

ALASKA LEGISLATURE COMMITTEE FILES DO NOT 1902/2

1243	HCRA	SB 168	-	SB 180		1243
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<u>source/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>rec id/rept</u>	<u>project/comments</u>	<u>amount</u>
			Holy Cross	242		242,000
			Homer	2,211		2,211,000
			Hoonah	677		677,000
			Hooper Bay	624		624,000
			Houston	393		393,000
			Hughes	73		73,000
			<i>Huslia</i> Huslia	195		195,000
			Hydaburg	303		303,000
			Juneau	19,483		19,483,000
			Kachemak	402		402,000
			Kake	547		547,000

Source Code	page/date sent	File/ST	State	
52		Kaktovik	165	165,000
53		Kaktovik	245	245,000
54		Kasaan	25	25,000
55		Kenai	4,326	4,326,000
42		Kenai Borough	13,498	13,498,000
56		Ketchikan	7,248	7,248,000
38		Ketchikan Gateway Bor.	3,665	3,665,000
57		Kiana	344	344,000
58		King Cove	462	462,000
59		Kivalina	241	241,000
60		Klawock	321	321,000

<u>t source/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>rec id/rept</u>	<u>project/comments</u>	<u>amount</u>
1			Kobuk	55		55,000
2			Kodiak	4,746		4,746,000
1			Kodiak Island Borough	4,195		4,195,000
3			Kotlik	291		291,000
4			Kotzebue	2,044		2,044,000
5			Koyuk	188		188,000
6			Koyukuk	98		98,000
7			Kupreanof	47		47,000
8			Kwethluk	451		451,000
9			Larsen Bay	144		144,000
70			Manokotak	293		293,000

<u>Source/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>rec id/rept</u>	<u>PROJECT/COMMENTS</u>	
			Matanuska Susistna Bor.	13,854		13,854,000
			McGrath	355		355,000
			Mekoryuk	151		161,000
			Mekoryuk	161		161,000
			Mountain Village	581		581,000
			Napakiak	261		261,000
			Napaskiak	244		244,000
			Nenana	471		471,000
			New Halen	87		87,000
			New Stuyahok	325		325,000
			Hewtok	125		125,000

<u>prce/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>REC ID/REPT</u>	<u>PROJECT/Comments</u>	
			Nightmute	.119		119,000
			Nikolai	91		91,000
			Nome	2,273		2,273,000
			Nondalton	170		170,000
			Noorvik	490		490,000
			NorthPole	719		719,000
			Northslope Borough	538		538,000
			Nuqsut	207		207,000
			Nulato	350		350,000
			Old Harbor	339		339,000
			Ouzinkie	173		173,000

<u>Urce/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recid rent/balance</u>	<u>rec id/rept</u>	<u>project/comments</u>	
			Palmer	2,143		2,143,000
			Pelican	180		180,000
			Petersburg	2,800		2,800,000
			Pilot Station	330		330,000
			Platinum	55		55,000
			Point Hope	461		461,000
			Port Alexander	86		86,000
			Port Heiden	90		90,000
			Port Lions	215		215,000
			Quinhagak	419		419,000
			Ruby	198		198,000

<u>Urce/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>rec id/rept</u>	<u>project/comments</u>	
			Russian Mission	.169		169,000
			Saint Mary's	379		379,000
			Saint Michael	236		236,000
			Saint Paul Island	551		551,000
			Sand Point	619		619,000
			Savoonga	491		491,000
			Saxman	434		434,000
			Selawik	361		361,000
			Seldovia	473		473,000
			Seward	1,042		1,842,000
			Shageluk	131		131,000

<u>source/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>rec id/rept</u>	<u>project/comments</u>	
			Shaktoolik	163		163,000
			Sheldon Point	101		101,000
			Shishmaref	393		393,000
			Shungnak	202		202,000
			<i>Scammon</i> Sthmon Bay	251		251,000
			Sitka	7,769		7,769,000
			Skagway	769		769,000
			Soldotna	2,320		2,320,000
			Stebbins	335		335,000
			Tanana	394		394,000
			Tanunak	300		300,000

<u>source/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>rec id/rept</u>	<u>project/COMMENTS</u>	
			Teller	212		212,000
			Tenakee Springs	154		154,000
			Togiak	472		472,000
			Toksook Bay	332		332,000
			Tuluksak	234		234,000
			Unalakleet	615		615,000
			Unalaska	1,301		1,301,000
			Upper Kalskag	129		129,000
			Valdez	3,173		3,173,000
			Wainwright	404		404,000
			Wales	132		132,000

<u>source/code</u>	<u>page/date sent</u>	<u>line/eff date</u>	<u>recip rent/balance</u>	<u>rec id/rept</u>	<u>project/comments</u>	
			Wasilla	1,548		1,548,000.
			White Mountain	1		125,000
			Whittier	206		206,000
			Wrangell	2,174		2,174,000
			Yakutat	449		449,000
			<del>Seward</del> Bay	257		<del>257,000</del>

THE PRECEDING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

1. Page 1, Line 11 - eliminate "The entitlement shall be used for capital projects at the discretion of the municipality." and substitute therefore:

"The entitlement may be used for capital projects or for tax reduction as determined under (c) of this section."

2. Page 1, Line 18 - eliminate subsection (c) and substitute therefore:

"(c) The cost of individual capital projects identified in (d)(2) of this section shall be approved by at least 50% of the qualified voters of each municipality voting on the issue at a general or special election held for that purpose. Funds not approved by voters for particular capital projects shall be used to reduce or eliminate existing taxes, fees, licenses or charges of the municipality in the following order:

- (a) Real property taxes;
- (b) Personal property taxes;
- (c) Sales and use taxes;
- (d) Licenses;
- (e) Fees;
- (f) Charges for services provided by the municipality.

Any part of the entitlement not used by a municipality for capital projects or reduction of taxes, fees, licenses or charges shall be returned to the Municipal Aid Account. A municipality may provide a grant of money received under this section to a nonprofit corporation for any capital project of the nonprofit corporation which serves a public purpose.

3. Page 1, Line 26 - eliminate "spend" and substitute therefore: "use".

April 13, 1981

The Honorable Arliss Sturgulewski  
Alaska Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Sturgulewski:

Per your request the following information has been compiled.

During the FY 1981 State Revenue Sharing Program, 60 Native village governments applied for funding under the provisions of AS 29.89.050. We presume that approximately 20 other communities qualify under this section that did not apply. Under State law the definition of Native village governments limits funding to unincorporated communities recognized under the Alaska Native Claims Settlement Act of 1971 that have some kind of governing body, i.e. I.R.A. council, traditional council, Native village council, etc. This definition, therefore, makes a distinction between unincorporated communities based solely upon Federal recognition as a Native versus non-Native community.

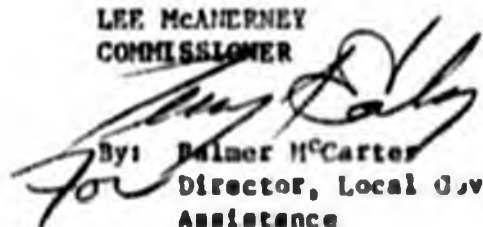
Upon review of the 1980 preliminary census counts, we have determined that there are 29 communities in the unorganized borough with populations of 25 or more that do not meet the definition of a Native village government. It should be noted that Native village governments under state revenue sharing requirements do not have to meet a 25 or more population standard. Attached is a list of "non-Native communities" in the unorganized borough and within boroughs that have a population of 25 or more. As you may know, Native village governments located within organized boroughs are eligible to receive State Revenue Sharing.

CSA 168 treats unincorporated communities more equitably. Unincorporated communities in the unorganized borough are eligible for the \$1,000 per capita payment while unincorporated places within boroughs are excluded. The borough receives the \$1,000 per capita payment for all of its residents that reside outside of cities. No distinction is made between Native and non-Native communities.

I hope this information proves useful.

Sincerely,

LEE McANERNEY  
COMMISSIONER

  
By: Palmer McCarter  
Director, Local Government  
Assistance

**UNINCORPORATED COMMUNITIES**

	<u>1980 Preliminary Census</u>		<u>1980 Preliminary Census</u>
B Big Lake	412		Meyers Chuck 50
Tok	585	B Montana	40
Big Delta	282	B Moose Creek	518
B Bodenburg Butte	982	B Moose Pass	77
B Big Horn	363	B Murphy Dome	72
Campion	59	Nikishka	1114
Central	36	Paxson	30
Chicken	36	B Pennock Island	88
R Clam Gulch	48	Perkinsville	34
B Clover Pass	441	Point Baker	90
Coffman Cove	196	Port Clarence	29
Cold Bay	226	B Prudhoe Bay	50
B Cooper Landing	111	B Salcha	308
B Dead Horse	65	Slana	49
Dunbar	49	B Sterling	913
Elfin Cove	28	Suntrana	56
B Ester	150	B Sutton	182
Evansville	93	B Talkeetna	265
False Pass	65	Thorne Bay	300+
B Fox	110	Two Rivers	358
B Fritz Creek	302	Usibelli Mine	54
Glenallen	488	Whale Pass	90
Gustavus	98		
B Halibut Cove	45		
B Harding Lake	40		
Healy	333		
B Herring Cove	99		
B Ho, * <sup>o</sup>	101		
Hyder	82		
B Jakalof Bay	36		
B King Salmon	536		
Lower Tonsina	40		
McKinley Park	32		

**Non-Native Unincorporated Communities with Populations of 25+**

	#	Population
Outside Boroughs	30	3,867
Inside Boroughs	25	6,355
Total	55	10,222

Note: Native villages of less than 25 people are eligible for Revenue Sharing.

\*R stands for unincorporated villages within an organized borough.

1. Page 1, Line 11 - eliminate "The entitlement shall be used for capital projects at the discretion of the municipality." and substitute therefore:

"The entitlement may be used for capital projects or for tax reduction as determined under (c) of this section."

2. Page 1, Line 18 - eliminate subsection (c) and substitute therefore:

"(c) The cost of individual capital projects identified in (d)(2) of this section shall be approved by at least 50% of the qualified voters of each municipality voting on the issue at a general or special election held for that purpose. Funds not approved by voters for particular capital projects shall be used to reduce or eliminate existing taxes, fees, licenses or charges of the municipality in the following order:

- (a) Real property taxes;
- (b) Personal property taxes;
- (c) Sales and use taxes;
- (d) Licenses;
- (e) Fees;
- (f) Charges for services provided by the municipality.

Any part of the entitlement not used by a municipality for capital projects or reduction of taxes, fees, licenses or charges shall be returned to the Municipal Aid Account. A municipality may provide a grant of money received under this section to a nonprofit corporation for any capital project of the nonprofit corporation which serves a public purpose.

3. Page 1, Line 26 - eliminate "spend" and substitute therefore: "use".

Original sponsors: Dankworth, Kerttula,  
Ferguson, et al .

Introduced: 3/24/81  
Referred: Rules

1 IN THE SENATE

THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 168 (Finance) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state assistance for capital  
7 projects; and providing for an effective date."

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

9 \* Section 1. MUNICIPAL AID PROGRAM. (a) During the fiscal year ending  
10 June 30, 1982, the Department of Administration shall compute and pay an  
11 entitlement to each qualified municipality. The entitlement shall be used  
12 for capital projects at the discretion of the municipality. The entitlement  
13 shall be computed in accordance with (b) of this section, and is payable by  
14 the Department of Administration in accordance with AS 37.05.315.

15 (b) Within the limits of appropriations for the purpose, each municipi-  
16 pality is entitled to receive \$1,000 per person residing within the bound-  
17 aries of the municipality.

18 (c) Money received as an entitlement by a municipality under this  
19 section may be used only for capital projects. A municipality may provide a  
20 grant of money received under this section to a nonprofit corporation for  
21 any capital project of the nonprofit corporation which serves a public pur-  
22 pose.

23 (d) A municipality may not receive money as an entitlement under this  
24 section until it provides to the Department of Administration a copy of the  
25 ordinance or resolution adopted by it which

26 (1) authorizes the municipality to receive and spend the money to  
27 be provided by the entitlement;

28 (2) identifies the capital projects for which the money will be  
29 spent; and

*delete*

1 (3) indicates the total amount of money which the municipality  
2 may receive and the amount of money which will be used by the municipality  
3 of a nonprofit corporation for each capital project.

4 \* Sec. 2. AID TO UNINCORPORATED COMMUNITIES. (a) During the fiscal  
5 year ending June 30, 1982, the Department of Community and Regional Affairs  
6 shall compute and pay an entitlement to each unincorporated community in the  
7 unorganized borough. An entitlement payable under this section shall be  
8 computed in accordance with (b) of this section, and is payable by the  
9 Department of Community and Regional Affairs in accordance with (c) of this  
10 section.

11 (b) Within the limits of appropriations for the purpose, each unincor-  
12 porated community which qualifies under (a) of this section is entitled to  
13 receive \$1,000 per person residing within that unincorporated community.

14 (c) By August 15, 1981, the Department of Community and Regional  
15 Affairs shall notify each unincorporated community that an entitlement is  
16 available. The Department of Community and Regional Affairs shall determine  
17 whether there is, in the unincorporated community, an incorporated entity or  
18 a federally chartered entity which will agree to receive and spend the money  
19 under the entitlement. If there is, in the unincorporated community, more  
20 than one qualified incorporated or federally chartered entity, the Depart-  
21 ment of Community and Regional Affairs shall pay the money under the entitle-  
22 ment to the entity which the department finds most qualified to spend the  
23 money consistent with (d) and (e) of this section. The Department of Com-  
24 munity and Regional Affairs shall give preference to a nonprofit corporation  
25 organized by an unincorporated community for receipt of the entitlement.

26 (d) Money received as an entitlement under this section may be used  
27 only for capital projects in the unincorporated community.

28 (e) An unincorporated community may not receive money as an entitle-  
29 ment under this section until the recipient selected by the Department of

*Need  
language  
specifying  
that if  
I.R.A. will  
get the  
money  
they must  
open their  
membership  
to any person  
in the org  
regardless of  
race.*

1 Community and Regional Affairs under (c) of this section provides to the  
2 Department of Community and Regional Affairs a copy of a resolution adopted  
3 by it which

4 (1) authorizes the recipient to receive and spend the money  
5 provided by the entitlement;

6 (2) identifies the capital project for which the money will be  
7 spent;

8 (3) indicates the total amount of money which the recipient may  
9 receive and the amount of money which will be used for each capital project;  
10 and

11 (4) identifies the party

12 (A) that owns or will own a capital project for which money  
13 is spent under this section; or

14 (B) that will be responsible for the maintenance and opera-  
15 tion of a capital project for which money is spent under this section.

16 (f) If there is no incorporated entity or federally chartered entity  
17 willing to receive the money, the entitlement determined by the Department  
18 of Community and Regional Affairs for that unincorporated community may not  
19 be paid.

20 \* Sec. 3. DETERMINATION OF POPULATION. (a) For purposes of this Act,  
21 the population of a municipality and of an unincorporated community shall be  
22 determined from the latest figures of the United States Bureau of the Census.

23 (b) For purposes of determining the population of a home rule or  
24 general law borough, the population of each city located within the boundar-  
25 ies of the borough shall be subtracted from the population of the borough.

26 \* Sec. 4. MUNICIPAL AID ACCOUNT. The municipal aid account is estab-  
27 lished in the Department of Administration. Money to carry out the provi-  
28 sions of sec. 1 of this Act shall be appropriated to the account and dis-  
29 tributed by the Department of Administration as authorized in sec. 1 of this

1 Act. If the amount appropriated to the account is not sufficient to finance  
2 all entitlements, the amount appropriated shall be distributed pro rata  
3 among eligible municipalities.

4 \* Sec. 5. UNINCORPORATED COMMUNITY AID ACCOUNT. The unincorporated  
5 community aid account is established in the Department of Community and  
6 Regional Affairs. Money to carry out the provisions of sec. 2 of this Act  
7 shall be appropriated to the account and distributed by the Department of  
8 Community and Regional Affairs as authorized in sec. 2 of this Act. If the  
9 amount appropriated to the account is not sufficient to finance all entitle-  
10 ments, the amount appropriated shall be distributed pro rata among eligible  
11 recipients.

12 \* Sec. 6. DEFINITION. In this Act,

13 (1) "capital project" means

14 (A) a public facility; or

15 (B) equipment which may be necessary to construct, operate  
16 or maintain a public facility or service;

17 (2) "municipality" means a city, borough, or unified municipality  
18 incorporated under state law and includes home rule and general law munici-  
19 palities.

20 (3) "unincorporated community" means a village in the unorganized  
21 borough in which 25 or more persons reside.

22 \* Sec. 7. This Act takes effect July 1, 1981.

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05.159

§ 37.05.230

PUBLIC FINANCE

§ 37.05.315

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report

(C) the minority leaders of each house of the legislature.  
(d) Votes required to be conducted under (c) of this section may be conducted by teleconference. (§ 1 ch 170 SLA 1980)

Cross reference. — For the 1980 Temporary and Special Acts binder.  
special appropriation to the reserve for Effective date. — Section 2, ch. 170,  
emergency operating expenses account, SLA 1980, makes this section effective  
see Chapter 171, SLA 1980, in the July 1, 1980.

**Article 4. Uniform Purchasing.**

Section  
230. Competitive bids

**Sec. 37.05.230. Competitive bids.** In the manner provided in this chapter and rules and regulations established under it

(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.09.010; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

Revisor's note. — The reference to AS SLA 1966 revised Title 14 and the  
14.09.010 in paragraph (4) was originally substance of AS 14.10.070 became AS  
a reference to AS 14.10.070. Chapter 98, 14.09.010.

**Article 5. General Provisions.**

Section  
315. State grants

**Sec. 37.05.300. Interpretation of chapter.**

Chapter applicable to University of Alaska. — See note under this catchline following chapter analysis.

**Sec. 37.05.315. State grants.** (a) When an appropriation is made as a grant to a municipality, the Department of Administration shall promptly notify the municipality of the availability of the grant. When the Department of Administration receives an agreement executed by the municipality which provides that the municipality (1) will spend the grant for the purposes specified in the appropriation; (2) will allow, on request, an audit by the state of the uses made of the grant; and (3) assures that, to the extent consistent with the purpose of the appropriation, the facilities and services provided with the grant will be available for the use of the general public, the Department of Administration shall pay the grant directly to the municipality. The agreement executed by a municipality under this section shall be on a form furnished by the Department of Administration.

Not less than 20 percent of the grant shall be paid to the municipality within 10 days of the effective date of the agreement. The remainder of the grant shall be paid either in monthly installments equal to the amount of grant money the municipality expended in the previous month or in a lump sum as determined by the Department of Administration.

(b) An appropriation for a grant to a municipality for construction of a public facility lapses if substantial, ongoing work on the project has not begun within five years after the effective date of the appropriation.

(c) In accepting a grant of money for construction of a public facility, each municipality covenants with the state that it will operate and maintain the facility for its practical life and that it will not look to the state to operate or maintain the facility or pay for its operation or maintenance.

(d) When an appropriation is made to a department as a grant for a named recipient which is not a municipality, the department to which the appropriation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services, or both, for which the appropriation is made. At the same time, the department shall issue a request for proposals from other qualified persons to provide the same goods or services, or both, in the same area. The department shall contract with the named recipient unless the Office of the Governor, with due regard for any local expertise or experience among those making proposals, determines that an award of the contract to a different party would better serve the public interest. If the contract is awarded to another party than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued. The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(C).

(e) A grant to a municipality must be made within 60 days after the effective date of the appropriation. A contract under (d) of this section must be executed within 60 days after the effective date of the appropriation.

(f) A grant to an unincorporated community made under this section shall be disbursed as follows:

(1) Within 45 days after the effective date of the appropriation, the Department of Community and Regional Affairs shall notify the governing body of the unincorporated community, if any, that a grant is available.

(2) The Department of Community and Regional Affairs shall determine whether there is a qualified incorporated entity in the community area which will agree to receive the grant and administer it, subject to terms generally applicable to private grantees. If there is more than one such entity, the Department of Community and

Regional Affairs shall be awarded to appropriation. Regional Affairs shall community for

(3) If there the Department the program may contract

(g) Notwith the Fiscal Pr (AS 37.07), additional re specific or ot required by programs. (§

Effective dat SLA 1980, mak

Section 20. Responsibility 60. Governor's 80. Program es

The Universi to the provisi February 28, 197 There is no c

Sec. 37.07.

(d) The go legislature, n and Audit Co of

(1) alternat state; and (?) alternat (am. § 4 ch 16

Effect of amm The 1980 amm 1980, added sub

Regional Affairs shall select the most qualified and the grant shall be awarded to that incorporated entity for the purposes of the appropriation; however, the Department of Community and Regional Affairs shall give preference to a nonprofit corporation organized by a community for receipt of the grant.

(3) If there is no incorporated entity qualified to receive the grant, the Department of Community and Regional Affairs shall administer the program directly or through agents or contractors with whom it may contract in the community area.

(g) Notwithstanding the Administrative Procedure Act (AS 44.62), the Fiscal Procedures Act (AS 37.05), and the Executive Budget Act (AS 37.07), a department may not adopt regulations or impose additional requirements or procedures to implement, interpret, make specific or otherwise carry out the provisions of this section unless required by the federal government for participation in federal programs. (§ 1 ch 156 SLA 1980)

Effective date. — Section 2, ch. 156, July 2, 1980, in accordance with AS SLA 1980, makes this section effective 01.10.070(c).

## Chapter 07. Executive Budget Act.

### Section

- 20. Responsibilities of the governor
- 60. Governor's recommendation
- 80. Program execution

The University of Alaska is subject to the provisions of this chapter. February 28, 1977, Op. Att'y Gen.

There is no constitutional obstacle to

making the University of Alaska subject to the provisions contained in this title. February 28, 1977, Op. Att'y Gen.

### Sec. 37.07.020. Responsibilities of the governor.

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus.  
(am § 4 ch 18 SLA 1980)

Effect of amendment.  
The 1980 amendment, effective April 9, 1980, added subsection (d).

As the rest of the section was not affected by the amendment, it is not set out.

"An Act relating to state assistance for capital projects;  
and providing for an effective date."

CS SB 168 (FINANCE)

PURPOSE

A ONE-TIME ONLY APPROPRIATION TO PROVIDE FOR  
EQUITABLE DISTRIBUTION OF CAPITAL PROJECT  
MONIES TO BE USED AT THE DESCRETION OF THE  
LOCAL GOVERNING BODY.

RESULTS OF  
PASSAGE

THE FUND WILL BE DISTRIBUTED BY THE DEPT OF  
ADMINISTRATION AS MUNICIPAL GRANTS AND BY THE  
DEPT OF C&RA TO THE UNINCORPORATED COMMUNITIES  
AT \$1000 PER CAPITA AND USING THE 1980 U.S.  
CENSUS FIGJRES THE FISCAL IMPACT OF DISTRIBU-  
TION OF THESE FUNDS IS \$405,313,600.

SEC 1

DURING FY 82 THE DEPT OF ADMINISTRATION SHALL  
COMPUTE AND PAY \$1000 PER CAPITA ENTITELMENTS  
USING MUNICIPAL STATE GRANT PROCEDURES. THE  
MUNICIPALITY MUST USE THE FUNDS FOR CAPITAL  
PROJECTS AND IDENTIFY EACH PROJECT AND THE  
RESPECTIVE COST AND ADOPT RESOLUTION  
STATING SUPPORT.

SEC 2

DURING FY 82 THE DEPT OF C&RA SHALL COMPUTE  
AND PAY ENTITLEMENTS TO FACH OF THE UNINCORPOR-  
ATED COMMUNITIES (with population of 25 or more)  
AT THE RATE OF \$1000 PER CAPITA FOR CAPITAL  
PROJECTS.

SEC 3

1980 U.S. CENSUS FIGURES WILL BE USED. CITIES  
WITHIN BOROUGHS WILL BE SUBTRACTED.

SECS 4 & 5

PROVIDE THAT FUNDS WILL BE DISTRIBUTED PRO RATA  
IF THE AMOUNT IS NOT \$1000 PER CAPITA.

SEC 6

DEFINES CAPITAL PROJECT AS PUBLIC FACILITY OR  
EQUIPMENT NECESSARY TO CONSTRUCT, OPERATE OR  
MAINTAIN A PUBLIC FACILITY.

SEC 7

EFFECTIVE DATE OF JULY 1, 1981.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

*Amended  
3/23/81*

I. REQUEST  
Bill/Resolution No. CSSB 168  
Title An Act relating to state assistance for capital projects; and pending for an effect  
Requested by Senate Community & Regional Affairs Committee Date 3/5/81 effective date

II. FISCAL DETAIL  
Agency Affected Department of Community & Regional Affairs  
Program Category Affected Development  
BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	173.7	187.6	-0-	-0-	-0-
200 TRAVEL	-0-	18.9	9.6	-0-	-0-	-0-
300 CONTRACTUAL	-0-	50.6	54.6	-0-	-0-	-0-
400 COMMODITIES	-0-	1.0	1.0	-0-	-0-	-0-
500 EQUIPMENT	-0-	8.6	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	24,987.0	-0-	-0-	-0-	-0-
<b>TOTAL</b>	-0-	25,239.8	252.8	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	25,239.8	252.8	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-5-	-5-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)  
Grant cost based on preliminary figures of U.S. Census for the unorganized borough X \$1,000.

Inflation figured at 8%.

It is envisioned that three existing DC&RA positions would be assigned to assist with this program in addition to their current duties and would be placed under the supervision of the Program Director.

The five new positions would all terminate June 30, 1983.

IV. DATE 3/5/81 PREPARED BY McKie Campbell  
AGENCY Department of Community & Regional Affairs  
PHONE 465-4775

PERSONNEL

1. Program Director (Exempt)  
Range 20 Step A Supervisory

Salary	\$37,140.
Benefits	5,708.49
SBS	2,004.
Health Insurance	1,848.
	<u>\$46,700.49</u>

1. LGS IV  
Range 19 Step E (General)

Salary	\$39,120.
Benefits	6,012.74
SBS	2,004.
Health Insurance	1,848.
	<u>\$48,984.74</u>

1. Accounting Technician  
Range 12 Step A (General)

Salary	21,132.
Benefits	3,247.99
SBS	2,004.
Health Insurance	1,848.
	<u>\$28,231.99</u>

1. Accounting Clerk III  
Range 10 Step A (General)

Salary	\$18,768.
Benefits	2,884.64
SBS	2,004.
Health Insurance	1,848.
	<u>\$25,504.64</u>

1. Clerk Typist II  
Range 7 Step E (General)

Salary	\$17,700.
Benefits	2,720.49
SBS	2,004.
Health Insurance	1,848.
	<u>\$24,272.49</u>

\$173,694.35

\$173.7

EQUIPMENT \*

5 Desks	\$2,411.04
5 Chairs	769.19
2 File Cabinets	1,400.00
2 Book cases	247.48
5 Calculators	1,245.30
2 IBM Dictating machines and	
1 IBM Transcriber	2,218.62
5 Plastic floor mats	200.
5 Trash cans	<u>50.</u>
	\$8,541.63

\*Equipment will be leased if that proves less expensive.

\$8.6

TRAVEL

30 trips at an average price of \$390 each	\$11,700.
60 days per diem at \$70 a day (State average)	\$4,200.
Coordination and contingency	<u>\$3,000.</u>
	<u>\$18,900</u>
	\$18.9

CONTRACTURAL

SPACE for five persons		\$16,200.
TELEPHONES		
Basis Service	Long Distance	
\$955	\$10,000	\$10,855.
DATA PROCESSING		
Programming fees		\$5,000.
PRINTING	\$1,000.	\$3,000.
ADVERTISING	\$1,000.	
POSTAGE	\$1,000.	
WORD PROCESSING		<u>\$7,000.</u>
Lease of 2 Hang work stations and 1 printer		\$50,596.
		\$50.6

COMMODITIES

5 x \$200	\$1,000.	
		\$1.

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# STATE OF ALASKA

JAY S. HAMMOND, Governor

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: 1907/465-4700

April 1, 1982

The Honorable Patrick M. O'Connell, Chairman  
House Community & Regional Affairs Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative O'Connell:

RE: CSSB 180 (C&RA)am

This Department is pleased to note that CSSB 180am is being heard by your committee during this week. As you know, the Title 29 rewrite bill is a high legislative priority for this Department and we are hopeful it will receive prompt approval by your committee and the house.

The Department would, however, like to remind you of a concern we have regarding Sec. 29.60.140 (p. 154-155) of the current bill. This section pertains to making State Revenue Sharing payments to Native village governments. The language in this section is identical to present language found in AS 29.89.050. The Department's concerns about this language have been previously noted by the Joint Community and Regional Affairs Committee that worked on the Title 29 bill during the interim. However, that Joint Committee suggested that this language be revised in legislation specifically designed to amend the State Revenue Sharing Program. The Governor's legislation (SB 716/HB 746) to revise State Revenue Sharing substantially alters the process for funding unincorporated communities. We do, of course, hope to see enactment of the Governor's State Revenue Sharing bill as the solution to the present Native village government statute. However, in the event SB 716/HB 746 does not become law we would like to insure that AS 29.60.140 of CSSB 180am be addressed.

The enclosed September 2, 1981 Attorney General's opinion states that AS 29.89.050 is "unconstitutional if read literally to restrict aid to Native villages". The opinion goes on to say that the present law can only be interpreted as constitutional if the payments are made available to all similarly situated unincorporated communities regardless of racial or governmental status. Based on this opinion, the Department made FY 1982 State Revenue Sharing under AS 29.89.050 available on an application basis to all eligible unincorporated communities in the unorganized borough. This places the Department in a position of ignoring a statute, a position we would like to correct as soon as possible.

The Honorable Patrick M. O'Connell  
April 1, 1982  
Page 2

Another Attorney General's opinion (copy enclosed) identifies an additional problem with AS 29.89.050. Specifically, that unincorporated communities within organized boroughs are not eligible to receive revenue sharing funds. Currently AS 29.89.050 contains no such specific prohibition. Based on this Attorney General's opinion, the Department is not paying revenue sharing funds to unincorporated communities within organized boroughs. Again, however, this puts us in a position of administering a statute in contradiction to its literal interpretation.

To alleviate this situation the Department requests that AS 29.60.140 be  
1) deleted from the bill as an alternative or  
2) amended in such a manner as to make eligible those unincorporated communities of 25 or more in the unorganized borough. The Department recognizes the need to make a reliable source of funding available to unincorporated communities to provide services and maintain and operate projects constructed with SB 168 funds. However, this Department and the Department of Law have always questioned the propriety of administering a program for unincorporated communities as part of a Municipal Revenue Sharing concept. State Revenue Sharing is also an "entitlement" program and the inclusion of unincorporated communities in an ongoing entitlement program has also been a source of some concern. The Department prefers, as illustrated in the Governor's Revenue Sharing bill, a program whereby unincorporated communities compete by application on the basis of need and merit with other unincorporated communities for a segregated "pot" of funding (i.e. a modified version of the current Rural Development Assistance program authorized in AS 44). The second alternative language suggested above would "legitimize" the manner in which the Department currently administers the present State Revenue Sharing program.

If we can provide you with additional information on this matter, please advise.

Sincerely,

LEE McANERNEY  
COMMISSIONER

BY:  Palmer McCarter, Director  
Local Government Assistance Division

Enclosures

cc: Senator Don Gilman

cc: Senator Don Gilman  
Senator Artiss Sturgelowski  
Ginnie Chitwood, Alaska Municipal League  
Tamara Brandt Cook, Legal Services

# MEMORANDUM

# State of Alaska

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

DATE April 27, 1981

FILE NO J-66-335-81

ATTN: Palmer McCarter, Director

Div. of Local Gov't Asst

TELEPHONE NO 465-3600

FROM WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT State revenue sharing  
with IRA councils and  
traditional councils,  
chiefs, or other gov-  
erning bodies

By:

Rodger W. Pegues  
Assistant Attorney



You have asked for additional advice on this subject.

Under AS 29.89.050, the state pays \$25,000 annually to a "Native village government for a village which is not incorporated as a city . . . ." The term is defined as a local governing body organized under section 16 of the Indian Reorganization Act, 25 U.S.C.A. 476 (1963) which was applied to Alaska by the Act of May 1, 1936, 25 U.S.C.A. § 473a (1963), \*/ or as a traditional village council, paramount chief, or other governing body of a village.

This statute creates serious constitutional problems. If the money is not expended by the recipient to provide public services in a racially non-discriminatory manner, the public purpose clause \*\*/ and the equal protection clause \*\*\*/ of the Alaska Constitution will have been violated. Lien v. City of Ketchikan, 383 P.2d 721 (Alaska 1963). The test, however, is not the racial or religious character of the recipient but the character of the use to which the money will be put. Id. And the courts will look at the entire factual and governmental context on a case-by case basis to determine whether the expenditure serves a public purpose. Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). Accordingly, the constitutional provisions which require a public purpose and equal protection will not be offended so long as the services

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\*/ There is a question whether any section 16 tribal organization, other than the Metlakatla Indian Community Annette Islands Reserve, Alaska, still exercises governmental powers after the enactment of the Alaska Native Claims Settlement Act.

\*\*/ Alaska Const., art. IX, § 6. "No tax shall be levied, or appropriation of public money made, or public property transferred . . . except for a public purpose."

\*\*\*/ Alaska Const., art. I, § 1; U.S. Const., Amend. XIV, § 1.

DEPT. OF COMMUNITY  
& REGIONAL AFFAIRS

APR 27 1981

RECEIVED

provided by a village council are furnished on a non-discriminatory basis.

A much less easily resolved problem lies in another provision of the Alaska Constitution, article X, section 2:

All local government power shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

This limitation of "local government power" to boroughs and cities is preceded by a purpose clause which states:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

The record of the debates at the Constitutional Convention makes it clear beyond reasonable doubt that this three-fold statement of purpose and construction precisely and concisely sums up the essence of the article on local government and the intent of its framers. The framers perceived three evils hobbling local government in Alaska and elsewhere: One, there were a multiplicity of overlapping, special (often single) purpose districts, each little known to the average voter and each monomaniacally pursuing its own goals in disregard and often in conflict with other special purpose districts occupying the same, or part of the same, area. Two, many of these districts operated on revenues from special purpose projects, for example sewage disposal districts. Others levied taxes. Their single purpose orientation, lack of centralized control and responsibility, distance from any meaningful relationship to the voters, and lack of any need to compete for a share of an integrated budget made tax levies and expenditures excessive and irrational. Three, the courts had hobbled local governments with general rules for construing their powers under which local governments could not respond to pressing needs because they could not find some express provision of a statute or charter which gave them the power to act on the subject. The framers crafted article X to cure or remove all three evils. Fairview Pub. Util. Dist. No. 1 v. City of Anchorage, 368 P.2d 540, 543-545 (Alaska 1962).

The provisions of article X carry out the framers

purposes. They prescribe that a "liberal construction shall be given to the powers of local government units." Alaska Const., art. I, § 1. They limit local government powers to cities and boroughs. *Id.*, § 2. They allow the legislature to delegate taxing power to boroughs and cities only. *Id.* They prohibit new special districts ("service areas") from being established "if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city." *Id.*, § 5. The adoption of home rule charters is placed in the hands of local voters, *id.*, § 9, and home rule local governments have all powers not prohibited by law or charter. *Id.*, § 11. Finally, to make boundary changes, including mergers, as easy as possible, a state commission is empowered to change them, subject only to a two-house veto by the legislature. *Id.*, § 12. In other words, if the constitution is followed, none of the three evils the framers sought to cure and avoid can exist in Alaska.

The use of traditional village councils or IRA councils to provide local government services is at odds with the constitution's provisions on local government. The public services they would perform are those which local governments perform. The Alaska Constitution limits the exercise of those powers by political subdivisions of the state to boroughs and cities. The tribal councils are neither. If they are duly organized under section 16 of the Act, 25 U.S.C.A. 476 (1963), they are tribal governments with sovereign immunity. *Parker Drilling Co. v. Metlakatla Indian Community*, 451 F.Supp. 1127 (D. Alaska 1978); *Atkinson v. Haldane*, 569 P.2d 151 (Alaska 1977). Financing a broad range of tribal government activities on the part of the councils is not for a public purpose of the state. Financing a broad range of non-tribal, local government activities through the councils would effectively raise them to the status of local governments. That conflicts with the constitutional mandate that the legislature may only use cities or boroughs to provide local government, and it indubitably removes any incentive -- or even any rational basis -- for a village to incorporate as a city. It would also have the practical effect of creating or sanctioning a racially exclusive de facto local government under color of state law, which is the reason that tribal councils cannot be designated by the state to be cities or local governments. Under the Equal Protection Clause, the state cannot set up racially exclusive political subdivisions.

This is not to say that the state cannot contract with a racially (or religiously) exclusive group to provide

April 27, 1981

public services or manage a public facility on a non-discriminatory basis for all the residents of a community. On a limited basis, therefore, grants can be made to IRA councils in their capacity as business corporations to provide some public services. The state constitution, however, bars the de facto establishment under state law of these councils as the local governments of Alaska's villages.

There is still another problem. In making monetary distribution to Native village governments but not to other potential applicants for grants in those villages and in other unincorporated communities, the statute may create equal protection problems by discriminating against the latter without a reasonable basis, if these are responsible parties which are equally capable of providing community services. This problem can be solved by amending the law to open the class of beneficiaries to other entities and other communities and including them, on application, in the distribution. We understand that there are 30 of these communities.

Turning to your specific questions, first to be eligible to participate in the revenue sharing program, the community must meet the statutory requirements, make application, and undertake to expend the money for public purposes on a non-discriminatory basis. Because the contract cannot be enforced in court unless Congress waives the tribal government's sovereign immunity, you should use forfeiture of the grantee's right to a grant in the following fiscal year as an enforcement mechanism.

Second, state money cannot be expended for the costs of general administration because the village councils and other groups are not public agencies of the state or its political subdivisions. They are, on the one hand, federally recognized and organized tribal entities, and on the other, private associations or corporations. With respect to the former, depending on whether they are organized under section 16, section 17, or both of the Indian Reorganization Act, they are governmental, corporate, or both. In their governmental role, they are tribal. In their corporate role, they are private. All of them can provide public services on a non-discriminatory basis, and to the extent that they do so, a proportional share of their general administrative costs can be paid from state money.

Third, we know of no way to insure that the money will be spent for the good of the whole community. Obviously, each recipient must be required to promise that the money will

Palmer McCarter, Director  
C&RA - Local Government Asst

- 5 -

April 27, 1981

be spent for the good of the entire community and to specify what public services it will provide on a racially non-discriminatory basis. Enforcement will be difficult against a tribal council acting in its governmental capacity under section 16 of the IRA. For that reason, if a section 17 corporation exists, the grant-contract should state that it is with the village council acting in its capacity as a business corporation.

RWP/pjg

cc: Hon. William R. Nix  
Commissioner  
Department of Public Safety

Daniel W. Hickey  
Chief Prosecutor  
Juneau AGO - Criminal Section

# MEMORANDUM

# State of Alaska

TO Hon. Lee McAnerney, Commissioner DATE September 2, 1981  
Dept of Community & Regional Affairs  
FILE NO J-66-829-81

ATTN: Palmer McCarter, Director  
Div. of Local Gov't Asst TELEPHONE NO 465-3600

FROM WILSON L. CONDON SUBJECT State financial aid  
ATTORNEY GENERAL to benefit unincor-  
porated communities

By: *L. Davis*  
Laura L. Davis  
Assistant Attorney General

By your memoranda of May 17 and June 12, 1981, you have asked us to address a number of questions related to state financial assistance to benefit unincorporated communities. First, as to your authority to distribute money to unincorporated villages under AS 29.89.050, we believe that statute to be unconstitutional if read literally to restrict aid to Native villages. We also believe that the statute may be construed in a constitutional manner by severing the words "Native" and "government" and the definition of "Native village government." Second, with regard to state financial aid to unincorporated communities in general, we will discuss the relevant constitutional principles which apply to the questions you have raised.

AS 29.89 provides for annual revenue sharing with municipalities (for roads, AS 29.89.020), operators of health facilities and hospitals (AS 29.89.030), volunteer fire departments in the unorganized borough (AS 29.89.040), and Native village governments (AS 29.89.050). As discussed in our memorandum of April 27, 1981, aid to Native village governments raises serious issues under (1) article IX, section 6 of the Alaska Constitution which prohibits expenditure of public money unless the expenditure is for a public purpose; (2) article I, section 1, which accords equal protection to all persons; and, (3) article X, section 2, which provides for the exercise of local governmental powers only by cities and boroughs which are incorporated under state law.

We stated that the public purpose requirement was satisfied if the money were used for public benefit, and not for the private benefit of a racially exclusive group. We also indicated that a local organization could receive and spend state money for the benefit of a community without becoming a de facto unit of local government. As to equal protection, we stated that the distribution of state money to a racially exclusive organization did not deny equal protection to persons who are not members of the organization, if benefits provided with the funds were made available to the public at large.

However, as we noted, the payment of state money under AS 29.89.050 only to those unincorporated communities which are identified as Native villages does exclude from participation a number of similarly situated communities which are not Native villages. The first inquiry necessary to determine if a statute is valid under Alaska's equal protection test is whether the statute has a legitimate purpose. State v. Erickson, 574 P.2d 1 (Alaska 1978).

Of the three possible purposes for AS 29.89.050 which we have identified, the only legitimate one is to provide public services to residents of unincorporated communities. \*/ If the statutory purpose were illegitimate under the Alaska Constitution, the statute would be unenforceable. There is a heavy presumption in favor of the constitutionality of any statute. SUTHERLAND STATUTORY CONSTRUCTION § 45.11.

Assuming that the legislature intended by AS 29.89.050 to provide public services to the residents of unincorporated

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\*/ A purpose to benefit Native villages solely because of the racial ancestry of their inhabitants would not be legitimate in the absence of a special motivation such as compensation for loss of aboriginal property rights. No such special motivation appears to be present here. A purpose to encourage the Native villages to assume the responsibilities of local governmental units would be in conflict with article X, section 2, of the constitution, and thus will not be inferred, despite the use of the term "Native village government."

We note that the Act which added AS 29.89 stated no purpose for that chapter, but did state a purpose for adding the general revenue sharing chapter, AS 29.88, as follows:

It is the purpose of sec. 2 of this Act to

(1) improve the revenue raising and distribution system for the benefit of residents of home rule and general law municipalities by providing for more equitable allocation of financial resources among municipalities to improve their fiscal capacities; and

(2) assure that no municipality suffers impoverishment of necessary public services, relative to other municipalities, because of the chance location of taxable wealth in the state.

September 2, 1981

rated communities, the means chosen are only loosely suited to that purpose because of the existence in the state of a substantial number of unincorporated communities whose residents would not be benefitted by the literal language of AS 29.89.050. Since the distinction is based upon the racial ancestry of the communities, we might conclude that the statute is unconstitutional despite its legitimate purpose. However, we note that the Alaska Supreme Court has held that a statute which denied equal protection by limiting its application to members of one sex (prohibiting prostitution by females) could be construed as constitutional by severing the offending restrictive language, and thereby expanding application of the statute to all persons. Plas v. State, 598 P.2d 966 (Alaska 1979).

The interpretation of AS 29.89.050 presents an analogous problem. The effect of severing the offending restriction to "Native" village "governments," and deleting the definition of that term, is to expand the group of eligible communities to include all "villages." \*/ Although this interpretation alters the literal wording of the statute significantly and is, therefore, not to be implemented hastily, State v. Campbell, 536 P.2d 105 (Alaska 1975), it does avoid the alternative interpretation that the statute is unconstitutional and void. The law strongly favors the construction of statutes to be consistent with constitutional requirements. State v. Sundberg, 611 P.2d 44 (Alaska 1980); Summers v. Anchorage, 589 P.2d 863 (Alaska 1979). According to Sutherland:

It has even been said that "a strained construction is not only permissible, but desirable if it is the only construction that will save constitutionality."

SUTHERLAND STATUTORY CONSTRUCTION § 45.11 at 34 (footnote omitted). We believe that the interpretation of AS 29.89.050 to authorize grants of state money to all villages is the only interpretation consistent with our constitution.

According to your estimates, the dilution of revenue sharing funds caused by including other unincorporated communities under AS 29.89.050 will not cause significant diminution in the fund allotments. Further, this interpretation

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\*/ A parallel deletion of "Native" and "government" from AS 29.89.010(b) is also necessary.

September 2, 1981

is consistent with the subsequent action of the legislature in providing for grants to all unincorporated communities. 1981 Alaska Sess. L., ch. 60, § 2. We believe that under the circumstances, the Alaska courts would uphold an administrative interpretation of AS 29.89.050 to permit revenue sharing to all villages in the state, regardless of their racial composition or ancestry.

A question arises as to the meaning of "village" under AS 29.89.050, in the absence of the language limiting it to a Native village organized under federal law. Generally, a village is any discrete and identifiable place where a group of people reside in close proximity, intend to remain in the place indefinitely, and carry on ordinary human social and economic activities as a community. Wyandotte Sav. Bank v. Eveland, 78 N.W.2d 612, 617, 347 Mich. 33; Union Sav. Bank of Patchogue v. Saxon, 335 F.2d 718, 721 (D.C. Cir. 1964). Your administrative regulations interpreting and implementing chapter 60, SLA 1981 should provide appropriate guidelines for both that Act and for AS 29.89.050.

Your memorandum of May 17 asked a number of questions regarding your assistance to local governments and to communities in the unorganized borough. Generally, the three constitutional principles discussed above should guide your conduct. You must administer money under your control in order to ensure that it is spent to achieve a public purpose. This requires active supervision of all grants and contracts, especially those transferring money to an organization other than a municipal government. Village and regional Native corporations are not incorporated as cities or boroughs and are not considered to be local governments under state law.

The equal protection provision requires that you administer your programs in order to provide similar treatment for people or organizations which are similarly situated, unless there is a very strong reason for treating them differently. The distinction between a municipality and an unincorporated village is created by the Alaska Constitution. This different treatment of municipalities is justified because of their status and duties as governmental entities. For example, the state may make general revenue sharing grants to municipalities, to be used at the discretion of the municipal government. The public purpose requirement is met by the operation of state law and the Alaska Constitution controlling the activities of municipal governments. The state may not make general revenue sharing grants to non-governmental entities. In administering the grants to villages under AS 29.89 and to unincorporated communities under chapter 60,

Palmer McCarter, Director  
C&RA - Local Gov't Assistance

- 5 -

September 2, 1981

SLA 1981, you must ensure that the money is spent to achieve a public purpose.

The local government article of the Alaska Constitution (article X) provides for the exercise of local government powers by cities and boroughs and for the provision of services by multi-purpose service areas. In administering services in the organized borough, the state may contract with any entity capable of providing the needed service, as long as the contractor is actively supervised by the state, and not permitted to become de facto, a local government.

You are not absolutely prohibited by the constitution from contracting for the delivery of services by profit-making corporations or by Native organizations which may have sovereign status, if the services are necessary and no other capable and responsible contractor is available. However, it would be inconsistent with your duties as an administrator of public funds, to contract with these organizations if another more responsible and capable contractor is available. An entity which may be immune from contract enforcement because of its sovereign status should be considered less responsible to accept a state grant than any corporate entity.

We will defer your request for an authoritative statement of the powers of tribal governments for the time being, and hope that these general guidelines are adequate to resolve your immediate problems.

I.LD/pjg

# MEMORANDUM

State of Alaska

to Hon. Lee McAnerney, Commissioner      DATE: November 18, 1981  
Dept of Community & Regional Affairs

FILE NO J-66-261-82

ATTN: Palmer McCarter, Director  
Div. of Local Gov't Asst      TELEPHONE NO 465-3600

FROM WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT Revenue sharing  
to unincorporated  
communities

By: *L. Davis*  
Laura L. Davis  
Assistant Attorney General

NOV 19 1981

DEPT. OF COMMUNITY  
AND REGIONAL AFFAIRS

This responds to your memorandum of October 1, 1981. It is our opinion that AS 29.89.050 should be interpreted to authorize payments only to those unincorporated communities located outside the boundaries of any municipality, and administered in a manner similar to that provided for aid to unincorporated communities under chapter 60, SLA 1981. Our reasoning follows:

Our memoranda of April 27, 1981 and September 2, 1981 set forth and explain the legal principles which prohibit the recognition of any entity other than an incorporated city, borough, or unified municipality as a unit of local government in Alaska. We advised by those memoranda that general revenue sharing with an unincorporated community would be unconstitutional. In order to avoid the conclusion that AS 29.89.050, "State aid to Native village governments," is unconstitutional and void, we suggested that the legislative intent behind that section was to provide state assistance for public services in unincorporated communities.

Any community located within a municipality is a part of the municipality. Adult members of the community are eligible to vote in municipal elections and the municipality is the unit of local government for that community. There is no need for the state to provide services through another organization where a municipality exists. To do so would contravene the constitutional provision that "all local government powers shall be vested in boroughs and cities." Alaska Const., art X, § 2.

Accordingly, we advise that AS 29.89.050 should be administered not as general revenue sharing, but as aid for specific purposes which are identified in a manner similar to that provided for aid to unincorporated communities in chapter 60, SLA 1981. Payments should be made under AS 29.89.050 only for the benefit of communities located outside any municipality.

We understand that the Senate community and regional

Palmer McCarter, Director  
CRA-Local Government Assistance

November 18, 1981  
Page #2

affairs committee has discussed introducing legislation to amend AS 29.89.050 to provide for aid to unincorporated communities similar to chapter 60, SLA 1981. Such legislation would confirm our interpretation of the legislative intent behind AS 29.89.050 and would avoid the constitutional problems discussed in our earlier memoranda. We hope that this answers your questions.

LLD/pjg

TABLE I  
LOCAL ASSESSMENT POLICY

BOROUGH	RESIDENTIAL		GENERAL PERSONAL PROPERTY		MOTOR VEHICLES		BOATS & VESSELS		BUSINESS INVENTORY		AIRCRAFT	
	AV	EX	AV	EX	AV	EX	AV	EX	AV	EX	AV	EX
ANCHORAGE, MUNICIPALITY OF	X	-	X	-	2	-	X	-	X	-	X	-
BRISTOL BAY BOROUGH	1	-	X	-	X	-	X	-	X	-	X	-
FAIRBANKS NORTH STAR BOROUGH	1	-	-	X	-	X	-	X	-	X	-	X
HAINES BOROUGH	X	-	X	-	X	-	-	3	X	-	X	-
JUNEAU, CITY & BOROUGH	X	-	X	-	-	X	-	X	-	X	-	X
KENAI PENINSULA BOROUGH	1	-	X	-	X	-	X	-	-	X	-	X
KETCHIKAN GATEWAY BOROUGH	X	-	X	-	2	-	-	3	X	-	X	-
KODIAK ISLAND BOROUGH	X	-	X	-	2	-	X	-	X	-	X	-
MATANUSKA-SUSITNA BOROUGH	X	-	X	-	2	-	X	-	X	-	X	-
NORTH SLOPE BOROUGH	1	-	X	-	X	-	X	-	X	-	X	-
SITKA, CITY & BOROUGH	X	-	X	-	X	-	-	3	X	-	X	-
<u>CITIES</u>												
CORDOVA	X	-	-	X	-	X	-	X	-	X	-	X
CRAIG	X	-	-	X	-	X	-	X	-	X	-	X
DILLINGHAM	X	-	X	-	X	-	X	-	X	-	X	-
EAGLE	X	-	X	-	-	X	-	X	-	X	-	X
GALENA		NA		NA		NA		NA		NA		NA
HOONAH		NA		NA		NA		NA		NA		NA
HYDABURG		NA		NA		NA		NA		NA		NA
KAKE		NA		NA		NA		NA		NA		NA
KING COVE		NA		NA		NA		NA		NA		NA
KLAWOCK		NA		NA		NA		NA		NA		NA
NENANA	X	-	X	-	X	-	X	-	X	-	X	-
NOME	X	-	X	-	X	-	X	-	X	-	X	-
PELICAN	X	-	X	-	-	X	-	3	X	-	X	-
PETERSBURG	X	-	X	-	2	-	-	X	X	-	X	-
ST. MARY'S		NA		NA		NA		NA		NA		NA
SKAGWAY	X	-	-	X	-	X	-	X	-	X	-	X
UNALASKA	X	-	X	-	-	X	-	X	-	X	-	X
VALDEZ	1	-	-	X	-	X	-	X	-	X	-	X
WRANGELL	X	-	X	-	-	X	-	X	-	X	-	X
YAKUTAT	X	-	-	X	-	X	-	X	-	X	-	X

1. optional residential exemption up to \$10,000 exercised (AS 29.53.025(a))
2. state collected, annual motor vehicle tax (AS 28.10.431)
3. option 5 & 15 dollar fee collected in lieu of property tax (AS 25.53.025(b)(1))

15

WEDNESDAY, MAR. 31

## AMENDMENTS

DELETE SENATE FIGURES OF 10/8/10 ON PAGE 115 OF SENATE VERSION AND INSERT HOUSE FIGURES OF 20/15/20

DELETE WORDING ~~FROM~~ <sup>THAT</sup> DEFINES SUBDIVISION IN SENATE VERSION OF THE BILL AND INSERT LANGUAGE OF THE HOUSE BILL

INSERT NEW SECTION 40 IN BILL WITH THE AUTHORITY FOR MUNICIPALITIES TO FORM AN EMPLOYER GROUP FOR THE PURPOSES OF PROVIDING SELF-INSURANCE AND RENUMBER ACCORDINGLY

### ON HOLD

WAIVER AND ABBREVIATED PLAT PROCEDURE  
COMMITTEE CONCERN - THE LANGUAGE IN BOTH THE SENATE BILL AND HOUSE BILL DO NOT HAVE THE SAME REQUIREMENT (p.90)

### TAM COOK'S AMENDMENTS

CHEVRON'S AMENDMENT - p. 88 29.40.040 REPLACE WITH 29.33.090 (EXISTING LAW)

Friday  
a.m.



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

### M E M O R A N D U M

To: All Committee Members  
House CRA Committee

Date: March 25, 1982

From: Linda Otey, Committee Aide *LO*

Re: Differences-- CSSB 180(CRA)am / CSHB 170 (CRA)

#### Changes made in Committee:

- CSSB 180
1. 600 pop. necessary for reclassification of 2nd class to 1st class status.
  2. Temporary law section added to allow pending applicants for reclassification to be permitted if petition has been filed with the Dept. before the effective date of this act.

- CSHB 170
- 400 population requirement for reclassification

3. -----none-----

-----none-----

amended/regarding notification of certification of petitions; recall and initiative. (pg. 64)

#### Changes made on Senate Floor:

4. By Ziegler/ to allow borough mayors to vote in the event of a tie (pg.47)
5. Deleted language of mandatory, non-suspendable imprisonment for violation of an ordinance. (Pg. 59)
6. By CRA Committee - "the assembly shall (may) establish short plat procedure. Returned to mandate of current law in waiver procedure. (Pg. 90-91)
7. By Gilman- returned to current law - taxation of vessels: \$5 max-5 tons or less, \$15 max- over 5 tons. (Pg. 102)

*Handwritten initials/signature*

CSSB 180

8. By Gilman/Kerttula - amended percentages back to current law.  
(Pg. 115)
9. By Sen. CRA- amended definition of 'subdivision' to be consistent with other statutory references.  
(Pg. 174)

CSHB 170

Rates of Penalty & Interest:  
20%, 15%, 20%

THE FOLLOWING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

3/21/72 from ~~James~~  
Eugene Wiles - Clemson  
USA

Amendments to CSMS170 and CSSB180  
Municipal Government

**Problem:** No limitation is made upon the exercise of planning, platting and zoning authority with respect to projects authorized by a state or federal agency. This could result in the arbitrary and/or unreasonable exclusion or restriction of natural resource development on federal, state and fee lands.

**Solution:** Insert language in the bills which would prohibit local zoning decisions from interfering with federal or state agency decisions providing for the development of natural resources.

**Compare:** AS 25.30.030 which allows the governor to waive compliance with local zoning regulations for the construction of a public project.

**Methods:** (1) Impose limitation in Chapter 40 of Title 29, dealing with the exercise of zoning powers.  
  
(2) Since home rule municipalities are not subject to Chapter 40 [except §§200 (subdivision of state land) and 160 (title to vacated areas)], see AS 29.10.110, refer to limitation in Chapter 40 by inserting a new subsection in AS 29.10.110 (Limitation of home rule powers).

**Language:** A. Amend AS 29.40 by adding a new section 210. Two Alternatives are suggested:

1. Alternative 1:

new sec  
7

Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE AGENCIES.  
Ordinances, regulations or permit decisions adopted or promulgated under AS 29.35.180 or AS 29.40 may not preclude or otherwise impede an activity conducted pursuant to a lease, license, permit or other written authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity.

2. Alternative 2:

AS 29.40.210. USES OF STATE CONCERN. (a) Ordinances, regulations and permit decisions adopted or promulgated under AS 29.35.180 or AS 29.40 may not arbitrarily or unreasonably restrict uses of state concern as defined in subsection (b) of this section.

(1) Uses of state concern means those land and water uses which would significantly affect the longterm public interest. These uses include:

(1) uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependant upon coastal locations;

(2) uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(3) the siting of major energy facilities, activities pursuant to a state oil and gas lease, or large-scale industrial or commercial development activities which are dependant on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or

the surrounding area, are reasonably likely to present issues of more than local significance;

(4) facilities serving statewide or interregional transportation and communication needs; and

(5) uses in areas established as state parks or recreational areas under AS 41.20.010 - 41.20.505 or as state game refuges, game sanctuaries or critical habitat areas under AS 16.20.010 - 16.20.320.

B. Amend AS 29.10.110 by adding a new subsection 37 (and renumbering the present subsections 37 and following) to read as follows:

(37) AS 29.40.210 (activities authorized by state agencies).

THE PRECEDING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

TITLE 29 REVISIONS  
Comment on CSHB 170(C&RA)


This comment relates to an apparently unintentional change from current law in the platting regulations under CSHB 170 (C&RA). Section AS 29.40.090 defines a "short plat procedure" which clarifies the "waiver procedure" in current law. However, proposed AS 29.40.090 leaves out a portion of the waiver process which is important to the Matanuska-Susitna Borough and in rural and remote areas. The proposed language would require survey and monumentation in all cases. Present law allows a municipality to waive such requirements for larger parcels, e.g. the subdivision of a 40 acre parcel into two 20 acre parcels. This is more regulation than is required to protect the public interests involved.

The following change is recommended to retain the flexibility of the current law, yet to keep the otherwise improved form of CSHB 170 (C&RA). AS 29.40 .090(b) should be changed to read as follows:

Sec. 29.40.090. SHORT PLAT PROCEDURE.

(b) The Assembly ~~may~~ establish notice, hearing and other procedural requirements for the review, consideration, approval, alteration and re-platting of short plats and may provide for waiver of survey and other formal requirements where each parcel created is five acres or larger in size.

The only change is the addition of the provision for waiver of certain requirements where lots created are larger than five acres. This is consistent with present law. (See AS 29.33.170(a)(2).)

  
Steven H. Morrissett  
Borough Attorney  
MATANUSKA-SUSITNA BOROUGH

board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

(b) The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010—40.15.020. (§ 2 ch 118 SLA 1972)

**Sec. 29.33.170. Waiver in certain cases.** (a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that

- (1) each tract or parcel of land will have adequate access to a public highway or street;
- (2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;
- (3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;
- (4) no dedication of a street, alley, thoroughfare or other public area is involved or required.

(b) In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of §§ 29.33.150—29.33.240 of this chapter and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected subdivision development and no dedication of a street, alley, thoroughfare, park or other public area is involved or required. (§ 2 ch 118 SLA 1972)

**Sec. 29.33.180. Information required.** A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance. (§ 2 ch 118 SLA 1972)

**Sec. 29.33.190. Penalties.** (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel transferred, sold, or included in a contract to be sold. The platting board may enjoin a transfer, sale, or contract to sell, and may recover the penalty by appropriate legal action.

(b) No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than \$500. (§ 2 ch 118 SLA 1972)

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STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 25, 1982

SUBJECT: Municipal government  
(CSSB 180 (C&RA) am)

TO: Representative Patrick M. O'Connell  
Chairman, House Community and Regional  
Affairs Committee

FROM: Tamara Brandt Cook  
Legislative Counsel

TBC

I have discovered three technical mistakes in CSSB 180 (C&RA) am which is currently in your committee.

1. Chapter 14, which begins on page 31 is essentially identical to the provisions dealing with the capital city currently contained in AS 29.18.510 - 29.18.610. However, Sec. 7, Chapter 143, SLA 1978 provides that the Capital City Incorporation Act ". . . takes effect 30 days after certification that a bond issue for costs of relocation of the capital has been adopted by the voters of the state". This effective date was inadvertently omitted from CSSB 180 (C&RA) am, so that Chapter 14 takes effect on the effective date of the Act. I would recommend that an effective date similar to that contained in Sec. 7, Chapter 143, SLA 1978 be added with respect to Chapter 14, or that the first sentence of Sec. 29.14.010 be changed to read: "Thirty days after certification that a bond issue for costs of relocating the state capital has been authorize by the voters of the state there is created and incorporated a city of the state as the capital city of Alaska that is a city of the first class."

2. On page 132, line 2 there is a reference to AS 34.-10.070 - 34.10.220 which has been carried over from existing law. Those sections have been repealed and the reference should be deleted from this Act.

Representative Patrick M. O'Connell

Page 2

March 25, 1982

3. On page 192, line 28 an existing chapter in Title 29 was inadvertently omitted from the repealer. AS 29.48 should be repealed in this Act, since material currently in AS 29.48 has been reorganized into Chapter 35 of this Act.

Please contact me if you have any questions regarding these technical corrections and let me know if you would like the corrections incorporated into a committee substitute for your committee.

TBC:ljb

12-2752

Sofo ✓

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation."

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

\* Section 1. AS 23.30.005 is amended by adding a new subsection to read:

(m) The board shall adopt regulations that permit two or more municipalities to form an employer group for the purpose of providing self-insurance under this chapter.

Possible amendment  
to Mun. code  
— Mike Miller

A M E N D M E N T

Offered in the HOUSE

By the Community and Regional  
Affairs Committee

TO: CSSB 180(C&RA) am

Page 31, lines 3 - 29:

Delete all material \*

Pages 32 - 34:

Delete all material

Page 35, lines 1 and 2:

Delete all material

Renumber following bill sections accordingly

Page 182, line 29:

Delete "AS 29.18 or AS 29.05, AS 29.14, or AS 29.65," and insert  
"AS 29.18.011 - 29.18.460, AS 29.18.510 - 29.18.610, AS 29.05, or  
AS 29.65, [AS 29.18]"

Page 187, lines 27 - 29: \*

Delete all material \*

Page 188, lines 1 - 26:

Delete all material

Renumber following bill sections accordingly

Page 189, lines 15 - 27:

Delete all material

Renumber following bill sections accordingly

Page 192, line 28:

Delete "AS 29.18" and insert "AS 29.18.011 - 29.18.460"

# STATE OF ALASKA

JAY S. HAMMOND, Governor

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

April 1, 1982

The Honorable Patrick M. O'Connell, Chairman  
House Community & Regional Affairs Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative *Pat* O'Connell:

RE: CSSB 180 (C&RA)am

This Department is pleased to note that CSSB 180am is being heard by your committee during this week. As you know, the Title 29 rewrite bill is a high legislative priority for this Department and we are hopeful it will receive prompt approval by your committee and the house.

The Department would, however, like to remind you of a concern we have regarding Sec. 29.60.140 (p. 154-155) of the current bill. This section pertains to making State Revenue Sharing payments to Native village governments. The language in this section is identical to present language found in AS 29.89.050. The Department's concerns about this language have been previously noted by the Joint Community and Regional Affairs Committee that worked on the Title 29 bill during the interim. However, that Joint Committee suggested that this language be revised in legislation specifically designed to amend the State Revenue Sharing Program. The Governor's legislation (SB 716/HB 746) to revise State Revenue Sharing substantially alters the process for funding unincorporated communities. We do, of course, hope to see enactment of the Governor's State Revenue Sharing bill as the solution to the present Native village government statute. However, in the event SB 716/HB 746 does not become law we would like to insure that AS 29.60.140 of CSSB 180am be addressed.

The enclosed September 2, 1981 Attorney General's opinion states that AS 29.89.050 is "unconstitutional if read literally to restrict aid to Native villages". The opinion goes on to say that the present law can only be interpreted as constitutional if the payments are made available to all similarly situated unincorporated communities regardless of racial or governmental status. Based on this opinion, the department made FY 1982 State Revenue Sharing under AS 29.89.050 available on an application basis to all eligible unincorporated communities in the unorganized borough. This places the Department in a position of ignoring a statute, a position we would like to correct as soon as possible.

The Honorable Patrick M. O'Connell  
April 1, 1982  
Page 2

Another Attorney General's opinion (copy enclosed) identifies an additional problem with AS 29.89.050. Specifically, that unincorporated communities within organized boroughs are not eligible to receive revenue sharing funds. Currently AS 29.89.050 contains no such specific prohibition. Based on this Attorney General's opinion, the Department is not paying revenue sharing funds to unincorporated communities within organized boroughs. Again, however, this puts us in a position of administering a statute in contradiction to its literal interpretation.

To alleviate this situation the Department requests that AS 29.60.140 be  
1) deleted from the bill, or as an alternative,  
2) amended in such a manner as to make eligible those unincorporated communities of 25 or more in the unorganized borough.

The Department recognizes the need to make a reliable source of funding available to unincorporated communities to provide services and maintain and operate projects constructed with SB 168 funds. However, this Department and the Department of Law have always questioned the propriety of administering a program for unincorporated communities as part of a Municipal Revenue Sharing concept. State Revenue Sharing is also an "entitlement" program and the inclusion of unincorporated communities in an ongoing entitlement program has also been a source of some concern. The Department prefers, as illustrated in the Governor's Revenue Sharing bill, a program whereby unincorporated communities compete by application on the basis of need and merit with other unincorporated communities for a segregated "pot" of funding (i.e. a modified version of the current Rural Development Assistance program authorized in AS 44). The second alternative language suggested above would "legitimize" the manner in which the Department currently administers the present State Revenue Sharing program.

If we can provide you with additional information on this matter, please advise.

Sincerely,

LEE McANERNEY  
COMMISSIONER

  
BY: Palmer McCarter, Director  
Local Government Assistance Division

Enclosures

cc: Senator Don Gilman  
Senator Arliss Sturgelowski  
Ginnie Chitwood, Alaska Municipal League  
Tamara Brandt Cook, Legal Services

LM/PM/J1/0917S



Official Business

# Alaska State Legislature

## House of Representatives

### Committee on Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 9, 1981

#### M E M O R A N D U M

TO: All Members  
House of Representatives

FROM: Rep. Patrick O'Connell, Chairman *PO*  
House Community & Regional Affairs  
Committee

SUBJECT: Municipal Code Revision - CSHB 170

The attached Chapter Summary of CSHB 170 has been prepared at my request and is being circulated at this time for your review.

As you may know, CSHB 170 is currently in the House Rules Committee and will hopefully be able to be scheduled in the next few weeks.

In an attempt to simplify this extremely technical piece of legislation, the attached summary is quite thorough in its overview of substantive changes that have been made through the revision process during the past two years.

I would sincerely appreciate your attention to the legislation and summary and would ask that you direct any questions that may arise during your review to myself or Linda Otey, Committee Aide. Any additional back-up material may be received upon request. We will be happy to assist in your research and hopefully alleviate possible areas of confusion and misunderstanding when this 'project' comes before the full body for final adoption.

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
BUREAU ALASKA 99511  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 4, 1982

SUBJECT: Chapter summary of Municipal Code  
Revision [CSHB 170] (Work Order  
No. 12-2379)

TO: Representative Patrick M. O'Connell  
Chairman, House Community and  
Regional Affairs Committee

FROM: Tamara Brandt Cook  
Legislative Counsel

You have requested a chapter summary of the municipal code revision (CSHB 170) highlighting significant changes to existing law. For your convenience, I have attached a table of contents by chapter and article to the revision. Corresponding chapter numbers in the existing Title 29 are included in parentheses.

Chapter 03. The Unorganized Borough. No significant change.

Chapter 04. Classification of Municipalities. No significant change.

Chapter 05. Incorporation. Does not authorize incorporation of a third class borough.

Chapter 06. Alteration of Municipalities. Does not authorize incorporation of a third class borough through merger or consolidation.

Chapter 10. Home Rule Municipalities. Authorizes a second class city to adopt a home rule charter if the city has at least 400 permanent residents. Requires home rule municipalities to provide land use regulation.

Chapter 14. Capital City. No significant change.

Chapter 20. Municipal Officers and Employees. Requires a municipality to adopt a conflict of interest ordinance that requires a member of the governing body to declare a substantial financial interest he has in an official action. The presiding officer must then determine whether to excuse him from a vote and this decision may be overturned by majority vote of the membership. Allows a special meeting to be called if a majority of the members are given at least 24 hours notice and reasonable efforts are made to notify all members. A special meeting may be conducted with less than 24 hours notice if all members are present or if absent members waive in writing the required notice. Requires the governing body to appoint within 7 days the number of members needed for a quorum if the membership is reduced to fewer than the number needed. Requires that a veto be overridden at the next regular meeting or within 21 days after exercise of the veto. Grants authority to a municipality to establish advisory, administrative, technical, or quasi-judicial boards and commissions. Allows the governing body to provide for a classified service and to designate positions that are wholly or partially exempt from the classified service.

Chapter 25. Municipal Enactments. A penalty not to exceed that imposed for a class B misdemeanor may be imposed for a violation of an ordinance. A mandatory, nonsuspendable term of imprisonment for 5 days may be imposed for violation of an ordinance. A civil action may be instituted against a person who violates an ordinance and a civil penalty of up to \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought and the court must grant the injunction on finding a violation. Each day a violation continues is a separate violation.

Chapter 26. Elections. The judge of a precinct must be a voter of the precinct for which he is appointed unless no voter is willing to serve. Both general law and home rule municipalities are required to give at least 20 days notice of a regular or special election. A runoff election shall be held if no candidate receives over 40 percent of the votes cast for the office of mayor or member of the governing body or school board. There is no super majority requirement for other elected offices, and a municipality

may change the requirement for mayor, member of the governing body, or member of the council by ordinance. The initiative and referendum process and the recall process have been substantially altered. An application must be filed with the clerk for a petition. The clerk prepares the petition and provides it to the voters who will sponsor the petition. When a petition is returned, the clerk certifies whether it is sufficient and notifies the sponsors. The petition may be supplemented with additional signatures obtained and filed within 10 days after the petition is first rejected, except that a recall petition may only be supplemented if it contains an adequate number of signatures, counting both valid and invalid. A person may not be recalled until after he has served 120 days and may not be recalled if there are only 180 days left in his term.

Chapter 35. Municipal Powers and Duties. The following have been included in the list of facilities that a municipality may provide outside its boundaries: solid and septic waste facilities, utility services, transportation facilities, wharves, harbors and other marine facilities. A municipality that provides a facility outside its boundaries may regulate its use only to the extent that the jurisdiction in which the facility is located does not. Extends eminent domain and declaration of taking power to second class cities as it may be exercised by other municipalities. Unless a grant of a franchise or permanent permit is made on a competitive basis, the grant of an exclusive right to use a public street or right-of-way for more than five years to a utility or transportation system that is not certified is valid only if approved by vote. (Under existing law no franchise is valid unless it is submitted to the voters for approval.) The governing body is required by ordinance to establish a formal procedure for acquisition and disposal of land, but is not otherwise limited in its ability to dispose of land. A first class borough is allowed to exercise on a nonareawide basis any power, and on an areawide basis any power that is acquired, so long as exercise of the power is not specifically prohibited by law. Allows a second class borough to exercise on a nonareawide basis any power approved by the voters living outside cities, unless the power is prohibited by law. Allows a second class borough to exercise an areawide power if it is approved by the voters or transferred by the cities in the borough, unless prohibited by law. A city may exercise any power not prohibited by law.

Chapter 40. Planning, Platting, and Land Use Regulation. A planning commission is authorized to utilize methods other than zoning to implement a comprehensive plan. The governing body must update the plan as necessary. Requires the assembly to provide for an appeal from the application of a land use regulation before a hearing officer or board of adjustment. The governing body must establish a platting authority, but the planning commission need not act as platting authority. Plat requirements may not be waived, but in certain cases a short plat procedure may be followed rather than the regular procedure. A person who violates a land use regulation or condition imposed by a platting authority is subject to the penalties that may be imposed for violation of an ordinance.

Chapter 45. Municipal Taxation. Allows a municipality to exempt by ordinance personal property from taxation. Extends the limit on assessing farm use land to greenhouses so that they are assessed at full and true value for farm use. A penalty not to exceed 20 percent of the tax due may be added to delinquent taxes, and interest not to exceed 15 percent shall accrue on unpaid taxes. The right to repurchase foreclosed property is cut off after 10 years. If, in the absence of a suit, it becomes obvious to the governing body that judgment for recovery of taxes would be obtained the municipality must refund the taxes. A petition for incorporation of a second class city may be combined with a sales and use tax proposal, so the incorporation proposition fails if the tax proposal fails.

Chapter 46. Special Assessments. Costs that may be included in a special assessment are listed. These may not exceed actual costs, but may include reasonable estimates of the costs of issuing bonds. If an assessment is increased a new public hearing must be held unless all owners of property subject to the increase agree to the increase in writing. A municipality may issue notes for the costs of a local improvement project to be eventually paid from assessments for the improvement.

Chapter 47. Municipal Debt. The issuance of revenue bonds and use of proceeds from revenue bonds are not subject to the prohibition against a political subdivision making a subscription to the capital stock of a corporation, lending its credit for the use of a corporation, or borrowing money for the use of a corporation. Refunding bonds may be

Representative Patrick M. O'Connell

Page 5

February 4, 1982

exchanged at the discretion of the governing body and need not be exchanged at par for bonds being refunded. Revenue bonds may be issued to finance any project and to be secured solely from the revenue and property of that project. Bonds and notes may be sold in the manner and at the price determined by the municipality regardless of the par value. Allows the interest rate payable on bonds or notes to exceed the contract usury rate. Indebtedness of a service area remains a debt even though a court subsequently determines that the service area was not validly formed under law.

Chapter 55. Municipal Programs. No significant change.

Chapter 60. State Programs. No significant change.

Chapter 65. General Grant Land. No significant change.

Chapter 71. General Provisions. Dedication of streets, rights-of-way, easements of other areas for public use may not be construed to require the municipality to maintain, improve or provide for municipal services in the area dedicated.

TBC:ljb

Attachment

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29.40.090 Waivers and abbreviated plats.

(a) Notwithstanding other provisions of this chapter, the assembly shall establish abbreviated plat procedures in accordance with this section upon satisfactory evidence that

Plat  
~~\_\_\_\_\_~~

(1) each tract or parcel of land created will have legal and physical access to a public highway or street;

(2) no more than four parcels are created by the subdivision;

(3) no dedication of a street, right-of-way or other public area is involved or required;

(4) no vacation of public dedication or variance from a subdivision regulation is required.

(b) In individual cases meeting the requirements of (a) of this section where each parcel is five acres or larger in size, the preparation, submission and recording of a formal plat shall be waived.

(c) In other cases meeting the requirements of (a) of this section, including plats which relocate or vacate lot lines, the assembly may establish procedural and informational requirements for an abbreviated plat procedure.

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§ 29.33.170

ALASKA STATUTES

§ 29.33.190

board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

(b) The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010—40.15.020. (§ 2 ch 118 SLA 1972)

**Sec. 29.33.170. Waiver in certain cases.** (a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that

(1) each tract or parcel of land will have adequate access to a public highway or street;

(2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;

(3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;

(4) no dedication of a street, alley, thoroughfare or other public area is involved or required.

(b) In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of §§ 29.33.150—29.33.240 of this chapter and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected subdivision development and no dedication of a street, alley, thoroughfare, park or other public area is involved or required. (§ 2 ch 118 SLA 1972)

**Sec. 29.33.180. Information required.** A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance. (§ 2 ch 118 SLA 1972)

**Sec. 29.33.190. Penalties.** (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel transferred, sold, or included in a contract to be sold. The platting board may enjoin a transfer, sale, or contract to sell, and may recover the penalty by appropriate legal action.

(b) No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than \$500. (§ 2 ch 118 SLA 1972)

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Subdivision waivers -

Amendment  
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TITLE 29 REVISIONS  
Comment on CSHB 170(C&RA)

This comment relates to an apparently unintentional change from current law in the platting regulations under CSHB 170 (C&RA). Section AS 29.40.090 defines a "short plat procedure" which clarifies the "waiver procedure" in current law. However, proposed AS 29.40.090 leaves out a portion of the waiver process which is important to the Matanuska-Susitna Borough and in rural and remote areas. The proposed language would require survey and monumentation in all cases. Present law allows a municipality to waive such requirements for larger parcels, e.g. the subdivision of a 40 acre parcel into two 20 acre parcels. This is more regulation than is required to protect the public interests involved.

The following change is recommended to retain the flexibility of the current law, yet to keep the otherwise improved form of CSHB 170 (C&RA). AS 29.40 .090(b) should be changed to read as follows:

Sec. 29.40.090. SHORT PLAT PROCEDURE.

(b) The Assembly ~~may~~<sup>shall</sup> establish notice, hearing and other procedural requirements for the review, consideration, approval, alteration and re-platting of short plats and may provide for waiver of survey and other formal requirements where each parcel created is five acres or larger in size.

Will consider it

The only change is the addition of the provision for waiver of certain requirements where lots created are larger than five acres. This is consistent with present law. (See AS 29.33.170(a)(2).)

Steven H. Morrisett  
Borough Attorney  
MATANUSKA-SUSITNA BOROUGH

Short Plat Procedures

SB 730 cont'd

Senator Rodey moved and asked unanimous consent that CS FOR SENATE BILL NO. 730 (RES) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 730 (RES) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 730 (RES) (establishing the Aleksandr Baranov State Game Refuge) pass the Senate?" The roll was taken with the following result:

CS SB 730 RES 3RD

Yeas: 18 Anderson, Bennett, Bradley,  
Colletta, Dankworth, Eliason,  
Fahrenkamp, Ferguson, Fischer,  
Gilman, Kerttula, Mulcahy, Parr, Ray,  
Rodey, Sackett, Stimson,  
Sturgulewski

Nays: 1 Kelly

Excused: 1 Ziegler

and so, CS FOR SENATE BILL NO. 730 (RES) passed the Senate and was referred to the Secretary for engrossment.

## SENATE BILLS IN SECOND READING

SB 610

SENATE BILL NO. 610 (certificates of birth) which had been held from the March 10 calendar was before the Senate at this time in second reading.

Senator Rodey moved and asked unanimous consent that SENATE BILL NO. 610 be held one legislative day in second reading. Without objection, it was so ordered and the bill will appear on the March 12 calendar in second reading.

SB 180

CS FOR SENATE BILL NO. 180 (CSRA) (relating to municipal government) which had been held from the March 9 calendar was before the Senate at this time in second reading.

SB 180 cont'd

Senator Gilman offered the following amendment No. 1:

Page 174, lines 19-22: following "'sub-division'" delete all material and insert:

"(A) means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or areas subdivided;

(B) does not include cadastral plats, cadastral control plats, open-to-entry plats, or remote parcel plats created by or on behalf of the state regardless of whether these plats include easements or other public dedications;"

Senator Gilman moved and asked unanimous consent for the adoption of amendment No. 1. Without objection, amendment No. 1 was adopted.

The Community and Regional Affairs Committee offered the following amendment No. 2:

Page 47, line 6: between "first class city" and "may" insert "or the mayor of a borough with a manager form of government" delete "and" insert a period and capitalize "t" in "the"

Senator Gilman moved and asked unanimous consent that amendment No. 2 be held until Senator Ziegler was present. Without objection, it was so ordered.

The Community and Regional Affairs Committee offered the following amendment No. 3:

Page 90, line 17: change "may" to "shall"

Page 91, line 1: change "may" to "shall"

Senator Gilman moved and asked unanimous consent for the adoption of amendment No. 3. Without objection, amendment No. 3 was adopted.

SB 180 cont'd

Senator Mulcahy moved and asked unanimous consent that amendment No. 4 be withdrawn. Without objection, amendment No. 4 was withdrawn.

Senator Sackett moved and asked unanimous consent that amendment No. 5 be withdrawn. Without objection, amendment No. 5 was withdrawn.

Senator Gilman offered the following amendment No. 6:

Page 102, line 11: After "tonnage" insert "; a tax based upon a tonnage valuation shall not exceed \$5 a year for a boat or vessel of less than five net tons and shall not exceed \$15 a year for a boat or vessel of more than five net tons;"

Senator Gilman moved for the adoption of amendment No. 6. Senator Rodey objected.

The question being: "Shall amendment No. 6 be adopted?" The roll was taken with the following result:

CSSB 180 AM AM NO 6

Yeas:	15	Anderson, Bennett, Colletta, Dankworth, Ellason, Fahrenkamp, Ferguson, Fischer, Gilman, Kelly, Kerttula, Mulcahy, Sackett, Stinson, Sturgulewski
Nays:	3	Parr, Ray, Rodey
Excused:	1	Ziegler
Absent:	1	Bradley

and so, amendment No. 6 was adopted.

Senators Gilman and Kerttula offered the following amendment No. 7:

Page 115, line 7: Change "20" to "10"  
 Page 115, line 8: Change "15" to "8"  
 Page 115, line 10: Change "20" to "10"

SB '60 cont'd

Senator Gilman moved for the adoption of amendment No. 7. Senator Fischer objected, then withdrew his objection. Senator Ray asked unanimous consent. There being no further objection, amendment No. 7 was adopted.

Senator Gilman offered the following amendment No. 8:

Page 59, lines 5 and 6: After "misdemeanor" delete "and may require mandatory, nonsuspendable imprisonment not to exceed five days"

Senator Gilman moved and asked unanimous consent for the adoption of amendment No. 8. Without objection, amendment No. 8 was adopted.

Senator Ziegler moved and asked unanimous consent for the adoption of amendment No. 2 (see page 542). Without objection, amendment No. 2 was adopted.

Senator Rudey moved and asked unanimous consent that CS FOR SENATE BILL NO. 180 (C&RA) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 180 (C&RA) as was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 180 (C&RA) as (relating to municipal government) pass the Senate?" The roll was taken with the following result:

## CSSB 180 AM 3RD

Yeas:	13	Anderson, Colletta, Dantworth, Eliason, Ferguson, Fisher, Gilman, Kelly, Mulcahy, Sackett, Stinson, Sturgulewski, Ziegler
Nays:	6	Bennett, Fahrenkamp, Kerckuis, Parr, Ray, Rudey
Excused:	0	
Absent:	1	Bradley

and so, CS FOR SENATE BILL NO. 180 (C&RA) as passed the Senate.

Senator Rudey moved for the adoption of the effective date clause.

SB 180 cont'd

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

## CSSB 180 AM EPL

Yeas:	19	Anderson, Bennett, Collette, Dankworth, Eliason, Fahrenkamp, Ferguson, Fischer, Gilman, Kelly, Kerttula, Mulcahy, Parr, Ray, Rodey, Sackett, Stimson, Sturgulewski, Ziegler
Nays:	0	
Excused:	0	
Absent:	1	Bradley

and so, the effective date clause was adopted.

CS FOR SENATE BILL NO. 180 (C&RA) am was referred to the Secretary for engrossment.

## UNFINISHED BUSINESS

SB 430

Senator Gilman, Chairman of the Community and Regional Affairs Committee, moved and asked unanimous consent that the Community and Regional Affairs referral on SENATE BILL NO. 430 (making a special appropriation to the City of Port Heiden for erosion control) be waived. Without objection, it was so ordered.

SENATE BILL NO. 430 was referred to the Finance Committee.

## ANNOUNCEMENTS

Announcements appear at the end of the journal.

## SPECIAL ORDERS

Senator Dankworth moved and asked unanimous consent that he be excused from a call of the Senate on March 12. Without objection, Senator Dankworth was excused.

Senator Sackett moved and asked unanimous consent that he be excused from a call on the Senate on March 17 through March 19. Without objection, Senator Sackett was excused.

## ENGROSSMENT

The following have been engrossed, signed by the President and Secretary, and transmitted to the House:

CS SB 730 (RES)

(S SB 180 (C&RA) am

## ADJOURNMENT

Senator Rodey moved and asked unanimous consent that the Senate adjourn until 10:00 a.m., March 12, 1982. Without objection, the Senate adjourned at 11:03 p.m.

Peggy Mulligan  
Secretary of the Senate

March 1982

## ANNOUNCEMENTS

C&RA	Capitol Building	Butrovich Room 205
	3:00 p.m., 3/11	SB 768, SB 716, SB 797
FINANCE	Capitol Building	Senate Finance Room
	9:00 a.m., 3/12	SB 830, SB 836
	9:00 a.m., 3/17	SB 548
	9:00 a.m., 3/18	SB 552, SB 658
HESS	Behrends Building	Room 209
	3:00 p.m., 3/12	SB 754, SB 215
	3:00 p.m., 3/15	SB 698, SB 817
	3:00 p.m., 3/17	SB 823, SB 274
	3:00 p.m., 3/19	SB 822, SB 668
JUDICIARY	Capitol Building	Butrovich Room 205
	1:30 p.m., 3/12	SB 741, SB 603
LABOR & COMMERCE	Capitol Building	Butrovich Room 205
	3:00 p.m., 3/15	SB 606, SB 756
RESOURCES	Capitol Building	Beltz Room 211
	1:30 p.m., 3/12	Alaskan Agriculture an overview SB 608
	1:30 p.m., 3/15	SR 22, SCR 41
	1:30 p.m., 3/17	Briefing, Dept. of Natural Resources
	1:30 p.m., 3/19	SB 843
STATE AFFAIRS	Capitol Building	Room 423
	1:30 p.m., 3/11	SJR 9, SJR 24, SJR 55, SB 652
TRANSPORTATION	Capitol Building	Butrovich Room 205
	3/11	No Meeting
	1:30 p.m., 3/16	SB 824, SB 793, SB 512, MCR 49
	1:30 p.m., 3/18	SB 637, SB 838, HB 807

Senate Banking  
Committee

Capitol Building

Senate Finance Room

3:30 p.m., 3/11

AHFC staff briefing

Anchorage Legislative Info Office

10:00 a.m., 3/13

w/House Committee on  
Loans on multi-family  
housing & interstate  
bankingBlue Ribbon  
Commission

Capitol Building

Butrovich Room 205

1:30 p.m., 3/11

## Budget &amp; Audit

Capitol Building

House Finance Room

8:15 a.m., 3/18



ALASKA ASSOCIATION OF REALTORS®

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Telephone 907-272-8018

April 1, 1982

Honorable Patrick M. O'Connell  
Alaska State Legislator  
Pouch V (MS 3100)  
Juneau, Alaska 99811

RE: CSSB 180 (C&RA) AM

Dear Mr. O'Connell:

Since testifying before the Community and Regional Affairs Committee March 26, regarding the omission of AS 29.33.170 (waiver in certain cases) from the above referenced bill, I have met with Steven Morrisett, Borough Attorney for the Matanuska-Susitna Borough and discussed the differences that we expressed before your committee.

Mr. Morrisett has rewritten his suggested change to proposed AS 29.40.090 and AS 29.40.100 and, I understand, intends to present the changed suggestion before your committee on April 2, 1982.

The Alaska Association of REALTORS believes this new suggested change, copy attached, properly clarifies, simplifies and continues the intent of the present AS 29.33.170 and the suggested change, in its entirety, has our full support.

While in Juneau, I met with Senators Kerttula, Sturgulewski and Gilman. They assured me that they would concur with an amendment that placed the intent of AS 29.33.170 into SB 180. I am sending them copies of this letter and urging their support for this proposed amendment.

We thank the full committee for your courtesy and consideration.

Sincerely,

*Audie L. Moore*  
Audie L. Moore

ALASKA ASSOCIATION OF REALTORS

ALM:cw

Attachment

CC: Senator Don Gilman  
Senator Jay Kerttula  
Senator Arliss Sturgulewski

