy to see the Legislature finally take on this change.

I'm enclosing a copy of the local paper which shows how a Third Class Borough, but adding on service district after service district, until it is in effect a Second Class Borough, or better. When a Fire District was setup several years ago, the Borough could not even get candidates to fill the require positions for the District. However, more areas are seeing that they can save considerable insurance by being under a Fire District, and now adding a medical service area. HOWEVER, what is happening is that the Borough Government is duplicating the City Government.

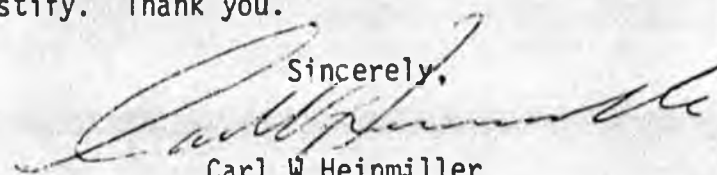
It is understandable that many people in the outlying area do not want to have zoning and planning because they do not want to be restricted. The result is many shacks, improperly subdivided lands, poor water and sewer control and in some areas, lacking of garbage control. The "hue and cry" is "we don't want more government", but these people accept all the service available by the City without paying anything for such service.

It is almost impossible to explain to some that they will only pay for what they get. They do not pay for City sidewalks, road maintenance etc. If they do not have water and sewer, they do not pay for this utility. - We have the possibility of industrial development in the outreach area and should that happen under our present type Borough government, a hodgepodge of growth will develop. Of course, these developers see a great advantages of low taxations so side in with those who don't want any control on their own interests, even tho against the developers.

I hope that when this bill (or a Sen. companion bill) comes up for a hearing that I will have the opportunity to testify. Thank you.

CWH/p  
CC: Rep. Parker, Duncan, Miller  
Sen. Ray

Sincerely,

  
Carl W. Heinmiller

# AVCP

Association of Village Council Presidents  
P.O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

05 March 1980

Representative Bill Parker  
Pouch V  
Juneau, AK 99811

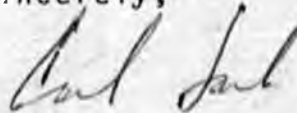
Dear Bill:

I would like to take this time to personally thank you and your staff for taking time from your busy schedule to meet with myself and Mr. Harold Napoleon, regarding the bills concerning the unorganized boroughs which are under consideration by your committee.

It has become apparent that there are many interests which involved in the consideration of these bills and AVCP would like to reiterate it's position that it may be premature for this legislature to pass these legislations, at this legislative session. However, AVCP herewith submit to you and your committee for consideration that in lieu of the passage of these bills, that AVCP would be more than willing to be the demonstration area for the impact study to determine whether such a government can be established within the AVCP Region. That is to say, we would like to see legislative appropriating funds to AVCP to conduct an impact study to determine whether a borough government is feasible within the AVCP Region and for the legislature to give us, at the minimum of two (2) years to complete the study, at which time a decision will then be made the electorate with the AVCP Region. Furthermore, we submit to you and your committee for consideration that the external boundaries of such a governmental unit be that of the external boundaries of the regional corporations established under Public Law 92-203, and any subdivision to be determined by the impact study.

Again, thank you for taking time to meet with us to discuss this vital issue of concern to the people of the AVCP Region.

Sincerely,



Carl Jack, PRESIDENT  
AVCP

fk

cc: AVCP Executive Board

March 1, 1980

The Honorable Bill Parker  
Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99811

Re: House Bill No. 584

Dear Representative Parker:

I am really concerned with Senate Bill No. 354. This bill was introduced without any regard for the constituency within the Haines Third Class Borough. In my opinion, the Community and Regional Affairs, disregard for public opinion by not holding a public hearing at Haines, Alaska, advising the intent to repeal Third Class Boroughs, is an act of disdain.

I trust you will give this bill your full consideration before bringing it out of committee.

Before repealing Third Class Boroughs, there should be research as to the benefit for small communities and the State. It gives any small community self government, with taxable power for education allowing them revenues for extra curriculum not furnished by the State. A government without all the restrictions of platting and zoning and this should remain within the Third Class Borough and should not be authorized to the Division of Lands. Let's not get into a bureaucratic government. The people should retain the right for platting and zoning. They can do this now by districts and if they want area wide powers, they can always reclassify to a Second Class Borough, but leave it to a vote of the people, not as a mandate from the legislature.

In my opinion, the Third Class Borough statute is very feasible to the State of Alaska, but has been opposed by Community and Regional Affairs from enactment.


I was active in the Haines Borough Government for the first ten years, assemblyman for six years, and Assessor for nine years. In every contact with the Community and Regional Affairs, we were ridiculed for remaining a third class borough. We were contacted by residents in Tok and Glenallen, Alaska. The C.R.A. representative returning to Juneau through Haines was very jubilant. He had convinced both towns not to proceed.

It would be interesting to know how many small communities have been discouraged to self government as a Third Class Borough, by Community and Regional Affairs, and why?

In Conclusion: I wish to emphasize that the Haines Borough has been very successful and satisfied; any change to reclassify has been voted down heavily; financially we are solvent, our local effort for the 1978-79 budget was \$242,296.

Again I say Statute of Third Class Borough's should not be repealed. We the people should retain our rights for self government by popular vote.

Sincerely,



Raymond R. Smith, Sr.

P. O. Box 7

Haines, Alaska 99827

Mrs. Grace Steeves  
Gen. Del.  
Haines, Aka. 99827

Feb. 28, 1930

Rep. Bill Parker  
Pouch V  
Juneau, Aka. 99811

Dear Rep. Bill Parker,

We feel that if House Bill 534 passes, this would be a detriment to our life here in Haines. We do not find any benefits to being a second class Borough. We treasure our way of life here, as a third class Borough.

It is heartbreaking to see how much of our country is black-topped. When you fly low in a small plane, you see what is happening to our beautiful country. I hate it with a purple-passion!

Please vote No on House Bill 534.

Yours Sincerely,

*Grace Steeves*  
*35-year resident of Alaska*  
*and Yukon Terr. Gov.*



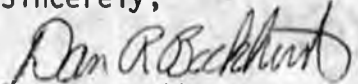
March 3, 1980

The Honorable Bill Parker  
House of Representatives  
Pouch V  
Juneau, Alaska 99811 (Mail Stop Number 3100)

Dear Representative Parker:

The Council of the City of Haines has formally expressed its support for House Bill 584, "an Act eliminating third class boroughs".

It has been suggested by others that this proposed legislation would be more equitable to the Haines Borough if provisions were made for financial assistance similar to that provided for in AS 29.18.180, to defray the cost of reclassification.

Sincerely,  
  
Dan R. Bockhorst  
City Administrator

RIVER BOND

DRB:dkb

cc: Representatives Jim Duncan  
Mike Miller  
Haines Borough

Mrs. Louise Homstad  
Box 87  
Haines, Aka. 99827

2/28/80

Representative Bill Parker  
Pouch V  
Juneau, Aka. 99811

Dear Representative, Bill Parker,

Haines is the one really peaceful place, where life is not a hassell. I believe, being a 3rd. class borough has a lot to do with this.

I really hope we won't be forced to cope with the problems & pressures of a 2nd. class borough.

We really need to preserve more of our fertile soil for agriculture. Much has already been burried under blacktopping, housing & shopping centers. Our nation will indeed starve, if we don't put a damper on this. What good are houses & markets, if there is not food to support life. Crazy, isn't it?

We now realize, a nation is only as strong as it's ability to produce & utal-ize it's food resources.

We are responsible for our actions & our Gvt. policies, which in turn effect the entire world. We are in a big enough mess, so let us not make matters worse, by forcing our community to become a 2nd. class, instead of the present 3rd. class borough?

Please vote NO on House Bill #584.

Sincerely,

*Louise Homstad*

F. O. Box 1166  
Fairbanks, Ak. 9970

Fourth open letter to all  
Legislators of the State of Alaska

February 12, 1980

Re.: Borough powers (HBs 580, 581, 582, 584, 585, 586, and the  
corresponding bills in the Senate)

Dear Legislator:

This letter is written in opposition to the above named bills, which will, if enacted, eliminate the borough system. Thereby the opportunity for maximum local self-government as mandated by the Alaska Constitution, article X, will no longer be provided for.

If the sole purpose for this legislation is (as I have perceived from listening to verbal testimony by members of the Joint Senate & House Community & Regional Affairs Committee) to streamline delivery of State provided services and to encourage local participation in the process, then nothing would prevent the legislature from simply amending present law to the extent that the existing regional school boards may also act as Regional Health and Welfare Boards. The providing of municipal services to any area of the State where people may desire them is very adequately covered by existing law in Title 29, Alaska Statutes.

Under AS 14.08.41 regional educational attendance areas were established to provide for education in the unorganized borough and to "establish and maintain a system of public schools open to all children of the State" as set forth in the Alaska Constitution, article X. Each regional educational attendance area is operated on an area-wide basis under the management and control of an elected regional school board. If a higher or different level of education than that provided by the State is desired in any part of a regional educational attendance area, or if a municipal service is desired by the people in any part thereof outside first or second class cities, the legislature

may act as the assembly for the unorganized borough and may establish, alter, or abolish service areas for that purpose (AS 29.03.020). The regional school board has no taxing authority and the Division of Land has the zoning authority in the unorganized borough (AS 38.05.037), except that first class cities, shall and second class cities may provide for planning, platting and zoning.

A Third Class Borough is an organized borough and a municipal corporation; it provides for the most local control under State law. A third class borough has an elected assembly which also serves as school board. The presiding officer of a third class borough assembly is both president of the school board and borough executive (AS 29.41.020). The presiding officer is elected from among and by the assembly and has no power. A third class borough is a general law municipality (AS 29.08) and is granted the powers applicable to all municipalities under chapter 48 of title 29. It must exercise the mandatory areawide powers of education and tax assessment and collection and may assume any municipal powers granted under chapter 48, title 29, by voter approval and may exercise the same on a service area basis only (AS 29.41.010). Planning, platting and zoning powers may be assumed after approval by a majority of the voters of the entire borough and may be exercised on a service area basis. First class cities shall and second class cities may provide for planning, platting and zoning. The State has no zoning authority within a third class borough (AS 38.05.037) except within any portion covered by the Alaska Coastal Management Program, if the municipality

has not done so. The State Division of Lands may provide for platting

"...for only the purpose of hearing and acting on petitions for the change and vacation of plats" (AS 40.15.075).

The third class borough may well be considered the ideal form of maximum local self-government to facilitate organization of large and sparsely populated areas, such as encompassed by many of the existing regional educational attendance areas.

"All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole." (Alaska Constitution, article 1, section 2)

In other words all rights of self-determination are originally retained by the people. The State assumed only the rights enumerated in the constitution of Alaska through voter approval and assumed at the same time the obligation to fulfill the responsibilities enumerated in the same. Article VII of the Alaska Constitution requires the State to provide education, protection of public health and welfare. Article X of the Alaska Constitution requires the State to provide for maximum local government and to divide the State into boroughs, organized and unorganized, and that the legislature shall classify boroughs and prescribe their powers and functions and methods by which they may be organized, incorporated, reclassified and dissolved.

The legislature did that; it established 3 classes of organized boroughs and provided for their reclassification, and it did provide for regional educational attendance areas operated by elected school boards. The borough system as enacted provides for maximum local self-government on one hand and for stringent municipal rule on the other, thereby satisfactorily accommodating the needs of the various population centers as well as the sparsely populated areas of the State. The unorganized borough with its multitude of first and second class cities is evidence for the success of the local government system.

As private ownership of land will increase, population centers of various character will develop and thereby will demand increasingly more and different kind of municipal services. The third class borough will undoubtedly fill the need for a first step to organize local municipal government. The Haines third class borough very successfully proved its purpose. The majority of the people of Haines prefer to retain their right of self-determination as evidenced in recent elections by voter rejection of reclassification proposals to a different class. It also reflects their desire and need for self-determination regarding planning and zoning, the power which the people of Haines prefer to retain as evidenced in a recent election. Of course there are always people who prefer a stronger form of local government. In the case of Haines the people are in the minority, but very vocal in favor of HB 584, a bill calling for the elimination of the third class borough. On the other hand in many second class boroughs evidence is apparent of the dominance of the populated center areas over the outlying areas; specifically, dictatorial zoning administration unjustly denying the less populated

areas their rights to self-determination. Serious attempts have been made and are currently contemplated for putting the question of reclassification to third class status for all or part of some second class boroughs on the ballot.

This flexibility of municipal government organization is absolutely necessary to insure orderly and diversified development in the future the only way to achieve prosperity to the people and establish a sound economy. For these reasons, and because the Alaska Constitution demands it, I urge you to defeat the above named bills in committee.

Unfortunately most of the citizens of Alaska are not aware of the legislation under consideration and therefore the input you receive reflects mostly that of special interests, such as existing government bodies, government related or dependent groups, who will benefit from this legislation at the expense of the majority of the people. The current administration and the Department of Community and Regional Affairs in particular are consistently opposing and rejecting the third class borough form of local government. This is evidenced by the misleading and false statements found in the recent Yukon Flats Regional Government Study, such as: "A third class borough is little more than a local school board which must levy taxes to support its educational programs. Because it lacks planning authority, it cannot deal with important issues such as planning for public facilities, providing utility services, and planning for growth and development which best fits local needs and desires." This is of course not so. Education is provided and paid for by the State, the third class borough government can do all the planning it needs or wants to do and can establish any municipal service such as utilities, roads, fire protection, recreation, water, sewer, garbage collection, and so on, on a service area basis with the consent of the voters. In the unorganized borough, where most communities at present are not connected by road, the third class borough should be the form of government most attractive for the people to adopt.

The Joint Senate & House Community & Regional Affairs Committee's final report of the Local Government Study - 1979 states: "Creation of the Rural Education Attendance Areas throughout Alaska eliminated the purpose of the third class borough, which has education as its only authorized substantive function." This statement reflects total misinterpretation.

of the law and displays arrogance and disrespect for the principals of the right for self-determination of the Alaska people as set forth in their Constitution. Agency representatives as well as members of the legislative local government study committee expressed verbally before public hearings such misinterpretations of the law purely for the benefit of enhancing the power to special interest groups and government bodies. The evidence of their misrepresentations warrants serious consideration of a legislative investigation into the misuse of power and funds by the Department of Community and Regional Affairs. The Department has worked purposely against implementation of the law as prescribed by Alaska Statutes and has unlawfully propagandized misleading facts to influence public opinion in order to change law and thereby enhance the self-serving powers to that department.

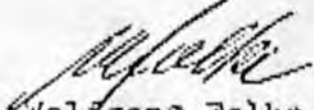
Present law very adequately serves the needs for organized and unorganized local government. Education is very well provided to the unorganized borough through the elected school boards of the Regional Educational Attendance Areas. In the same way health and welfare services could be administered by the State. If special services are desired in specific areas, first and second class cities may provide for the local needs of such services or the legislature may act as the assembly for the unorganized borough and establish service areas to satisfy those needs. A third class borough may be formed in which the assembly is also the school board and may, in addition to the mandatory functions of administering education and tax assessment and collection, exercise any or all additional municipal functions, including planning, platting and zoning, on a service area basis, after voter approval. If the need for areawide exercise of the additional services should arise or be desired, the people may by majority vote reclassify or incorporate with the powers of a borough of the second or first class, or as a home rule or unified municipality, prescribed by law.

No purpose is cited for the enactment of the above named bills under consideration which could not be implemented under present law. The proposed legislation will substantially eliminate the opportunity for local self-government and thereby impair and deny the people of Alaska the right of self-determination as set forth under the Constitution.

Page 6

These bills are contrary to the best interest of the people as a whole. Therefore they should die in committee, and in any case must never be enacted.

Very truly yours,

  
Wolfgang Falke

P. O. Box 1166  
Fairbanks, Ak. 99707

Senate Community & Regional Affairs Committee  
Senator Arliss Sturgulewski, Chairman. and  
House Community & Sturgul Affairs Committee  
Representative Bill Parker, Chairman  
Fouch V, Juneau, Alaska 99811

February 13, 1980

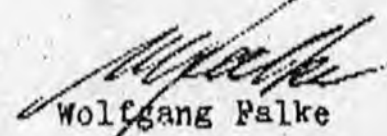
Dear Committee Members:

Enclosed please find a copy of my forth open letter to all legislators which, together with my third open letter of which you have received copy (I hope), I hereby formally ask to be entered as testimony at your next committee meeting. I hope there will be a chance for the committee to consider my suggestions and objections.

I appreciate very much the opportunity to participate in your last weeks teleconference and to listen to the problems faced elsewhere in our State. I am sure I did not address all the questions you may have regarding my comments and I would sincerely appreciate if you could drop me a short line with the specific questions why you think the law must be changed and amended to better solve the "problems", and state the problem. I will respond at once.

I thank you for your kind consideration of my comments.

Very truly yours,

  
Wolfgang Falke

Enclosure

HB

585

(7)

# COMMITTEE REPORT

## HOUSE

1/21/80

FURTHER:

Date: 15 Feb 80

Mr. Speaker:

The Committee on COMMUNITY AND REGIONAL AFFAIRS has had HB 585

"An Act relating to the incorporation of second class boroughs as home rule boroughs."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

B. J. Pugh

Margaret Brown

John W. Blumenthal

John P. ...

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

Blank other no rec

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. J. Pugh  
CHAIRMAN



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99801

Official Business

DATE: 2/13/80

### COMMITTEE MINUTES

BILL NUMBER AND TITLE: HB 585 Incorporation of second class boroughs

ORIGINAL SPONSOR : House/Senate  
C&RA Joint Committee OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS: —

MEMBERS PRESENT:	Bill Parker X	Pat Carney X
	Margaret Branson X	Charlie Parr X
	Pat O'Connell X	Fred Zharoff X
		Ray Metcalfe

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

Discussion centered around the suggestion, previously made by Rep. Parr, to change the petitioning amount required to 15%.

Ginny Chitwood, Ak. Municipal League, questioned if the Committee had considered including second class cities and enabling them to adopt home rule as well.

After discussion of including second class cities, Rep. Branson pointed out that such an addition would be a piece meal approach to revising Title 29 and that she objected to this approach.

Sam Coxson, Mgr. of Whittier, testified that he would support allowing second class municipalities to write home rule charters as Whittier is second class and might want to reclassify as some time.

Rep. Parker stated that it was beyond the scope of what was originally being proposed to include second class cities and it was the concensus of the group that it would not be included.

The Committee also decided to leave the 10% petitioning requirement intact.

COMMITTEE ACTION: Bill passed out to Rules.

TAPE # 2 SIDE 2

Sections 635-779

# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V  
State Capitol  
Juneau, Alaska 99801

Official Business

DATE: 1/23/80

BILL NUMBER AND TITLE: HB 585 Incorporation of Second Class Boroughs

ORIGINAL SPONSOR : Joint Senate/House  
Local Government Study C&RA

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS: None

MEMBERS PRESENT:

Bill Parker X  
Margaret Branson X  
Pat O'Connell

Pat Carney X  
Charlie Parr X  
Fred Zharoff X  
Ray Metcalfe X

INDIVIDUALS CONTACTED:

Ginny Chitwood, Ak. Municipal League  
Palmer McCarter, Dept. C&RA

WITNESSES TESTIFYING:

Chairman Parker distributed copies of the Final Report of the Interim Study Committee and announced that the Committee has scheduled the Local Government Study Legislative Package for an informal review by the Committee members before hearing the bills via teleconference on Feb. 6-7.

Parr - Questions Line 20 and the requirement that it would take only 10 percent of the voters to petition for reclassification. Wonders if the expense of an election is justified for such a small percentage of the voters. Parr also questions Line 14 which would allow for the election to be either "special" or "regular". He is not sure it would be advisable to have a special election because of the expense and because there would not appear to be any urgency in such a reclassification (Parr dropped concern re timing of election after Ginny Chitwood of the Municipal League clarified that that type of decision is usually left to the local governing body)

Chitwood Clarified the charter commission process as it would function in this bill.

McCarter McCarter pointed out that initiative and referendum require 25% of the voters when the city or borough has fewer than 7,500 persons or 15% when a city or borough has 7,500 persons or more. Unification requires 25% of the voters inside and outside of the city.

(\*Check--would it be up to the petitioners and possible for them to amend date of election in petition?)

COMMITTEE ACTION:

Completed review of bill. Consensus on Parr's amendment.

TAPE # / SIDE

Sections 873-1111

Parr

Suggests amending the petitioning amount to 15%. Committee concurs.

Both the Dept. of C&RA and Ak. Municipal League support the bill.



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

BILL NUMBER AND TITLE: HB 585 Incorporation of Second Class Borough  
as Home Rule Municipality

ORIGINAL SPONSOR: House C&RA  
RECEIVED FROM: \_\_\_\_\_

OTHER SPONSORS: \_\_\_\_\_  
FURTHER REFERRALS: \_\_\_\_\_

HEARING DATE: \_\_\_\_\_

MEMBERS PRESENT: Bill Parker  
Margaret Branson  
Pat O'Connell

Pat Carney  
Charlie Parr  
Fred Zharoff  
Ray Metcalfe

Parr - Questions fact that only 10% of the voters petition. Suggests that a higher percentage should be considered. If the expense of an election justified if there is only 10% petitioning.?Perhaps Assembly should determine if they want a special election or if they will decide issue at a general election.

Chitwood, Ak. Municipal League

Suggests consideration of unification wording'"shall a charter commission be formed? Asks if it is possible to name a date?

Palmer McCarter, Dept. of C&RA

Refers to initiative and referendum wich require 25% or 15% based on population. Unification requires 25% inside city and outside as well.

COMMITTEE ACTION: No Action

TAPE #      SIDE \_\_\_\_\_ Footage 873-1111

Introduced: 1/21/80  
Referred: Community & Regional  
Affairs

BY THE RULES COMMITTEE BY REQUEST  
OF THE LEGISLATIVE COUNCIL (for  
the Community and Regional Affairs  
Committee Interim Joint Local  
Government Study)

1 IN THE HOUSE

2 HOUSE BILL NO. 585

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the incorporation of second class  
7 boroughs as home rule boroughs."

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

9 \*Section 1. AS 29.13.010 is amended to read:

10 Sec. 29.13.010. MUNICIPAL CHARTER ADOPTION. A first class muni-  
11 cipality or second class borough may adopt a charter for its own govern-  
12 ment. A home rule municipality may amend its charter or adopt a new  
13 one. A charter is framed by a charter commission of seven members  
14 chosen by the municipal voters at a regular or special election. A  
15 candidate for the commission must be a qualified voter of the muni-  
16 cipality and a resident of the municipality for three years immediately  
17 preceding the election. A charter commission election is called by  
18 filing a petition with the borough assembly or the city council, or by  
19 resolution of the borough assembly or city council. The petition must  
20 be signed by a number of municipal voters equal to 10 percent of the  
21 votes cast in the last regular election of the municipality.

22 *Discouraging*  
23 *Invested interest in her own form of govt*  
24  
25 *2nd class to first class could be voted on*  
26 *in 1 election*  
27 *Home rule requires charter commission*  
28 *write & charter & present it*  
29 *Charter & encourages & hint/*  
*discuss*

*070 (C) submitted  
Charter election/home  
rule  
& amending*

## Home rule bill proposed

By The Associated Press

The House has passed and sent to the Senate a bill to allow second class boroughs to move to home rule status.

The bill (HB585) was introduced by a joint House-Senate interim committee that this summer studied local government needs for organized and unorganized boroughs in Alaska. The bill passed 37-1 on Tuesday.

Another piece of legislation still pending would allow unorganized boroughs to also move to home rule status, which allows a charter to be developed so that local government can be tailored to the area it serves.

Currently, municipalities and boroughs must be first class before they can adopt a home rule charter.

Committee members said the bill passed on Tuesday makes it easier for local government to respond to local needs. Home rule status allows the local government to adopt ordinances and enact powers unless they are expressly prohibited in the Alaska Constitution.

Several other measures pending in the House and the Senate deal with unorganized boroughs, which committee members say have become laced with "spaghetti-like" boundaries.

*2/21/90*

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H. B. 585 and S. B. 353  
 Title An Act Relating to the Incorporation of 2nd Class Borough's as Home Rule  
 Requested by House CIRA Date 1-22-80

II. FISCAL DETAIL

Agency Affected N/A  
 Program Category Affected N/A  
 Budget Request Unit(s) Affected N/A

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill would allow second class boroughs to move directly to the Home Rule status without going through the process of first becoming first class as is now required.

There would be no fiscal impact on state government.

IV. DATE 1-22-80 PREPARED BY Terry Farley  
 AGENCY Community & Regional Affairs  
 PHONE 465-4730

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

FCCS

HB 585

CONFERENCE COMMITTEE REPORT

DATE: 6/5/80

Mr. President:  
Mr. Speaker:

The FREE Conference Committee which has had

HB 585 (incorporation of second class boroughs as home rule  
boroughs)  
&  
2d SCS (municipalities; amending AS 29 to provide for the  
HB 585 incorporation of home rule boroughs; and increasing  
amS the limit on the rate of sales tax which may be levied  
by municipalities)

under consideration, recommends that

be adopted.

Senate Members:

House Members:

Senator Ray, Chairman

Representative Parker, Chairman

Senator Sturgulewski

Representative Miller

Senator Bennett

Representative Branson

Please RETURN ORIGINAL REPORT & BILL TO CHIEF CLERK.

Marge

HB 585

Bill Ray agrees  
of deleting "decrease"

Ray Stungulowski

Bennett agreed

conferences. Why

not have done  
up ready for signature

Bronson  
Parker  
Muller

Allen


STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 4, 1980

SUBJECT: FCCS HB 585  
TO: Members of the Free Conference Committee  
FROM: John B. Chenoweth  
Legislative Counsel 

I do not want the members laboring under a false assumption. The referendum requirements requisite to levy or adjustment of levy of a sales tax imposed by AS 29.53.420, amended by \* Sec. 4 of the attached bill, are not binding on home rule cities or home rule boroughs as a matter of state law. Local charter provisions may so require, but AS 29 does not.

JBC:ljb

Enclosure

Excused: 0

HB

Absent: 4 Hohman, Kelly, Sackett, Summer

611  
am

and so, the effective date clause was adopted.

STANDING COMMITTEE REPORTS

The Commerce Committee considered SENATE BILL NO. 587 (relating to professional geologists) and recommends it be replaced with COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 587 and reports it back as follows: Senator Bradley, Chairman and Senator Stimson signed "do pass". Senators Kelly, Sturgulewski and Ferguson signed "no recommendation".

SB  
587

SENATE BILL NO. 587 was referred to the Rules Committee.

CONSIDERATION OF THE CALENDAR CONTINUED

Senator Colletta moved and asked unanimous consent that HOUSE BILL NO. 1021 (granting authority to the Alaska Renewable Resources Corporation to exceed investment limits by investing \$3,500,000 in Ball Brothers, Inc) be held until later today. Without objection, it was so ordered.

HB  
1021

HOUSE BILLS IN SECOND READING

2d SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 585 (relating to municipalities, amending AS 29 to provide for the incorporation of home rule boroughs; and increasing the limit on the rate of sales tax which may be levied by municipalities) which had been held from June 2 was before the Senate at this time with amendment No. 1 pending.

2d  
SCS  
HB  
585

Senator Ray moved and asked unanimous consent to withdraw amendment No. 1. Without objection, it was so ordered.

2d Senator Ray offered the following amendment No. 2:

SCS  
HB  
585

Page 2, line 7: add (e) Any proposal increasing or decreasing the levy or collection of taxes referred to in (a) shall be approved by a majority vote of the people voting on the proposal at a regular, special or general election.

2d Senator Ray moved and asked unanimous consent for the adoption of amendment No. 2. Senator Ziegler objected, then withdrew his objection. There being no further objection, amendment No. 2 was adopted.

585  
am  
S

Senator Colletta moved and asked unanimous consent that the Rules be suspended and 2d SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 585 amended Senate be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

2d SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 585 amended Senate was read the third time.

The question being: "Shall 2d SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 585 amended Senate (relating to municipalities, amending AS 29 to provide for the incorporation of home rule boroughs; and increasing the limit on the rate of sales tax which may be levied by municipalities) pass the Senate?" The roll was taken with the following result:

2D SCS HB 585 AM S 3RD

Yeas:	15	Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Kerttula, Meland, Mulcahy, Ray, Stimson, Sturgulewski, Tillion, Ziegler
Nays:	0	
Excused:	0	
Absent:	5	Hohman, Kelly, Rodey, Sackett, Summer

and so, 2d SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 585 amended Senaco, passed the Senate.

*Alpert*

29 43,030  
307

HB

586



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

BILL NUMBER AND TITLE: HB 586 Requiring fiscal notes for bills affecting municipalities

ORIGINAL SPONSOR: House C&R A  
RECEIVED FROM: \_\_\_\_\_

OTHER SPONSORS: \_\_\_\_\_  
FURTHER REFERRALS: \_\_\_\_\_

HEARING DATE: 3/12/80

MEMBERS PRESENT:	Bill Parker X	Pat Carney X
	Margaret Branson X	Charlie Parr X
	Pat O'Connell X	Fred Zharoff X
		Ray Metcalfe

Terry Early, State Assessor  
Mentions changed fiscal note.

Marilyn Miller, Ak. Municipal League  
Says that two additional people, as called for in fiscal note by C&RA, are not warranted. Nevada found that they did not need any additional employees. In reviewing the bills introduced in C&RA which would have required fiscal notes, the Municipal League only identified 3. The Municipal League would assist in determining the costs. League sees the amount of travel budgeted for as unwarranted. The League supports the bill.

Parr - Questions the ability of the department to meet the requirements of the bills with the large number of municipalities which exist statewide.

Early - Defend fiscal note. This session there were 50 fiscal notes required. Round figures would be used. Anchorage spent 3 man days getting figures just for 1 bill. Nevertheless, Dept. sees sit as a positive exercise

Suggestion made to delete "an" on line 15 and add "significant".

COMMITTEE ACTION: Bill passed out.

TAPE # 4    SIDE 2    Footage 709-873

# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V  
State Capitol  
Juneau, Alaska 99801



Official Business

DATE: 2/13/80

BILL NUMBER AND TITLE: HB 586 Requiring fiscal notes for bills having fiscal impact on municipalities

ORIGINAL SPONSOR : Joint House/Senate  
C&RA Committees

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS: None

MEMBERS PRESENT:

Bill Parker X  
Margaret Branson X  
Pat O'Connell X

Pat Carney X  
Charlie Parr X  
Fred Zharoff X  
Ray Metcalfe

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

There was discussion among the committee members of the desirability of a further referral of the bill to Finance Committee. Concerns were expressed:

1. that a fiscal note would have to be prepared even if the amounts were minimal
2. it would be difficult and costly for DC&RA to have to contact all municipalities in the state (the Dept. responded that the fiscal note would be "general" and might be developed to relate to categories of cities (first, second, home rule, etc.)
3. there was concern that the next step might be, as in other states, that once the costs to the municipality are identified, the municipalities might want the state to pick up the costs (16 states currently are required to reimburse and 4 others require fiscal notes)
- 4/ ways of tying the development of the fiscal note to some meaningful figure might be to calculate if it would require a certain % expenditure of the municipal budget; or if it would result in an increase in local taxes. The committee then determined that it would take substantial work on the part of the Dept. C&RA to determine this as well.

Rep. Parr pointed out that the Municipal League does keep the legislature informed re the costs of legislation for municipalities now. Chitwood responded that the League only represents 1/3 of the incorporated cities and she did not feel that the legislature necessarily wanted to rely solely on the information of a lobbyist.

COMMITTEE ACTION:

Took no action on the bill

TAPE #

SIDE

Sections

*Alaska*  
**MUNICIPAL**  
*League*

TELEPHONES  
(907) 586-1325  
586-6526

204 N. FRANKLIN ST.  
JUNEAU, ALASKA 99801

March 12, 1980

To: House Community and Regional Affairs Committee

From: Ginny Chitwood, Executive Director  
Alaska Municipal League

Re: HB 586

The Alaska Municipal League supports HB 586, Fiscal Notes. Fiscal notes estimate the effect on the expenditures or revenues of a local government of implementing or complying with a proposed state law. These notes can provide information for both legislators and local representatives on the effect of state law on localities. Presently, twenty five states provide some type of formal procedures for attaching fiscal notes to pending legislation affecting state finances. Twenty two states have enacted fiscal note procedures covering proposed legislation affecting local governments.

The following material is attached for your information:  
Information bulletins from the Advisory Commission on  
Intergovernmental Relations

Procedures now in effect in Nevada, California and Connecticut.

Thank you for your courteous consideration of this matter.

## FISCAL NOTES ON LOCAL GOVERNMENT LEGISLATION IN OTHER STATES

### State of California

**Procedure:** Any legislation which would impact a local government as to loss of revenue is assigned to a legislative fiscal committee by the Rules Committee. In the House it is the "Ways and Means Committee"; in the Senate it is the "Finance Committee". The committee secretary requests a fiscal note from the Dept. of Finance and the Legislative Analyst Division. Other agencies also get involved depending on the policy.

**Opinion of Efficacy:**

The staff of the California Legislative Analyst Division feels the system is working very well.

**Fiscal Impact:** Since fiscal notes are also prepared on legislation with only state impact and the process has been going on for a considerable time now, the staff could not make a determination as to how many people were employed because of local government fiscal notes. The process was originally established as part of the legislative rules.

# #

### State of Connecticut

**Procedure:** The passage of a bill in Connecticut differs from Alaska. First, the bill is proposed to a committee in rough form. Then it is worked on by that committee which formulates language. Then, it is sent to the Legislative Commission Office where the bill is put into legal language. At that time the Legislative Commission Office furnishes a list of bills which have possible fiscal impact to the Office of Fiscal Analysis. Staff members determine fiscal impact by contacting the individual communities or other agencies, depending on the nature of the bill.

**Opinion of Efficacy:** The staff of the Office of Fiscal Analysis feels the system is working well with only minor difficulties. Sometimes the major source for information on which to base the fiscal impact is not all that good. This year, in order to overcome any difficulties with the collection of data from the municipalities, the state will begin working closely with the Connecticut Conference of Municipalities. CCM will play a major role by being a liaison between the state and the municipalities and will expedite the gathering of more reliable information.

**Fiscal Impact:** The Office of Fiscal Analysis added four persons to their staff in order to accomplish the added responsibilities. Fiscal notes on local government legislation went into effect in 1979.

# #

(con't)

FISCAL NOTES ON LOCAL GOVERNMENT LEGISLATION IN OTHER STATES

State of Nevada

Procedure: Fiscal notes are required on local government legislation if there is more than \$2,000 of impact. This figure is determined by the bill drafters with the cooperation of the Nevada Legislative Council Bureau. It is an arbitrary level, most bills would have more impact than \$2,000.

The Bureau contacts municipalities who estimate the impact on their communities. There is a ten day limit on fiscal notes for state legislative impact, set by law, so a ten day limit has been arbitrarily set for local government fiscal notes also.

Opinion of Efficacy: The Bureau staff feels the system is working well. If, in minor instances, the Bureau feels a local government is "overestimating" or "underestimating" because of political pressures, or if the local government is uncooperative, the staff will go to other agencies to collect the needed data.

Fiscal Impact: No additional personnel has been added to the Bureau's office staff for this task. It is being handled by one person. It began in 1979.

# #



# Alaska State Legislature

Senate

Committee on  
Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

March 8, 1980

TO: Senator John Sackett  
Senate Finance

FROM: Senator Arliss Sturgulewski *al*

On March 6 the Senate Community and Regional Affairs Committee passed out SB 352 with a unanimous do-pass. The next committee of referral is Senate Finance. There has been growing interest in many states to have state legislatures more aware of the financial implications of their actions on local governments. Alaska seems to be no exception to that interest. For example, Senators Hackney, Ziegler and Kelly introduced SB 309, An Act requiring the preparation of a local government impact statement. That bill is currently before Community and Regional Affairs. Substitute language is currently being prepared that could either be attached to SB 292 as amended, An Act requiring fiscal notes to be prepared for regulations having fiscal impact, or could be considered as a committee substitute for SB 309. Senate Bill 309 speaks to the impact of changes in regulations as they might impact local governments; while SB 352 speaks to impacts of particular bills that could cause a financial impact on local communities.

During the committee meetings we spent considerable time discussing how legislation should be written to require a fiscal note showing municipal impact. I'm sending along materials submitted by the Alaska Municipal League that might help the Senate Finance Committee when it considers this bill. We discussed utilizing more specific language, such as consideration only of major impacts. However, testimony by the Community and Regional Affairs Department indicated they were comfortable with the wording of the bill and would of course be prepared to carry out the legislation if it should pass. There is a fiscal note accompanying SB 352.

I would be very happy to work with you or designated staff in the event you feel this legislation needs further refinement or discussion. I strongly support this bill and would appreciate your support and assistance. Thanks, John.

Attachment

I. REQUEST  
 Bill/Resolution No. II. B. 586 and S. B. 352  
 Title An Act Requiring Fiscal Notes for Bills Affecting a Municipality  
 Requested by House Committee on Community & Regional Affairs Date 1-18-80

II. FISCAL DETAIL

Agency Affected Department of Community & Regional Affairs  
 Program Category Affected Community Development  
 BRU, Program, or Subprogram(s) Affected Local Government Assistance Division  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		17.6	38.0	41.0	44.3	47.8
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		1.0	1.0	1.1	1.3	1.4
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		.5	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0

TOTAL

FUNDING (Thousands of Dollars)

*Half year cost*

GENERAL FUND		19.1	39.0	42.1	45.6	49.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		.5	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

To prepare fiscal notes on all bills relating to municipalities would require an additional Local Government Specialist (Range 17). The figures above are based on the bill being passed at the end of the current session and the position becoming effective in January 1981 for the next legislative session.

Personal services costs are based on a Range 17 position with 28% added for benefits plus 8% each additional year for inflation.

Contractual costs are primarily for long distance telephone calls. The one time equipment cost is for a desk, phone, etc.

IV. DATE 1-18-80 PREPARED BY Mckie Campbell  
 AGENCY Department of Community & Regional Affairs  
 PHONE 465-4735  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

# Information Bulletin:

Advisory Commission on Intergovernmental Relations  
Washington, DC 20575

BULLETIN No. 79-3

April 1979

## STATE MANDATES

### IN BRIEF

State mandates tend to impose state priorities on local governments. Many mandates require local governments to make organizational changes, provide more services, tell them how to relate to other local governments, or to their own personnel. While they sometimes create a benefit for the local government, more often mandates impose additional costs, especially when they are not accompanied by adequate state financial assistance.

To alleviate some of the difficulties inherent in state mandating of local expenditures, the Advisory Commission on Intergovernmental Relations has recommended that states define and catalog state-initiated mandates, and that they provide reimbursement for mandates which require local governments to provide additional services, exempt property from the tax base, or impose unnecessarily costly personnel requirements. In addition, the Commission has recommended that state legislation and proposed administrative regulations contain an explicit "fiscal note" setting out any financial cost impact on local governments. Copies of the model legislation are attached.

## State Mandates: An Overview

A state mandate can be defined as any state constitutional, statutory, or administrative action that expands or limits local government expenditure requirements. These mandates are frequently used to achieve uniform service levels and more professional standards for employees, but they are often the basis for imposing special interest demands as well. There are state mandates on public library hours, park and recreational programs, and local payments for regional public transit systems. Mandates are enacted on special education programs, local retirement systems, labor relations procedures, and salary and wage levels.

A 1976 ACIR survey of state mandates found they were most prevalent in four areas: 45 states mandated solid waste disposal standards; 45 states mandated special education programs; 42 states set standards for workmen's compensation for local personnel other than police, fire and education; 35 or more states had provisions on retirement systems. <sup>1/</sup>

Not surprisingly, a survey of attitudes of local officials toward mandates revealed considerable opposition toward them. Although much of this disgruntlement can be alleviated with full or partial reimbursement of additional costs resulting from the mandates, 26% of the state municipal league representatives felt state mandates were inappropriate even if they were fully reimbursed.

The current financial stress being felt at all levels of government -- stemming from mounting inflation rates, a slowing of federal aid growth, and the growing popularity of tax and expenditure limits -- has made state mandates a problem that many local government officials insist must be rectified.

### Current Trends

To date, ten states have acted to regulate state mandates by restricting their use or requiring that localities be fully or partially reimbursed for additional costs imposed by mandates. In 1978, four states enacted reimbursement measures to apply on proposed new mandates. Tennessee, Michigan, and Hawaii voters approved constitutional measures requiring the state to share or

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<sup>1/</sup> Advisory Commission on Intergovernmental Relations, State Mandating of Local Expenditures (Report A-67), Washington, D.C., U.S. Government Printing Office, July, 1978.

fully fund costs associated with state-imposed mandates. Florida's reimbursement procedure is statutory.

Tennessee's constitutional revision provides that no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly provides that the state share in the cost.

In Michigan, the state is prohibited from "requiring any new or expanded activities by local governments, reducing the proportion of state spending in the form of aid to local governments or shifting the tax burden to local governments" without full state financing.

Hawaii's constitution now provides the state must "share in the cost of any new programs or increased services which the legislature requires that counties provide."

The Florida statute calls for full reimbursement when: (1) a state general law requires municipalities or counties to perform an activity or provide a service or facility which requires the expenditure of additional funds; or (2) a state law grants an exemption or changes the manner by which local property is assessed, or alters authorization to levy local taxes. Partial state reimbursement is to be provided for any state general law which establishes a service or activity which meets both state and local objectives.

Of the six additional states that require state compensation for certain types of mandates, two are statutory and four constitutional:

- By statute, California calls for full reimbursement for costs to local governments incurred by state-imposed mandates;
- Montana law calls for either compensation or authorization of additional local taxation to cover the additional costs; and
- Alaska, Louisiana, Maine and Pennsylvania have constitutional provisions calling for local reimbursement limited to certain types of state mandates.

## Fiscal Notes

One step in the direction of state reimbursement is the provision of fiscal notes on state legislation. Fiscal notes estimate the effect on the expenditures or revenues of a local government of implementing or complying with a proposed state law, joint resolution, regulation, rule, order, or administrative action. These notes can serve as a brake on state legislative activity affecting local governments and provide information for both legislators and local representatives on the effect of state law on localities.

Presently, 25 states provide some type of formal procedures for attaching fiscal notes to pending legislation affecting state finances. These procedures vary considerably in their comprehensiveness and applicability. They generally do not extend to agency rules or governor's orders and are not tabulated at the end of the fiscal year.

In 1978, four states enacted fiscal note procedures covering proposed legislation affecting local governments: Connecticut, Georgia, Nevada, and Rhode Island. South Carolina established a fiscal note procedure in both houses of the legislature by rule. Wisconsin and Missouri provided for fiscal notes to be attached to proposed administrative rules and regulations affecting local governments.

Fiscal notes have recently become especially important because more local governments have begun asking for, and more states have begun providing, reimbursement for state mandated programs and services.

### Recent State Activity

In this Bulletin, we will look at the state mandating/fiscal note processes in three states: California, Florida and Montana.

#### California

California's statutes are the most comprehensive of the existing state laws on state reimbursement for mandated costs imposed on local governments. Chapter 1406 of the California statutes of 1972, better known as SB 90, requires that local governments be reimbursed for costs incurred in providing state-mandated services. SB 90 imposed property tax limits on local governments as part of the state's response to Serrano v. Priest, a landmark California Supreme Court case which held that the state's school finance system was unconstitutional under the state's equal protection clause because it made the quality of education a function of local school district's taxable wealth.

The state's commitment to reimburse encompasses local costs that result from new state-mandated programs, increased service levels, and costs previously incurred at local option that have been subsequently mandated by the state. State administrative or executive orders mandating local costs are also to be reimbursed.

To be exempt from SB 90's reimbursement requirements, legislation must contain a disclaimer describing the rationale for nonreimbursable status. Problems have arisen with the initial use of disclaimers, mainly because a 2/3 vote of the legislature is required for all appropriations legislation to be approved. This provides an incentive to determine some reason for a disclaimer. In the first five years of the program, only 76 of the 1,400 bills that imposed state mandates contained appropriations to reimburse local governments. Some disclaimers were based on negligible cash cost to the local governments. Other bills containing disclaimers gave no reason for the exemption.

The legislative council's office identifies bills containing mandates and they are sent to the Local Mandated Program Unit where an estimate of the costs to localities is prepared. If a disclaimer is attached, the bill is sent to the Finance Committee which approves or disapproves the disclaimer.

In 1977 California enacted legislation to deal with many of the problems that have arisen in the wake of SB 90. The legislation changed the minimum threshold for submission of claims by local governments, expanded the grounds for appeal for reimbursement, and required the California Department of Finance to review all non-reimbursed statutes adopted after 1972. Most importantly, local governments are given the right to appeal bills that mandate costs but which contain either a disclaimer or no appropriation.

#### Florida

In 1978 Florida enacted a bill stating that any statute requiring "municipalities or counties to administer any program or provide any service or facility [to] include an economic impact statement estimating total costs and [to] provide a method of financing such program or service." The measure requires the legislature to finance activities, services, or facilities when both state and local objectives are being served. General laws under which the required expenditure of additional local funds is incidental to the main purpose of the law are exempted.

Reimbursement can be provided by one of three methods: additional state funds, specific authority to the county or municipality to levy a special tax, or through other sources provided by law. Other state or federal revenues shared with or granted to municipalities or counties are not to be reduced, supplanted, or adversely affected because of this reimbursement.

This act can be superceded or modified by subsequent legislation only when the legislation states specifically that it is so doing, and a reason for the change is stated.

#### Montana

Montana's legislature passed state mandating legislation in 1974. The law requires the state to authorize local governments to increase local tax levies or provide state funding for the mandate. Any law intended to require local governments to exceed their statutory levy authority can be vetoed by local governments. However, the law does not apply to expenses incurred by local governments that are incidental to the main purpose of the law.

The Montana experience has been uneven so far. Although most of the legislation passed since 1974 has included a statement to the effect that local governments may pay for mandates with money from general funds, in March 1976 the Montana Attorney General ruled that additional taxing authority was not conferred on local governments. Therefore, where an all purpose levy is used, the 65 mill limit cannot be exceeded. Jurisdictions have been told, however, they can abandon the all purpose levy and utilize separate levies until the legislature either raises the limit or exempts additional functions from inclusion in the all purpose levy.

The problems caused by this Attorney General's decision have caused Montana's reimbursement system to be unacceptable to many local governments. Until the legislature works out these mandate funding problems, there will continue to be state expansions into the local government arena without sufficient compensating funding.

#### State Mandates and Fiscal Notes - A Model

The Advisory Commission on Intergovernmental Relations has reviewed the status of state mandating across the country and the problems associated with this practice, and has made a number of

recommendations <sup>2/</sup> for remedial action. In order to facilitate state consideration of these recommendations, the Commission has drafted a model bill on state mandates based upon the California statute, which requires that state mandates legislation contain appropriations to pay for the cost of new programs or expanded service levels or increased personnel or retirement benefits. A catalog of mandates is to be completed, by the state and an appeals procedure for inadequate funding should be put in place.

An ACIR model bill, on fiscal notes, based on Arkansas and Maryland statutes, requires an explicit note on the financial impact of state legislative action on local governments to be included with a bill during its movement through the legislature.

The two model bills were drafted as part of the "State Initiatives in Local Financial Management Capacity-Building Project" underway at the Commission thanks to a grant by the Department of Housing and Urban Development. A package of 19 model financial management bills has been drafted. Taken as a whole, these bills suggest an approach to state-local relations that would give greater freedom to local governments while providing more consistent and better defined state assistance. The package of bills is available from ACIR, 1111 20th Street, N.W., Washington, D.C. 20575.

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<sup>2/</sup> See ACIR, State Mandating of Local Expenditures, A-67; Washington, D.C., U.S. Government Printing Office, September 1978; ACIR - The Role of the State in Strengthening the Property Tax, A-17, Washington, D.C., U.S. Government Printing Office, June 1963; ACIR - Labor Management Policies for State and Local Government, A-35, Washington, D.C., U.S. Government Printing Office, September 1969; and State-Local Taxation and Industrial Location, A-30, Washington, D.C., U.S. Government Printing Office, April 1967.

## 4.103 Legislative Notes on The Fiscal Impact on Local Governments Of State Legislative Action<sup>1</sup>

State legislative action often affects the expenditures and revenues of state government and local governments. The attachment of estimates of such costs (fiscal notes) to bills as they move through the legislative process assures a legislator's knowledge of the fiscal impact of the new or expanded programs being authorized or the requirements being imposed. It also enables interested citizens to fix responsibility for increased governmental costs and taxes. The Advisory Commission on Intergovernmental Relations, therefore, has recommended that, as a counterpart of a package providing citizens complete information about fiscal affairs, states include, with all major state legislation and proposed administrative regulations affecting local government revenues or expenditures, an explicit note setting out the fiscal impact on those local governments of the legislation or regulations.

The great majority of states provide some formal or informal procedure for attaching fiscal notes to pending legislation affecting state finances. Only 22, however, apply a similar procedure for legislation affecting local governments. Among the latter, only nine require the procedure as a matter of statutory law, most such fiscal note procedures have been established by joint rules of the legislature. Moreover, very few states require the attachment of

fiscal notes to proposed administrative rules or regulations.

Attachment of fiscal notes adds a new dimension to the legislative process—an increased sense of responsible questioning and examination on the part of state legislators. With knowledge of the estimated cost of proposed legislation, they must accept responsibility for their acts. The taxpaying public is bound to benefit—either in tax savings or in more considered public programs, or both.

As states move toward reimbursement of local governments for mandated programs, the attachment of fiscal notes becomes an essential part of any such procedure. The fiscal note will provide a basis for estimating the cost of such reimbursement and then initiating the actual reimbursement process.<sup>2</sup>

The following suggested legislation requires that fiscal notes be attached to legislation or administrative actions affecting local governments. It comprises a full fiscal note procedure and can be made to apply to legislation affecting state government. States that already have adequate state fiscal note legislation may simply wish to use the applicable local government provisions as amendatory to their present statutes. Requiring fiscal notes on legislation affecting local governments may also be handled through legislative rules or resolutions, rather than by statute.

The suggested bill is based on Arkansas and Maryland statutes (Act 221, 1977 Session, and An-

<sup>1</sup>Derived from ACIR, *State Limitations on Local Taxes and Expenditures*, A-64, Washington, DC, U.S. Government Printing Office, February 1977; and *State Mandating of Local Expenditures*, Report A-67, Washington, DC, U.S. Government Printing Office, September 1977.

<sup>2</sup>See suggested legislation on *State Mandates*.

notated Code, Art. 40, secs. 63-7-A, respectively).

*Section 1* states the title of the act.

*Section 2* states the findings and purpose of the legislation.

*Section 3* defines a fiscal note.

*Section 4* requires that fiscal notes be attached to all bills and resolutions with a fiscal impact on local governments.

*Section 5* provides a parallel requirement for administrative rules and actions.

*Section 6* specifies the information to be contained in a fiscal note.

*Section 7* designates the official responsible for preparing the fiscal note or for determining that a fiscal note is not necessary and directs the official to obtain the advice and assistance of local government officials, when appropriate.

*Sections 8 and 9* provide for revision of notes and replacement of waivers with notes if bills and resolutions are amended to change their fiscal impact.

*Section 10* requires that fiscal notes be made available for public inspection.

*Sections 11 and 12* are separability and effective date clauses.

[AN ACT REQUIRING THE ATTACHMENT OF FISCAL NOTES  
TO PROPOSED LEGISLATION AFFECTING LOCAL GOVERNMENT  
FINANCES]

(Be it enacted, etc.)

1 SECTION 1. *Short Title.* This act may be cited as the “[State] Local Government Fiscal  
2 Notes Act.”

3 SECTION 2. *Findings and Purpose.*

4 (a) The [legislature] finds that many [local political subdivisions] of this state are adversely  
5 affected by the fiscal effects of rules, orders of regulatory bodies, and acts of the [legislature]. In many  
6 instances, neither the [legislature] nor the affected local governments are fully aware of the extent  
7 of the fiscal consequences of proposed laws or administrative actions. The [legislature] finds also that  
8 awareness on the part of legislators and interested citizens of the fiscal impact of proposed administra-  
9 tive actions and laws can result in tax savings or in more considered programs, or both.

10 (b) It is the purpose of this act to require the attachment of a fiscal note to each proposed law,  
11 joint resolution, regulation, rule, order, or administrative law presumed to have a fiscal impact on the  
12 [local political subdivisions] of this state.

13 SECTION 3. *Fiscal Note Defined.* For purposes of this act, “fiscal note” means a realistic state-  
14 ment of the estimated effect on the expenditures or revenues of [local political subdivisions] of imple-  
15 menting or complying with a proposed law, joint resolution, regulation, rule, order, or administrative  
16 law.

17 SECTION 4. *Fiscal Note Required on Legislation.* Before any vote is taken in a committee of the  
18 [legislature] or on the floor of [either house] thereof, on any bill or joint resolution affecting the  
19 expenditures or revenues of a [local political subdivision], a fiscal note shall be filed with the chairman  
20 of the committee to which the bill or resolution was referred and the [chief clerk of each house]. Any  
21 representative of any [local political subdivision] requesting a copy of the fiscal note shall be furnished  
22 with a copy immediately upon request. The sponsor of the bill or resolution shall be responsible for  
23 causing copies of the fiscal note to be furnished as required by this act.

24 SECTION 5. *Fiscal Note Required on Administrative Actions.* No regulation, rule, order, or  
25 administrative law, or amendment to an existing regulation, rule, order, or administrative law which  
26 would affect the expenditures or revenues of any [local political subdivision] in this state shall be  
27 valid, unless 30 days prior to its adoption by the board, commission, agency, department, officer, or  
28 other authority of the government of the [insert state], except the [legislature, the courts, and the

1 Governor], such board, commission, agency, department, officer, or other authority shall file a fiscal  
2 note with the [secretary of state]. Any [local political subdivision] that will be affected by the pro-  
3 posed regulation, rule, order, administrative law, or amendment thereto shall, upon request, immedi-  
4 ately be furnished with a copy of the fiscal note by the board, commission, agency, department, of-  
5 ficer, or other authority.

6 SECTION 6. *Contents of Fiscal Note.* A fiscal note shall contain an estimate of the effect of the  
7 bill, joint resolution, or administrative action on the expenditures or revenues of [local political sub-  
8 divisions] for the fiscal year in which the bill, joint resolution, or administrative action would become  
9 effective if enacted and for the next [four] succeeding fiscal years. If the effect of the bill, joint reso-  
10 lution, or administrative action is not expected to be totally evident within the applicable period, the es-  
11 timate shall be projected beyond that period to include an estimate for the first fiscal year in which it is  
12 expected to be fully effective.

13 SECTION 7. *Preparation of Note or Waiver.* The [chief fiscal officer]<sup>1</sup> [legislative research  
14 director] shall have the fiscal note prepared by his office or by other departments or agencies of state  
15 government. Where appropriate, he shall seek the advice and assistance of local government officials  
16 or their representatives. A waiver of the fiscal note shall be prepared by the [chief fiscal officer]  
17 [legislative research director] for any bill, joint resolution, or administrative action that does not  
18 have a direct effect upon the revenues or expenditures of [local political subdivisions]. If the fiscal  
19 note is not prepared by the [chief fiscal officer] [legislative research director], the department or  
20 agency of state government preparing the fiscal note shall be clearly indicated on the fiscal note along  
21 with the signature of the [chief fiscal officer] [legislative research director] or his authorized rep-  
22 resentative indicating that the [chief fiscal officer] [legislative research director] agrees with the  
23 fiscal impact estimate thereon.

24 SECTION 8. *Revision of Note.* A fiscal note that is attached to a bill or joint resolution shall be  
25 revised if an amendment is adopted that changes the fiscal effect of the bill or joint resolution, unless  
26 this requirement is waived by [the chairman of the committee to which the bill was referred,] the  
27 [president of the senate] or the [speaker of the house]; provided, however, that such waiver shall  
28 apply only to technical changes. The revised fiscal note shall be processed by the [chief fiscal officer]  
29 [legislative research director] and returned as quickly as possible to the committee, or the clerk of the  
30 [house], or [secretary of the senate] if one of the latter has the custody of the bill or joint resolu-  
31 tion at that time.

32 SECTION 9. *Replacement of Waiver With Note.* A waiver of a fiscal note shall be replaced with a  
33 fiscal note if an amendment to a bill or joint resolution causes the bill or joint resolution to have an ef-

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<sup>1</sup>Either the chief fiscal officer of the executive branch or of the legislature may be designated.

1 fect upon the revenues or expenditures of [local political subdivisions].

2 SECTION 10. *Retention of Copy of Fiscal Note or Waiver; Inspection; Publication of Note or*  
3 *Waiver in Journals; Matter of Public Record.*

4 (a) A copy of each fiscal note or waiver of a fiscal note shall be retained by the [*chief fiscal of-*  
5 *ficer*] [*legislative research director*], and be reasonably available for public inspection, for [at  
6 least three years following its preparation] [the duration of the program]. The fiscal note or waiver  
7 of a fiscal note attached to any bill or joint resolution shall be published in the [journal of each house  
8 of the [legislature] [session laws for the legislative session in which the act to which it applies is  
9 enacted].

10 (b) A fiscal note, upon being filed as herein provided, is a public record within the meaning of the  
11 [*cite state freedom of information act*]

12 SECTION 11. *Separability.* [*Insert separability clause.*]

13 SECTION 12. *Effective Date.* [*Insert effective date.*]

## 4.116 State Mandates\*

The constitutional fact of state supremacy over local governments—the latter being “creatures of the state”—provides the legislature and the courts with authority to issue directives to these local units. State-initiated mandates can be defined to include any state constitutional, statutory, or administrative action that places new fiscal or administrative requirements on local governments. While other definitions might be possible, no matter what definition is used, the main problem raised by mandates is that added costs are imposed on local government officials. Stated simply, state mandates substitute state objectives for local priorities.

Because of the imposed restrictions on local autonomy, few issues create more resentment among local officials than state mandates. While it is necessary that state governments have wide latitude in establishing statewide policies and programs, there is a substantial controversy on how far states should move into certain areas. The real question becomes: Can state mandates be sufficiently differentiated between an “appropriate” mandate, and an “inappropriate” mandate?

The use of mandates has increased in recent years for two notable reasons. First, state legislatures

have been increasingly reluctant to raise state taxes in response to public demand for local services. Second, the courts have taken a more active role in ordering improvements in service standards. Consequently, state legislatures are sometimes tempted to mandate local service increases, with no state financing, and let local officials figure out how to pay for the mandates.

Several justifications are offered in defense of mandates: (1) to assure minimum statewide service levels or a more uniform level of service throughout the state; (2) to develop professional standards for employees; and (3) to implement state social or economic policy objectives.

It must be emphasized that there is little or no controversy over many state-initiated mandates, particularly those relating to the organization and procedures of local government. State mandates are justified to prescribe the form of local government, the holding of local elections, and the designation of public officers and their responsibilities. Due process and “safeguard-type” mandates are necessary to insure, for example, the equitable administration of justice and the tax laws as well as to protect the public from malfeasance. State mandates of a supervisory nature are also necessary to require localities to act or to refrain from acting so as to avoid injury to, or conflict with, neighboring jurisdictions.

Despite the controversy and interest in the mandating issue, there is still little information available on the scope of the practice. However, results of an ACIR survey indicate that among the most commonly mandated functions are special education

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\*Derived from ACIR, *State Mandating of Local Expenditures*, A-57, Washington, DC, U.S. Government Printing Office, September 1978; ACIR, *Labor Management Policies for State and Local Government*, A-35, Washington, DC, U.S. Government Printing Office, September 1969; ACIR, *The Role of the State in Strengthening the Property Tax*, A-17, Washington, DC, U.S. Government Printing Office, June 1963; and ACIR, *State-Local Taxation and Industrial Location*, A-30, Washington, DC, U.S. Government Printing Office, April 1967.

programs (45 states) and solid waste disposal standards (45 states). Workmen's compensation (for local personnel other than police, fire, and education) programs are mandated in 42 states, while various provisions of retirement systems are mandated in 35 or more states. Most controversial, however, are state mandates that extend to traditionally local programs—park and recreational activities, for example.

State controls over, and mandates upon, local governments are manifested in constitutional and statutory provisions and in judicial interpretations thereof. Some state constitutional provisions and state legislation are enacted for the purpose of restraining such state mandates. For example, four state constitutions—Alaska, Louisiana, Pennsylvania, and Tennessee—limit the power of the state legislature to impose mandates upon local governments.<sup>1</sup> But the Pennsylvania provision, after disavowing interference with internal affairs proceeds to mandate binding arbitration of firemen and policemen.<sup>2</sup>

<sup>1</sup>*Constitution of the State of Alaska*, art. II, sec. 19, provides that "local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected." The constitution also forbids a political subdivision to contract a debt "unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question." *Constitution of the State of Louisiana*, art. VI, sec. 14, provides that "No law requiring increased expenditures for wages, hours, working conditions, pension and retirement benefits, vacation, or sick leave benefits of political subdivision employees, except a law providing for civil service, minimum wages, working conditions and retirement benefits for firemen and municipal policemen, shall become effective until approved by ordinance enacted by the governing authority of the affected political subdivision or until the legislature appropriates funds for the purpose to the affected political subdivision and only to the extent and amount that such funds are provided." Art. II, sec. 24, of the *Tennessee Constitution* provides in part: "Laws imposing increased expenditures on local governments must provide method of funding, and, in case of bills of general application, provide state share in the cost."

<sup>2</sup>Art. III, sec. 31, of the *Constitution of the Commonwealth of Pennsylvania* provides: "The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever. Notwithstanding the foregoing limitation or any other provision of the Constitution, the General Assembly may enact laws which provide that the findings of panels or commissions, selected and acting in accordance with law for the adjustment or settlement of grievances or disputes or for collective bargaining between policemen and firemen and their public employers shall be binding upon all parties and shall constitute a mandate to the head of the political subdivision which is the employer, or to the appropriate officer if the Commonwealth is the employer, with respect to matters which can be remedied by administra-

Proponents of the constitutional approach argue that this is surest way to protect local autonomy. The constitutional amendment is preferable, they argue, because state statutes cannot bind future legislatures. On the other hand, opponents of constitutional restrictions stress that this approach removes the flexibility state legislatures need to meet unforeseen future demands swiftly and decisively.<sup>3</sup> Opponents also note that the constitutional route is slower than statutory action.

A third position advocates a constitutional provision which requires a two-thirds vote of both houses of the legislature before the state legislature may mandate local government expenditures without offsetting state financial aid. This provision is supported in some states on the ground that the proposed procedure is in conformity with the authorization procedure contained in the existing home rule amendment allowing the state legislature by a two-thirds vote to pass a special law, provided the Governor has recommended passage of the law.

Besides the constitutional provisions, some states have adopted statutes which require state compensation for future mandated local costs or revenue losses, or both.<sup>4</sup> To date, the California statutes are the most comprehensive of the existing state laws on state reimbursement for mandated costs to local government. Under the terms of Chap. 1406, 1972, California statutes adopted the principle of reimbursing local governments for the costs incurred in providing state-mandated services. The reimbursement provision is broad in scope and intent, but it should be noted that such reimbursement applies only to subsequent mandates, and not retroactively. The state government commitment to reimburse is not limited to specific areas of governmental activities; rather, it encompasses local costs that result from (1) new state-mandated programs; (2) increased service levels mandated for existing pro-

...tive action, and to the lawmaking body of such political subdivision or of the Commonwealth, with respect to matters which require legislative action, to take the action necessary to carry out such findings."

<sup>3</sup>In reviewing the draft legislation, states will need to consider whether a constitutional amendment is necessary to make the legislation workable.

<sup>4</sup>*Revised Codes of Montana, Annotated*, sec. 43-517, provides that "Any law enacted by the legislature after July 1, 1974, which requires a local government unit to perform an activity or provide a service or facility which will require the direct expenditure of additional funds must provide a means to finance the activity service or facility." And further, that "the local government unit may refuse to administer or enforce any law which does not comply with the requirements of the section if that law requires any expenditure that would require the local government unit to exceed its statutory levy authority."

grams; and (3), by amendment, costs previously incurred at local option that have subsequently been mandated by the state. Mandated local costs arising from state administrative or executive orders are also to be reimbursed.

In drafting its recommended model bill, ACIR has concentrated on the reimbursement principle and suggests that it constitutes the core of any legislative proposal. The ACIR policy on state mandates rests on the belief that states mandating either new programs or increases in service levels, or personnel and retirement benefits should share in the cost that these programs impose on local governments.

The first step necessary to come to grips with the state mandating problem is a catalog or inventory of existing state mandates. The legislative or executive branch, or both jointly, should define and then catalog existing state-initiated mandates originating by legislation, executive order, or administrative rule and regulation. All state-initiated mandates adopted in the future should be added to the catalog, and the estimated costs imposed on local governments by all new mandates should be tabulated at the conclusion of each legislative session. After a catalog is created, the same reviewing body should categorize these mandated programs so that they may be fit into proper categories for reimbursement as discussed later. Most importantly, the catalog provides the indispensable first step necessary to rationalize mandates in terms of current policy concerns. (Some states may wish to institute some "sunset" procedure for mandates, once an accurate listing has been obtained.)

Secondly, to accomplish these policy objectives, state statutes should provide procedures and formulas for partial or full reimbursement to local governments, depending upon the category of the mandate. Drawing from the California statute, the following draft bill provides certain safeguards: (a) a fiscal note process to evaluate the cost of all mandates, and (b) a strict interpretation of state-initiated mandates.

Finally, in recognition of the potential for disagreement between state and local units of government as to the costs imposed by state-initiated mandates, the draft bill provides for an appeal and adjustment procedure through a state agency designated to resolve local governments' claims arising from inadequate state funding of the reimbursement provisions. Optional provisions are included to give the local government units the right to refuse to carry out a mandate not in compliance with the reimbursement

policy and to appeal to the courts once administrative procedures have been exhausted.

*Section 1* gives the short title of the bill.

*Section 2* serves as a policy statement for the bill, including the recognition that state mandates have often produced confusing, inconsistent, and inequitable relationships between the state government and its local political subdivisions, and that to correct these problem areas a review of existing mandates should be undertaken with an eye to developing corrective actions to produce a consistent and equitable framework of state-local relations.

To establish a uniform basis for sifting through the historical record, the term "mandate" must be defined. *Section 3* of the bill defines a state mandate and the various categories of mandates. A broad rather than narrow definition is preferable in providing a basis for differential treatment of various types of mandates.<sup>5</sup> These definitions serve as a necessary prerequisite to any cataloging or reimbursement procedure, and constitute a first step of a review process of state mandates.

*Section 4* of the suggested legislation calls for the legislative or executive branch, or both jointly, to catalog and publish descriptions of existing state-initiated mandates originating by legislation, executive order, or administrative rule and regulation. State mandates which are a result of federal legislative, executive, and court initiatives are also to be included in the catalog with appropriate annotation, as are all future state-initiated mandates. The estimated costs of all new state mandates imposed on local governments are to be tabulated at the conclusion of each legislative session.

*Section 4* provides further that the catalog should indicate to which local government unit or official the mandate is directed, whether or not direct costs are attributable to the mandate and what those costs are, the extent of state financial participation in the mandate, and a description of the mandate and its source.

*Section 5* requires that, in addition to any statutory requirements for evaluating the fiscal impact of proposed mandates, the state legislature and executive branch adopt, either by statute or rules of procedure, provisions for a statement of the statewide policy objective or objectives that require or justify the imposition of the proposed requirement upon the local government. The premise underlying this re-

<sup>5</sup>If the definition of mandates in general is narrowed at the outset, the door is closed to obtaining a complete inventory of mandates in effect and a subsequent delineation of "justified" and "unjustified" mandates.

quirement is that a good deal of irritation and friction concerning state-mandated costs imposed on local governments stem from the failure to articulate clearly the statewide policy objective.

*Section 6* specifies the reimbursement share to be paid by the state government to the local unit for each category of mandate defined in *Section 3* of the bill. Briefly, subsection (b) calls for at least a 50% reimbursement of service mandates. Subsection (c) calls for a 100% reimbursement of the loss of local revenue directly attributable to a mandated classification or exemption of property for purposes of ad valorem property taxation. Subsection (d) calls for reimbursement of personnel mandates to the full extent of increased costs incurred by local governments directly attributable to the mandate, with a few exceptions. Subsection (e) calls for a 100% reimbursement of local governmental costs directly attributable to a mandated increase in public employee retirement benefits. It should be noted that reimbursements are to be paid only for mandates effective subsequent to the effective date of this legislation.

Finally, subsection (a) of *Section 6* expressly relieves the state of reimbursement liability for mandates dealing with the organization and structure of local government, matters of due process, and interlocal equity as defined in *Section 3* of the bill. Subsection (f) provides that any proposal which creates or enlarges a state mandate shall bear either a proposed authorization for appropriation of an amount necessary for reimbursement or a disclaimer from reimbursement liability, stating the specific reason for such exclusion as provided in *Section 9(a)*.

*Section 7* deals with the situation where the state also places a lid on local expenditures or taxes and calls for local government units to have the authority necessary to levy taxes beyond the general limitations on local government taxes or expenditures when mandates are not reimbursed. As a practical matter, this authority can be restricted to those local costs that exceed \$5,000 or 1% of the local operating budget. In this way, the financial bind of local officials will be eased while the state policy will be coordinated through a reconciliation of program objectives and the desire to restrain local government tax and expenditure growth.

*Section 8* calls for the state agency charged with oversight of mandates to complete and submit to the Governor and the legislature, within three months of the publication of the catalog prescribed in *Section 4*, a review and report on mandates existing prior to the effective date of the act. This report is to include but not be restricted to matters relating to the history of

the mandate, its costs, and extent of state reimbursement and whether the mandate continues to meet a statewide policy objective and whether reimbursement should be undertaken. The report is to include any other information or recommendations which the agency considers pertinent. The objective of this required review would be to highlight those mandates that no longer meet a current statewide policy objective, and at the same time to uncover mandates that continue to meet current statewide policy but need to be strengthened or changed if they are to be effective.

Once it has been determined that reimbursement is a desirable statewide policy, a mechanism for reviewing reimbursement applications and for paying reimbursements to the local unit must be established. *Section 9* of the bill sets forth this procedure. First, however, subsection (a) expressly lists several circumstances which shall exclude the state from reimbursement liability. Basically, these circumstances are those which impose little recognizable new duty on the local government, or impose only minimal new costs, or those which impose additional costs but also provide offsetting savings. Additionally, subsection (a) enables the legislature to disclaim reimbursement liability for a unique or compelling policy reason, provided the reason is stated within the proposed act establishing the mandate.

Subsections (b) and (c) of *Section 9* provides the procedures necessary for an estimation of reimbursement costs, application for reimbursement, and a disbursement procedure. Most importantly, subsection (b) calls for an estimate of mandated costs to be prepared by an agency of the state executive branch after consultation with the affected local government unit and for the estimate to be submitted to both houses of the legislature before consideration of the proposal. Subsection (c) calls for the local governmental unit affected by the mandate to submit an application for reimbursement with estimated costs within 60 days of its effective date, and for an agency of the executive branch to review this application and forward the application upon approval to the appropriate agency for reimbursement or to the legislature for a direct appropriation to the local units of government. It should be noted that all reimbursement procedures are subject to the right of the state to audit the records of any local government to verify the actual costs of the mandate and make changes if necessary. Subsection (d) of *Section 9* provides the local unit with the authority needed to appeal any adverse reimbursement decision to a designated state agency.

States having a general revenue sharing or per

capita aid program for local governments will already have established procedures for executive review, appeal, and reimbursement that can be adapted to accommodate mandate reimbursement application, review, and adjudication.

Some states may desire to make reimbursements a function of the legislature, through annual appropriations to the individual local units, following receipt of a recommended reimbursement schedule from the executive branch.

Recognizing that such an administrative appeals process may not be sufficient in some cases, an optional *Section 9* is included in the draft legislation calling for local governmental units to have the right (a) to initiate court action when the local unit feels there has been inadequate reimbursement; or an improper decision as to whether a proposal involves state-mandated costs, or to enjoin the effect of the mandate until funds are available; and (b) to refuse to comply with the mandate.