ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1244 HCRA SB 180

1244

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Billy Berrier, Director
Division of Legal Services

DATE: April 7, 1982

FROM: Representative Patrick M. O'Connell
Chairman, House C&RA

RE: Amendments to CSSB 180(C&RA)

The House C&RA Committee has had CSSB 180 (C&RA) and has adopted the following amendments:

1. Pg. 2 Line 4: Delete "600" and Insert 400

2. Pg. 3 Line 29: Delete "600" and Insert 400

3. Pg. 193 Line 15-16: Delete ~~Sec. 06~~ Temp Law Sect relating to population requirements

4. Pg. 64 Line 19: Delete (by certified mail) and insert "at the address provided under AS 29.26.110 (a) by certified mail"

5. Pg. 69 Line 8: Delete (by certified mail) and insert "at the address provided under AS 29.26.110 (a) by certified mail."

6.

6. Pg. 90 Line 15-29: Delete material in Sec. 29.40.090
Pg. 91 Line 1 & 2: Delete

7. Pg. 90 Line 15: Insert new material (attached)

8. Pg. 102 Line 10: Delete (;) semi colon and replace with a (.) period
Delete language after (.) period.

Line 11-12-13: Delete

9. Pg. 115 Line 9: Delete (10) insert 20
Line 10: Delete (8) insert 15
Line 12: Delete (10) insert 20

10. Pg. 174 Line 22-29: Delete all material in (A) and (B)
Pg. 175 Line 1: Delete

11. Pg. 174 Line 21: After the word "subdivision" insert "means the division of a parcel of land into two or more lots or other divisions for the purpose of sale or building development, includes resubdivision, and relates to the process of subdividing or to the land subdivided;"

12. Pg. 180 Line 23: Insert new Sec. 40 as follows and renumber accordingly:

*Sec. 40 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.

House deleted Chapter 14 from SB 180 and retained current law under 29.18 (see attached amendments)

13. Pg. 182 Line 28: Delete "former"
Line 29: Delete all material

Pg. 182 Line 28: After the word "under" insert the following: "AS 29.18.510-29.18.610, AS 29.05, AS 29.65 or former AS 29.18.011-460, if the Commissioner determines the action is consistent with the public interest."

* - Add 2 Technical Amendments approved By the Committee Ref Tamlook memo of April 82 to House CR & Committee Rep O'Connell.

4/12 - T.C. called Ref (c) of Abbreviated plat language - she will delete (c) as it is not consistent with (a). Also. change ref to 'subdivision plat' to 'abbreviated plat.

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 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 Attoney 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.

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 Sturgeluwski
Ginnie Chitwood, Alaska Municipal League
Tamara Brandt Cook, Legal Services

LM/PM/jl/0917S

Monday, March 29, 1982

VERY VERY ROUGH DRAFT

CSSB 180 (C&RA) am

Ginny Chitwood

Alaska Municipal League

The Municipal League, for the last several years, has been working to put together an insurance pool for cities and boroughs throughout the State.

This kind of self-insurance pooling has been put together very successfully in other States. It allows municipalities to get insurance where in some cases they weren't able to get it or they can get it at a cheaper rate than what they had been paying.

In many cases, the municipalities are too small for the insurance companies to pay much attention to. They don't understand municipalities and there isn't really a large enough market to make it worth their while to do that. The municipality either does not get what they want or get it at a higher rate.

The Municipal League has a program ready to start July 1. We've been assured along the way there's no legal problem with putting together the group insurance. It quite clearly states in Title 29, municipalities can band

together for the joint provision of services, etc.

The person who needs to sign the certificate in the Workers' Compensation Section of the Department of Labor has gotten very nervous about whether or not we can do this because there isn't anything in law that authorizes it. Per Billy Berrier, Division of Legal Services, you don't need authorization legislation if it's clearly in the general legislation. Since she signs the certification and is nervous about it, Legislative Affairs, Legal Services, has drafted an amendment to the Workers' Comp. law.

One reason why she's nervous is because throughout the Workers' Comp. statute it talks in terms of employer singular. There is a general section in the law tht says the singular shall include the plural, etc. This was pointed out to her, but it wasn't enough. In the meantime, she has asked for an Attorney General's opinion, but don't know how quickly that'll come down.

O'CONNELL There is no fiscal impact?

CHITWOOD No, no fiscal impact.

O'CONNELL The group exist only on paper?

CHITWOOD Yes

CLOCKSIN Which communities would be likely to participate? Is it the smaller communities?

CHITWOOD Yes Anchorage and Fairbanks have there own self-insurance program. They would not be participating. We have a lot who have signed resolutions of interest from Tenakee Springs (pop. 109) to Juneau (pop. 20,000). Most communities who have signed resolutions of interest are in the 1,000 pop. range.

Mat-Su, Kenai, Ketchikan, Kodiak, Nome - indicated interest; after that you're down to 2000-3000 population boroughs.

CLOCKSIN The draft before us is an act relating to Workers' Comp., are there any other bills relating to W/C pending in the Legislature? Do we have a single subject problem? I realize the amendment effects municipality yes but its to a portion of the Statutes which are not changed. So we would be bringing a new chapter into the bill and we may have a single subject problem.

CHITWOOD This was prepared by Tom Sofo, Legal Srevices, so I'm assuming he didn't figure there was a single subject problem.

CLOCKSIN But this is in the wording of another bill; a completely separate title...

GRUSSENDORF It's not necessarily setting out the outlines of the program itself; it's just enabling legislation for the municipality to do so you'd probably find it under Title 29.

CLOCKSIN That may be the way to do it or maybe this kind of conversation may be appropriate when we consider the amendment. What we have before

us is a proposal to amend AS 23.30 which is not amended in SB 180 or HB 170.

BYLSMA The W/C bill is somewhere in the mill but I don't know where.

CHITWOOD I think its in the House Labor and Commerce.

BYLSMA I thought we passed it out of there.

CHITWOOD Jackie McClintock (w/c) has prepared a two-page amendment that would deal with the municipality league insurance pool, but its a ~~major~~ much broader amendment than this because there are some problems with both the AGC and the Alaska Rural Electric Ureka because they have self-insruance pool. These problems are much broader than the municiapl league.

This amendment wouldn't have the effect of putting an amendment off on another proposed bill. That other proposed amendment is 2 pages and goes into depth about groups (other than government groups) getting together.

O'CONNELL This sheet here is not a proposed bill that's been introduced anywere else. It has the appearance here that it was intended as a separate piece of legislation to be introduced but in fact the whole thing was just prepared at your request in the last little while?

CHITWOOD Mike Miller asked. Not sure why headed that way and not as an amendment; I can check.

O'CONNELL If we look at the title of our bill here, it simply says an

act relating to municipal government, is that broad enough?

(46)

CLOCKSIN ...The first test is does it amend a similar part of the Statute? This amendment fails the test, but it might satistify the test of what the bill says. Billy Berrier spends hours in that stuff and I would like to have it cleared by him.

NO FURTHER TESTIMONY

O'CONNELL Refer to staff memorandum of March 25 which points out the more obvious things that exist between the Senate and House bill and as we go through that by its very nature will be taking up some of these proposed amendments that have come before the committee.

FIRST POINT: Is the question of 600 population necessary for reclassification of 2nd class to 1st class status. (p.3. l.29)

CLOCKSIN: Who does this effect? Obviously there are some communities between 400 and 600 that might want to become 1st class municipalities. Do we know who it effects?

O'CONNELL Ginny, do you know of any communities that might be thinking of incorporating or reclassifying which fit into that category?

CHITWOOD The only one I know of is the city of Tanana and they were going from home rule status directly from 2nd class status but they were not interested in the education function which would be included by this

bill and also by the bill that passed the Senate. There kind of in a status limbo. They wouldn't be effected because they want out of 2nd class to home rule but don't want to provide education.

O'CONNELL Do these people fet into the between 400 and 600 population?

CHITWOOD Yes

CLOCKSIN Do we know why the Senate did this? Significance of 400 to 600?

MCKIE CAMPBELL This was a redqust by Senator Ferguson. He felt that in some areas the REAAs were being weakened by municipality switching from 2nd class to 1st class and assuming the education power from the REAA. This was a move supported by the REAAs. It would make it more difficult..

O'CONNELL Some small community who was unhappy with the way somebody was running schools could just change over and want to run it themselves, but not have the right ability to do it themselves.

Obviously there'll be difference between the Senate and House version. We have to go to Conference Committee before it goes to Free Conference Committee and if we adopt the Senate language, the conference can't change it again anyway.

BYLSMA Since it doesn't seem we're very clear on this particular point and really don't have the debate that may have gone on in the Senate and don't understand the Senate rationale does it make any sense

to leave the difference so it can be taken up in Conference?

O'CONNELL Probably does. It doesn't mean we should duck out, but it does't mean we have to deal with it either.

Item #2: Temporary law section added to allow pending applicants for reclassification to be permitted if petition has been filed with the Department before the effective date of this act.

LINDA OTEY It's a temporary law to include those areas that may be in the process of right now applying to reclassify which are effected by the population change (600/400). Section 86 is written to allow that. If they are in the middle and the bill does in fact chnage to 600 those communities that have already filed and are on file with the Department can go ahead with the process.

O'CONNELL I would assume if we didn't address the first question, then we wouldn't address this one.

GRUSSENDORF The first one was that we had a kind of arbitrary as to the breaking points, but this is clearly some thing we could take care of here. We're talking about applications that are pending in relation to reclassification.

~~I would move we amend it to the House bill.~~

I move that we accept the language as proposed in the Senate Bill 180 and include it in the appropriate section of House Bill 170.

CLOCKSIN OBJECTION

CLOCKSIN Again, can we identify any specifics that have pending applications? We should be able to focus in on specifically what they are.

BYLS/AA What difference does it make at this point? This is if whatever happens here. Then it would allow them to take effect; wouldn't make a difference except it would give them the opportunity to go ahead without reapplying.

O'CONNELL It seems to me that if we speak to Mr. Grussendorf's motion, then does it make sense to have it in here if we haven't changed the 600?

MCKIE CAMPBELL ~~This is some~~ Background. This amendment was offered after the 400/600 amendment was adopted. There were representatives from several areas, the City of Tanana and I believe some folks from Ft. Yukon, were concerned. They were interested in incorporating to 1st class, and if the change became effective, they would not. As you have stated, it was intended solely to allow those municipalities that are between 400 and 600 to continue their efforts if the first amendment became law. The 400/600 change then this amendment I believe, would not have an effect.

CLOCKSIN I agree with that. The first two amendments are tied. There are not other situations besides that one. Under existing law it's 400; it's 400 under the House Bill.

GRUSSENDORF I saw the relationship there and I ~~could~~ thought there might be some community that are trying to get that right now but again if this is not passed, this 600 population figure, and I don't believe it will be, with that I will withdraw my amendment.

O'CONNELL Mr. Grussendorf has withdrawn his motion.

ITEM #3 The House made some amendment regarding notification of certification of petitions; recall and initiative. It has to do with the way city clerks notified groups circulating petitions. The Senate did not address that at all.

CLOCKSIN We've been through this, I think the Committee agrees with it and I suggest we go on.

NO OBJECTIONS

ITEM #4 Allow borough mayors to vote in the event of a tie. As the language reads" mayor of a borough with a manager form of government may vote in case of a tie..."

Who does this effect?

CHITWOOD

Who does this effect

CHITWOOD Ketchikan, Haines, Mat-Su, Kodiak, Bristol Bay.

CLOCKSIN What's the present law for those communities? Do they vote now?

CHITWOOD They do not vote.

O"CONNELL In otherwords, the language in the House version of the bill is fairly close to the siutation now. The mayor may take part in the discussion;.. the Mayor of a 1st class city can vote in case of a tie. The mayor of a 2nd class... we'd be giving the mayor of certain boroughs with a manager form of government..

GRUSSDORF Are we talking about them voting in the case of a tie of the full body or just that which makes a quorum. Or does it make a difference. I think if there is a tie a mayor, if he's an elected official, should have a vote; in fact most charters do allow the mayor to vote in that situtaion. I'm not speaking against the proposed amendment, I think it's a good one. I was wondering if there were any other restrictions on it. Would it have to be the only vote if there is a tie, a full membership or quorum?

I make a motion to move the amendment to adopt the Senate language in regards to allow mayors to vote in the event of a tie

CLOCKSIN Are there boroughs without a manager form of government, which ones are they?

CHITWOOD Sitka, Juneau, Anchorage, although unified, Sitka and Juneau managers, but by charter their mayors vote. Anchorage, there's not a manager form and the mayor does not vote, but has veto power; Kenai, Fairbanks have electd mayors who is administrative head, no vote, has veto power. North Slope borough has home rule, mayor administrative head, no vote, but veto power.

O'CONNELL I'd be opposed and mainly from the standpoint of the Kenai Peninsula Borough because we have 16 assembly members. The Borough mayor does not have the right to vote even in case of a tie, but does have veto power.

You'd have both with this amendment and with 16 member assembly a tie is frequent.

CAMPBELL In Kenai, the mayor has full administrative power and acts as the manager. This amendment was drafted specifically to say in a borough with a manager form of government specifically to remove that particular [illegible]

GRUSSENDORF When you have a mayor serving as an administrative executive as well as the political executive thought no he should not have that vote. But in cases where there is a manager responsible for putting it together, mayor should have a vote in that case.

CLOCKSIN Then this amendment attracts that where the mayor is the administrative head that's not a manager form of government.
(YES)

Most places have charters that put restriction on it. Like Sitka, we really do not have manager we have an administrative head in a water downed form. All the power comes from the assembly, policy, everything has to be passed through.

CALL FOR THE QUESTION

MOTION CARRIED UNANIMOUSLY

ITEM #5 The House bill on page 58 has languge that gives a municipality authority to require manadatory, nonsuspendable imprisonment not to exceed 5 days. Refer to Mr. Sharp
Do any municipalities have this authority Now? (Refer to Lee Sharp)

SHARP Kodiak thought it did but the

ITEM #5 The House bill on page 58 has language that gives a municipality authority to require manadatory, nonsuspendable imprisonment not to exceed 5 days. Do any municipalities have this authority now?

LEE SHARP Kodiak thought it did, but the Supreme Court said it didn't. So I guess we don't. They did not in the opinion that the chronology of events

authority to require manadatory, nonsuspendable imprisonment not to exceed 5 days. Do any municipalities have this authority now?

LEE SHAPP Kodiak thought it did, but the Supreme Court said it didn't. So I guess we don't . They did note in the opinion that the chronology of events was that they adopted the ordinance, convicted somebody under it, the the Legislature passed the new Uniform Criminal Code, the case went to Court. The Supreme Court said we're not deciding this based on any policy that we could find in the new criminal code; we're looking at the old criminal code to see what the Legislature's statewide policy implication are and we find the state did not contend nonsuspenable sentence under the old code so we're striking it. They sort of left the door open. It may be under the new code with that as the statewide policy they might find the authority for the municipal to vote to impose sort of sentence. They didn't say that. The situation now is it's still in double; it could go that yes they do and they do impose nonsuspendable mandatory sentences for as long as they can impose a sentence so it could go the other way and they stil have no authority at all.

With this amendment, it clears up those two questions:1. states they do have the power but places limitation on it...

O'CONNELL What kind of incidence are we looking at in Kodiak?

SHARP The ordinance that they had as I recall was on it required manadatory nonsuspendable sentence when the crime involved was an assault on a polic officer.

CLOCKSIN What's the relationship between municipalities and the State with regard to jail facilites. Do most of the larger communities contract with the State with beds in State jail facilities...

ANDERSON It works both ways. In Anchorage they contract with the State and the State in turn leases; Also to the municipality of Anchorage the 6th Ave. jail. There's a couple other places that do the same thing.

SHARP Pay state a charge per day out there under municipality ordinance.

CLOCKSIN Is it possible, assuming if the House version adopted, for a municipilaity could impose a broad range of required sentnces, end upplacing them in a state facility and increasing the burden on the State to build new prison facilities and yet the municipality not have responsiblity to pay for constructing new facitlies. Is it possible that would happen?

ANDERSON Possible, but we need someone from the Division of Corrections to come in and explain it. It seems to me when a jail reached that saturation point and municipalitiy prisions were coming into that facility, then it seem they'll send the long term ones off to spend sentence outside, and they do that on contract basis. Whether it would require State to build new facilities, it's hard to say.

CLOCKSIN Assuming the Federal Bureau of Prisons is limiting the number of prisoners we can place in federal prisons outside, that option may not be available to us which of course is happening in Anchorage now. My concern is would be granting a power without a responsibility. The municipality would have the power to flood the jails without even power or responsibility of problem of overcrowding.

ANDERSON With or without the language, a municipality could do that now because they have the power under existing law to sentence people.

CLOCKSIN Municipal assembly may not be interested can much about the

CLOCKSIN Municipal assembly may not be intereste to car much about the State's burden of building new jails when it agrees everyone gets arrested for littering or something.

SHARP Our experience has been that it's almost arbitrary as to whether it's a State prisoner or municipal prisoner; depends on how the perons's charge is constituted for assualt. He could be prosecuted under State Statute or municipal ordiance. It's more the acts that are going on...

Depends how may time the defendent has been before judge as to what kind of sentence he gets going to be any substantial increase because they can, if impose mandatory nonsuspendable sentence. I think assembly also going to look at cost to municipality ~~$50-60~~ per day for a prisoner. Make sure that person the worth that expense.

ANDERSON I think there's alot of incetive for municipality to charge under State law. If charge under State law, don't have to pay state rather than charge under municipal law have to pay. Probably find person charged with misdeamor serving state time, not municipal time.

CLOCKSIN The amendment wouldn't effect that either way. Assuming they're on charged under municipal law, the repone to Sharp, while the city has to look at $50 -$60 per day, the State has to look at capital cost. COn am having enough trouble in the Legislature on mandatory sentences if we bring another party in that throws...

MOTION: to adopt the Senate language in 29.25.020 sub-paragraph (a) which has the effect deleting the language originally adopted in the House Bill with regard to mandatory nonsuspendable imprisonment for 5 days.

BRIEF
Brief DISCUSSION

VOTE: FOR: CLOCKSIN, BYLSMA, O'CONNELL

AGAINST: GRUSSENDORF

ABSENT: ANDERSON

MOTION CARRIED

ITEM #6 Question of platting procedure. The Senate adpted some language. They added the word "shall" (P.90) According to the discussions we had before: testimony has indicated that the House version of the bill has apparently left out the authority for developers (subdividers) to use a simplified allocate pa ts subdivison in parcels of land down to ~~the~~ as small as 5 acres, without going through the whole complicated platting procedure and it's been requested to put back into the bill the authority to simplified platting proceudre on larger parcels of land.

The Senate put the words "shall" thinking it solved the problem but it doesn't . Mr. Morrissett had expressed interest in essentially going back to the old system. There was a division on the question on testimony on what would achieve .

CAMPBELL Mr. Morrissett and others have been working on language he feels should solve the objection of Mr. Moore and others who are upset about the for plat procdures while at the same time maintaining some of the consistencies and clarification the new language has made. We request you hold over until Wednesday when we have some language agreeable to both parties.

REQUEST GRANTED

ITEM #7

Amendment in the Senate returned to current law taxation of vessels: $5 max-5 tons or less, $15 max over 5 tons (p. 102) We had testimony ~~of~~ from Mr. Sharp saying the tax was so insignificant that it wasn't worth the bother to assess. This method of taxing boats doesn't make it worthwhile.

BYLSMA Does anyone know if any communitis taxing on basis of tonage currently?

CHITWOOD Ketchikan and Petersburg; Home-assessed value. Alot of communities exempted boats completely cause it cost more to collect the tax than received.

O'CONNELL If there is no authority to do it on basis of assessed valuation how are they doing it?

CHITWOOD There is authrogi to tax on assess value now. The House verison of the bill did was, now can do it 2 ways 1)assessed value 2) or a net tonage with limits of $5 and $15 based on the tonage . From an administrative point of view the tonage is easier taxing boats but because of the $5 and $15 the amount generated is not enuf to mke it wothwhile. The House version of the bill eliminated the 5 and 15 limit but didn't change part on assessed value.

ANDERSON I can't imagine any municipality going to the trouble of charging or assessing a tax on tonage when any municipal can do it on the basis of assessed valuation. That's the way they're going to generate alot more revenue than on the basis of tonage. If that's all they can assess is up to $15 on the largest of commercial fishing vessels, it just doesn't seem to me they're going to generate much revenue on that. Where they can from assess value. If do it on basis of full and ture value, can do form pleasure to commercial fishing vessel. Woner what the ratio..ale for Ketchikan or whoever for doind it on basis on $5 and $15?

SHARP Under current law you may not exempt vessels. This occurred in 1972. In '72 when revised law; they provided that any exmeption granted at that point would be grandfathered in. Prior to '72 the municipality had broader authoity to exempt varo'. calsses properties. Home reule in particular had very few limitations. So Home Rule municipal .oul exempt autos, vessels taxation and airplanes.

In '72 Legislature said can't exempt these things anymore, but if you had exempted it at the time, the exemption continued so i think that's why you find alot of commercial vessels, vehicls exempt. etc.

Ketchikan may be in that situation. So they didn't exempt them prior to '72 so there stuck with either tax or toanage.

If you go the our original language, the municipal would then have the authority to tax on avernorm basis or on a tonage and they could establish the schedule. It might be $5 per ton something that would bring in as much revenue as avenorm tax. Bring in enough to make it worthwhile. The problem with leveying a avernorm tax is there afraid the fleets going to move becuase it puts it on total true value - none at all.

No flexibility.

GRUSSENDORF That's a problem. Boats through their nature are very movable, very obviously. There's no arguement about tonage, but when you start talking about the true value, the assessed valur of a boat, the municipal is going to spend most of their time trying to determine tis and ther's going to be a difficult time enforcing this as boats decide to go elsewhere or claim there are elsewhere.

I think the way the present laws wooded the municipal has the option to tax either by ton or valuation. It becomes a policital question of what they have they essentially don't change.

O'CONNELL Why in the case of if they're going to tax on assess valuation We're assuming local municipalities has the common sense to set that tax at a lvel that won't drive them all away but by putting a limit on tonage we're assuming they don't have that came common sense. Why should we put a limit on tonage tax and no on the other. It's the same boat which ever wya they decide to do it.

BYLSMA In my way of looking at it there's a terrible inconsistency there. It seems to me we ought to provide the municipal with 2 taxing methods and that's what this language presupposes. What we're giving them is 2 options that we really aren't. We're syaing you can chare practically nothing on the one hand and charge what you wnat on the other hand. Seems if you're oing to allow them the opportunity to chare on basis of tonage, that it really ought to be an opportunity chage on that basis.

CLOCKSIN We may not have been doing this correctly, procedurally. Earlier I wanted tomaek a motion to delet the new language in the Senate Bill and I think that's what we have to do. We have the SEnate bill before us and we skipped over the first 2 amendments; we agreed to do nothing thinking htat we were thereby adopting the House language and I think technically we need to move to delet Senate language if we don't agree with it or if we want to leave it open for discussion.

In relation to this one I ould move to delete the new language added by the Senate on p. 102 (authority to tax on tonage but no limit on it)

IN FAVOR Clocksin, Bylsma, Anderson, O'Connell

OPPOSED Grussendorf

MOTION IS ADOPTED

CLOCKSIN With regard to proposed amendments 1 and 2 on the memorandum, I move that the House language be inserted in the SEnate Bill.

IN FAVOR Clocksin, Bylsma, Anderson, O'Connell, Grussendorf

MOTION CARRIED UNANIMOUSLY

CLOCKSIN On p. 64 I move that the amemdned language with regard that the House
CLOCKSIN On p. 64 I move that the amemdned language with regard to certification of petitions; recall and initiative, that the House language be inserted into the Senate version.

INFAVOR O'Connell, Anderson, Bylsma, Clocksin, Grussendorf

MOTION CARRIED UNANIMOUSLY

MEETING ADJOURNED

TABLE I

LOCAL ASSESSMENT POLICY

BOROUGHS	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	-
CITIES												
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	-		NA
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 29.53.025(b)(1))

P. O. Box 116[illegible]
Fairbanks, Alaska 99707
452-4275

MAR 23 RECD

Eleventh Open Letter to all
Legislators of the State of Alaska

March 15, 1982

Re.: CSSB 180 am - An Unconstitutional Act--(It will eliminate maximum local self-government and local voter approval of municipal powers to be exercised by local governments.)

Dear Representative O'Connell:

The State Senate passed CSSB 180 am 13 to 6, among those who voted No was every member of the Senate Judiciary Committee. In my recent letters, of which I sent you copies, I warned that passage of CSSB 180 as written would result in law conflicting with the principles set forth in the Alaska Constitution, Article X in particular. Now it will be the responsibility of the State House to make the necessary corrections, or to defeat the bill.

The State Senate amended CSSB 180 on page 115, changing the rates of penalty and interest from 20 % to the present 10 % and from 15 % to the present 8% maximum rate. Apparently it was overlooked to make the same adjustment on page 122, line 25; the House should make this correction.

The Senate further amended AS 29.25.070(a) by deleting "and may require mandatory, nonsuspendable imprisonment not to exceed five days" but failed to correct the ambiguously termed "a municipality may prescribe penalties" language. Line 4, page 59 should be further amended to reflect as follows: "the legislative body of a municipality may prescribe by ordinance penalties ..." (If this correction is not made, AS 29.25.070(a) may be interpreted to mean that the mayor or a department head may by regulation prescribe penalties. Under present law, AS 29.38.200, the assembly or council may prescribe a penalty.) AS 29.25.070(b) should be amended by deleting on page 59, lines 11 and 12 "or a threatened violation" (any such allegation will most likely be conflicting with first amendment rights - freedom of speech - and therefore not be upheld by the courts; it will be a tool solely for harassment actions, that is something not for the good of the people as a whole.) This provision should be further amended by deleting on page 59 lines 13 and 14 "Each day that a violation of an ordinance continues constitutes a separate violation." (This is like above a provision for the purpose of harassment and fear-provocation, because

Although there is no first class borough incorporated at this time, people who like to consider incorporation with first class municipal powers should have the option to vote on areawide transportion systems, such as bus, railroad, pipeline, or truck-transportation, therefore AS 29.35.200(b)(1), line 21 at page 78, should be deleted. Established second class boroughs may acquire additional area-wide and non-areawide municipal powers by majority voter approval of the people affected only, and each proposed additional power to be exercised by a second class borough government must appear separately on the ballot. This right to vote for the approval of each additional power was retained by the people of second class boroughs at the time they voted to incorporate with the powers of a second class borough, therefore it is unlawful and unconstitutional for the Legislature to "confer" such powers through local or special legislation (Alaska Constitution, Article I, Sections 2, 15, 21, Article II, Section 19 and Article X, Section 1 in particular.) The State may only confer powers of the State (such as Health, Education and Welfare, etc.) and then only with the consent of the local governments, and in the case of second class boroughs, with voter approval. Although many powers were conferred without local voter approval, people accepted such legislation without judicial determination, not because it was lawful or constitutional, but most likely because they felt it was not worth the hardships and troubles associated with such litigation. The people of the Fairbanks North Star Borough voted only for the borough government to provide for public bus transportation, proposed AS 29.35.210(a)(1) and AS 29.35.210(b)(1) would allow the borough government to provide for any other transportation system without voter approval of those affected, and this will most likely be challenged in court; AS 29.35/210(a)(8) would allow the borough government to unrestrictively provide for "economic development", and that is something the Fairbanks voters turned down with 75% No-votes, and this is one provision which most certainly will be challenged, should it become law. Therefore, I urge the House to amend CSSB 180 am by deleting on page 79 lines 5, 16, and 22, "(1) provide transportation systems;" and "(8) provide for economic development;" nonareawide and "(1) provide transportation systems;" areawide. (Please see my 9th open letter, of which I sent you a copy, for more detailed facts regarding this matter.)

CORRECTION

CORRECTION

P. O. Box 1166
Fairbanks, Alaska 99707
452-4275

MAR 23 RECD

Eleventh Open Letter to all
Legislators of the State of Alaska

March 15, 1982

Re.: CSSB 180 am - An Unconstitutional Act--(It will eliminate maximum local self-government and local voter approval of municipal powers to be exercised by local governments.)

Dear Representative O'Connell:

The State Senate passed CSSB 180 am 13 to 6, among those who voted No was every member of the Senate Judiciary Committee. In my recent letters, of which I sent you copies, I warned that passage of CSSB 180 as written would result in law conflicting with the principles set forth in the Alaska Constitution, Article X in particular. Now it will be the responsibility of the State House to make the necessary corrections, or to defeat the bill.

The State Senate amended CSSB 180 on page 115, changing the rates of penalty and interest from 20 % to the present 10 % and from 15 % to the present 8% maximum rate. Apparently it was overlooked to make the same adjustment on page 122, line 25; the House should make this correction.

The Senate further amended AS 29.25.070(a) by deleting "and may require mandatory, nonsuspendable imprisonment not to exceed five days" but failed to correct the ambiguously termed "a municipality may prescribe penalties" language. Line 4, page 59 should be further amended to reflect as follows: "the legislative body of a municipality may prescribe by ordinance penalties ..." (If this correction is not made, AS 29.25.070(a) may be interpreted to mean that the mayor or a department head may by regulation prescribe penalties. Under present law, AS 29.38.200, the assembly or council may prescribe a penalty.) AS 29.25.070(b) should be amended by deleting on page 59, lines 11 and 12 "or a threatened violation" (any such allegation will most likely be conflicting with first amendment rights - freedom of speech - and therefore not be upheld by the courts; it will be a tool solely for harassment actions, that is something not for the good of the people as a whole.) This provision should be further amended by deleting on page 59 lines 13 and 14 "Each day that a violation of an ordinance continues constitutes a separate violation." (This is like above a provision for the purpose of harassment and fear-provocation, because

if applied as written, it may wipe out one's total investment for a violation of a land use regulation; or is this the true indent?!) Likewise and for the same above stated reasons AS 29.40.190 should be amended by deleting on page 94, line 25 "or threatened violation" and by deleting AS 29.40.190(b) "Each day that an unlawful act or condition continues constitutes a separate violation." on page 94, lines 27 and 28. Chapter 40 should be further amended by deleting AS 29.40.180 in its entirety (page 94, lines 6 through 16) because this provision is basically covered by AS 29.25.070(a) and any proposed provisions over and above those of AS 29.25.070(a) therein must be considered violative of the U.S. Constitution and our Alaska Constitution, Article I, in particular. (Only if the proposed imposements of Chapter 40 are written and recorded in a manner as provided for restricted covenant within an existing deed may they be enforcable in a lawful and constitutional way.: "No State shall pass any law impairing the obligation of contract.") For the reasons stated it would be advisable to change many of the "shalls" to "mays", especially when enforcement without specific written consent of the individual property owner may be possible, within Chapter 40.

AS 29.40.060(b) should be deleted (page 89, lines 19 to 23) because it will not provide due process of law and is conflicting directly the Rules of Appellate Procedure. It could be amended to read "An appeal to the superior court is an administrative appeal, the record for that may be prepared by the hearing officer, board of adjustment, or other body. The superior court, may sit with or without a jury, and may upon motion of a party or upon his own discretion in lieu of an appeal grant a trial de novo."

Not the number of individuals must be defined nor the matter for petition must be restricted beyond the requirements of the Constitution, therefore on page 62, line 13 should be amended to replace shall for "may" be signed by at least 10 voters ... and AS 29.26.-110(a) "(3) relates to a legislative rather than to an administrative matter; and (4) would be enforcable as a matter of law." on page 62, lines 21 through 23, should be deleted. On page 63, lines 6 and 24 "60 days" should be replaced with "90 days", in order to be in conformance with present law requiring a period 90 days during which signatures for a petition may be s cured. (reasons more detailed for the above are enumerated in my 8th open letter dated 2/14/82, of which I mailed you a copy)

Although there is no first class borough incorporated at this time, people who like to consider incorporation with first class municipal powers should have the option to vote on areawide transportion systems, such as bus, railroad, pipeline, or truck-transportation, therefore AS 29.35.200(b)(1), line 21 at page 78, should be deleted. Es ablished second class boroughs may acquire additional area-wide and non-areawide municipal powers by majority voter approval of the people affected only, and each proposed additional power to be exercised by a second class borough government must appear separately on the ballot. This right to vote for the approval of each additional power was retained by the people of second class boroughs at the time they voted to incorporate with the powers of a second class borough, therefore it is unlawful and unconstitutional for the Legislature to "confer" such powers through local or special legislation (Alaska Constitution, Article I, Sections 2, 15, 21, Article II, Section 19 and Article X, Section 1 in particular.) The State may only confer powers of the State (such as Health, Education and Welfare, etc.) and then only with the consent of the local governments, and in the case of second class boroughs, with voter approval. Although many powers were conferred without local voter approval, people accepted such legislation without judicial determination, not because it was lawful or constitutional, but most likely because they felt it was not worth the hardships and troubles associated with such litigation. The people of the Fairbanks North Star Borough voted only for the borough government to provide for public bus transportation, proposed AS 29.35.210(a)(1) and AS 29.35.210(b)(1) would allow the borough government to provide for any other transportation system without voter approval of those affected, and this will most likely be challenged in court; AS 29.35/210(a)(8) would allow the borough government to unrestrictively provide for "economic development", and that is something the Fairbanks voters turned down with 75% No-votes, and this is one provision which most certainly will be challenged, should it become law. Therefore, I urge the House to amend CSSB 180 am by deleting on page 79 lines 5, 16, and 22, "(1) provide transportation systems;" and "(8) provide for economic development;" nonareawide and "(1) provide transportation systems;" areawide. (Please see my 9th open letter, of which I sent you a copy, for more detailed facts regarding this matter.)

AS 29.35.490(c) at page 86 should be amended by adding "The exercise of each power in a service area which includes only vacant, unappropriated, and unreserved land owned by the borough or the state must be approved by a majority vote at an election held areawide in the borough; if the exercise of more than one additional municipal power is proposed, each must appear separately on the ballot." for the reason that in second and third class boroughs it was agreed at the time of incorporation between the voters and their governments that each additional municipal power exercised by the local borough government must be approved by the voters who pay for it or are affected. For example should the borough government decide a service area for police or fire protections shall be established on vacant, unappropriated, and unreserved land owned by the borough or the state, all the people of that borough will be affected and pay a portion of the cost of such service area, therefore they must have the opportunity to vote for the exercise of each proposed service in such a service area. Also this argument is presently before the Alaska Supreme Court, ca # 5761/5781, challenging the constitutionality of AS 29.63.090(a) and (f).

For the reasons stated in my Tenth open letter to all Legislators, of which I sent you a copy, and specifically for the reason that the Alaska Constitution, Article X, demands the Legislature to provide for law for maximum local self-government, incorporation for new third class boroughs must be provided for, as well as reclassifaction provisions from second class borough status to third class borough status, therefore, the following amendments to CSSB 180 am should be made:

page 2, line 25: add after first "or third"class borough;

page 4, lines 23 and 24: delete "An area may not incorporate as a third class borough."; and at line 25 add after second "or third" class borough:; and add likewise on page 5, line 24;

page 6, between lines 5 and 6 add "for a third class borough, a proposed designation of the powers to be exercised on a service area basis;"

•{page 7, line 26, add after each "areawide and" nonareawide power ;

•{page 7, line 27, add after Adoption of "an additional areawide or";

page 10, lines 11 and 19 add after second class borough, "third class borough,"; and at line 15 after second "or third" class borough, ... ;

page 173, line 7, add after second "or third" class;

•pertains to second class borough only

AS 29.10.010.(a) (at page 26 of CSSB 180 am) should be amended by adding "A second or third class borough shall follow the proceedings set forth under AS 29.06.200 - 29.06.350 for the election of commission members and charter adoption." for the reason to insure more adequate representation of the areas outside cities and to insure a separate vote between the areas outside cities and the cities. The reasons are further detailed in my letter to the Senate C&RA dated 3/11/80, copy of which is attached hereto.

Please give careful consideration to the above made suggestions. Should CSSB 180 am become law without the proper amendements, Title 29 will no longer provide the law for maximum local self-government as required by our Alaska Constitution.

Very truly yours,

Wolfgang Palke

P. O. Box 1166
Fairbanks, Alaska 99707

Senate Community & Regional Affairs Committee
Senator Arliss Sturgulewski, Chairman
Pouch V, Juneau, Alaska 99811

March 11, 1980

Re.: SB 353 and HB 585, "An Act relating to the incorporation of second class boroughs as home rule boroughs."

Dear Committee Members:

Both Senate Bill 353 and House Bill 585 are now in your committee. Please consider my following comments opposing passage of these bills.

In my third open letter to all legislators, dated Jan. 28, 1980, of which I sent you a copy, I stated that the above named bills are violating the principals of providing for maximum local self government as set forth under Article X of the Alaska Constitution and that the same cannot be legally enacted without first changing the Alaska Constitution. In my fourth open letter to all legislators, dated February 12, 1980, of which I also sent you a copy, I stated that no purpose is cited for the enactment of the above named bills under consideration which could not be implemented under present law, and that these bills are contrary to the best interest of the people as a whole. In spite of my warnings, on February 19, 1980 the Alaska House of Representatives passed HB 585, "An Act relating to the incorporation of second class boroughs as home rule boroughs.", with Representative Fred Brown casting the only NAY.

Article X, Section 9 of the Alaska Constitution says: "The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law." The legislature provided that law under AS 29.08.010

> "A home rule municipality is a municipal corporation and a political subdivision and is a borough of the first class or a city of the first class which has adopted a home rule charter.", and under AS 29.13.010
> "A charter is framed by a charter commission of seven members chosen by the municipal voters at a regular or special election."

Article X, Section 10 of the Alaska Constitution says: "The legislature may extend home rule to other boroughs and cities.", and the legislature provided for this too under AS 29.68.240

> "An organized borough and all cities within the borough may unite to form a single unit of home rule local government by complying with this chapter."

That charter is framed by a charter commission "of 11 members, three of whom shall be residents elected at large from the area of the borough and eight of whom shall be (1) residents of and elected from the area outside cities in the borough. The number representing each of these areas shall be proportionate to the respective population..." Both, the charter commission and the proposed charter must be approved by a majority of the votes cast in the area of the borough outside all

first class and home rule cities and a separate majority of the votes cast in the remaining area of the borough.

As you can see, existing law very adequately provides for home rule adoption for second class boroughs.

What is the difference between the home rule law of a first class municipality and the home rule law of a unified municipality? None, absolutely none what so ever! Any home rule municipality has all legislative powers not prohibited by law or charter as set forth in the Alaska Constitution, Article X, Section 11. The question is: How may home rule status be adopted? Under present law a second class borough may acquire home rule status in either of two ways:

(1) A majority of the voters outside and a majority of the voters inside first class and home rule cities of an organized borough must separately approve reclassification to first class borough status and then may by majority vote of the entire borough area elect a seven member charter commission and may by majority vote of the voters of the total borough area adopt or reject the proposed charter, or

(2) a majority of the voters outside and a majority of the voters inside of first class and home rule cities of an organized borough must separately approve unification, and the election of an 11 member charter commission and the proposed charter must also be approved by a separate majority vote of each of the area groups.

If SB 353 or HB 585 should become law, then the legislature would be illegally conferring first class status to existing second class boroughs, Thereby the legislature will be impairing and denying the people of existing second class boroughs that right of maximum local self-determination that they specifically retained at the time they voted to incorporate with the powers of a borough of the second class. Therefore the legislature is acting in violation of Article 1, Section 21, Alaska Constitution by passing the above named bills.

Last year, in similar action the legislature passed as part of HB 66 law conferring illegally first class municipal powers and service area powers to second class boroughs. On January 10, I filed suit in the Alaska Superior Court, Fourth Judicial District, regarding this matter. The moment SB 353 or HB 585 should become law, it will be challenged likewise.

In many of my previous letters I urged you to let SBs 348, 349, 350, 352, 353, and 354, and HBs 580, 581, 582, 584, 585, and 586 die in committee. If even only one of them will become law, it will destroy the borough system and for maximum local self government is no longer provided for. Again, for the good of the people as a whole, I ask you not to pass any of these bills.

I thank you for your kind consideration.

Very truly yours,

Wolfgang Palke

cc: This letter will be attached as a copy to my fifth open letter to all legislators

AS 29.35.490(c) at page 86 should be amended by adding "The exercise of each power in a service area which includes only vacant, unappropriated, and unreserved land owned by the borough or the state must be approved by a majority vote at an election held areawide in the borough; if the exercise of more than one additional municipal power is proposed, each must appear separately on the ballot." for the reason that in second and third class boroughs it was agreed at the time of incorporation between the voters and their governments that each additional municipal power exercised by the local borough government must be approved by the voters who pay for it or are affected. For example should the borough government decide a service area for police or fire protections shall be established on vacant, unappropriated, and unreserved land owned by the borough or the state, all the people of that borough will be affected and pay a portion of the cost of such service area, therefore they must have the opportunity to vote for the exercise of each proposed service in such a service area. Also this argument is presently before the Alaska Supreme Court, case # 5761/5761, challenging the constitutionality of AS 29.63.090(a) and (f).

For the reasons stated in my Tenth open letter to all Legislators, of which I sent you a copy, and specifically for the reason that the Alaska Constitution, Article X, demands the Legislature to provide for law for maximum local self-government, incorporation for new third class boroughs must be provided for, as well as reclassifaction provisions from second class borough status to third class borough status, therefore, the following amendments to CSSB 180 am should be made:

page 2, line 25: add after first "or third"class borough;

page 4, lines 23 and 24: delete "An area may not incorporate as a third class borough."; and at line 25 add after second "or third" class borough:; and add likewise on page 5, line 24;

page 6, between lines 5 and 6 add "for a third class borough, a proposed designation of the powers to be exercised on a service area basis;"

page 7, line 26, add after each "areawide and" nonareawide power ;

page 7, line 27, add after Adoption of "an additional areawide or";

page 10, lines 11 and 19 add after second class borough, "third class borough,"; and at line 15 after second "or third" class borough, ... ;

page 173, line 7, add after second "or third" class;

"pertains to second class borough only

Although there is no first class borough incorporated at this time, people who like to consider incorporation with first class municipal powers should have the option to vote on areawide transportion systems, such as bus, railroad, pipeline, or truck-transportation, therefore AS 29.35.200(b)(1), line 21 at page 78, should be deleted. Established second class boroughs may acquire additional area-wide and non-areawide municipal powers by majority voter approval of the people affected only, and each proposed additional power to be exercised by a second class borough government must appear separately on the ballot. This right to vote for the approval of each additional power was retained by the people of second class boroughs at the time they voted to incorporate with the powers of a second class borough, therefore it is unlawful and unconstitutional for the Legislature to "confer" such powers through local or special legislation (Alaska Constitution, Article I, Sections 2, 15, 21, Article II, Section 19 and Article X, Section 1 in particular.) The State may only confer powers of the State (such as Health, Education and Welfare, etc.) and then only with the consent of the local governments, and in the case of second class boroughs, with voter approval. Although many powers were conferred without local voter approval, people accepted such legislation without judicial determination, not because it was lawful or constitutional, but most likely because they felt it was not worth the hardships and troubles associated with such litigation. The people of the Fairbanks North Star Borough voted only for the borough government to provide for public bus transportation, proposed AS 29.35.210(a)(1) and AS 29.35.210(b)(1) would allow the borough government to provide for any other transportation system without voter approval of those affected, and this will most likely be challenged in court; AS 29.35/210(a)(8) would allow the borough government to unrestrictively provide for "economic development", and that is something the Fairbanks voters turned down with 75% No-votes, and this is one provision which most certainly will be challenged, should it become law. Therefore, I urge the House to amend CSSB 180 as by deleting on page 79 lines 5, 16, and 22, "(1) provide transportation systems;" and "(8) provide for economic development;" nonareawide and "(1) provide transportation systems;" areawide. (Please see my 9th open letter, of which I sent you a copy. for more detailed facts regarding this matter.)

AS 29.10.010.(a) (at page 26 of CSSB 180 am) should be amended by adding "A second or third class borough shall follow the proceedings set forth under AS 29.06.200 - 29.06.350 for the election of commission members and charter adoption." for the reason to insure more adequate representation of the areas outside cities and to insure a separate vote between the areas outside cities and the cities. The reasons are further detailed in my letter to the Senate C&RA dated 3/11/80, copy of which is attached hereto.

Please give careful consideration to the above made suggestions. Should CSSB 180 am become law without the proper amendements, Title 29 will no longer provide the law for maximum local self-government as required by our Alaska Constitution.

Very truly yours, MAR 19 Rec.

Wolfgang Falke

TELECOPY March 18, 1982

TO: Reps. O'Connell, Anderson, Bylsma, Clocksin, Grussendorf

Reps. Bettisworth, Brown, Fanning, Randolph, Rogers, and Smith

FROM: Wolfgang Falke, Box 1166, Fairbanks 99707

RE: CS for Senate Bill 180 (C&RA) am

this is page 3, 4, 5. You received 1 and 2. on 3/19.

Borough Powers

Dear Editor:

This morning the office of Senator Parr informed me that the Senate Judiciary Committee (Senator Pat Rodey, Chairman), will hold a hearing and will accept comments in regard to CSSB 180, a bill re-organizing and substantially changing local government law. An identical bill, CSHB 170, is in the House Rules Committee, Rep. John Fuller, Chairman.

Should the bills as presently written become law, among other changes, for second class boroughs:

1. it will eliminate option to reclassify to third class borough status (in reality the bill eliminates formation of new third class boroughs);

2. it will allow adoption of home rule status without separate voter approval of cities and areas outside cities for election of members to charter commission and for approval of home rule character;

3. it will shift authority from assembly or council to the municipality to set penalties for violations or threatened violations or ordinances (that means the mayor or a department head may by regulation prescribe the penalties, not only the elected assembly or council members);

4. it will add that the municipality (department head or mayor) may prescribe penalties for a violation or a threatened violation requiring mandatory, nonsuspendable imprisonment up to five days, and each day that a violation or a threatened violation continues constitutes a separate violation;

5. it will restrict petitioning by the people to legislative matter only (for example a petition for a change or establishing penalties for a threatened violation is not authorized when it pertains to one established by administrative regulation, only one established by the assembly or council by ordinance may be petitioned;

6. it reduces the time in which signatures may be secured for a petition from the present 90 days to 60 days;

7. it will allow in the area outside cities to provide without voter approval unrestricted borough owned and/or operated economic development (at the last election the Fairbanks voters outside cities turn down unrestricted industrial development (advertised as to authorize issuance of industrial revenue bonds), 75.9% voted NO!);

8. it will allow to provide for any kind of transportation in and outside cities (pipeline, railroad, trucking—it could mean that the borough may provide for the transportation of firewood to your house and to forbid you to haul your own!), without voter approval.

Members of the Senate Judiciary Committee are: Senators Pat Rodey (Chairman), Don Bennett, Charles Parr, and Bill Ray; the address: Pouch B, Juneau, Alaska 99811.

Very truly yours,
Wolfgang Falke
Box 1186
Fairbanks, AK

Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

Official Business

465-4934
465-4935

Pouch V
State Capitol
Juneau, Alaska 99811

Donald Gilman, Chairman
Robert H. Ziegler, Sr., Vice-Chairman
Mike Colletta
Arliss Sturgulewski
Frank Ferguson

March 3, 1982

TO: Senator Donald E. Gilman, Chairman
Senate Community and Regional Affairs Committee

FROM: McKie Campbell, Staff
Senate Community and Regional Affairs Committee

RE: CSSB 180

A letter on Senate Bill 180 from Mr. Wolfgang Falke was received by all legislators this morning and a longer letter by him on the same subject was published in the Juneau Empire yesterday. Mr. Falke is very concerned about changes that SB 180 would make to some existing statutes to allow greater flexibility to municipalities. As everyone is aware, municipalities in Alaska range from the big city of Anchorage to rural communities with populations under 100. Senate Bill 180 was specifically drafted to allow municipalities to deal with their varying situations.

In the longer letter published in the Juneau Empire, Mr. Falke listed nine objections to SB 180. I would like to go through these one by one.

1. Mr. Falke is correct that SB 180 would prevent the formation of any new third class boroughs.

2. This item objects to the voting conditions surrounding adoption of home rule status. There is no change in the requirements listed in SB 180 from existing statute.

3. & 4. It is contended that the use of the word "municipality" in the relevant sections would allow the mayor or department heads to set penalties by regulation. This is a misreading of the bill. Legal Services states that the use of the term "municipality" allows for more precise drafting and eliminates confusion. All penalties would continue to have to be set by ordinance.

5. The letter states that petitions will be restricted to legislative matters only and would not be an available remedy to removal for offending regulations. Municipal regulations may only be drafted to implement specific ordinances and the petitionable remedy to offending regulations is to change the ordinances.

6. He is correct in stating that the time permitted for the obtaining of signatures for petitions is reduced from the present 90 days to 60 days.

7. Item number 7, appearing in the letter to the Juneau Empire, is the central point in Mr. Falke's letter to legislators, received this morning. Mr. Falke is concerned about AS 29.35.210(a)(8). This section permits a second class borough by ordinance to provide for economic development on a non-area wide basis. The borough would not be permitted to pay for this non-area wide service from the collection of area wide taxes or by general obligation bonding without voter approval. Second class boroughs would be able to pay for the economic development by the use of revenue bonds without voter approval, however, voter approval is not required under current statute for the use of revenue bonds.

8. Mr. Falke objects to AS 29.35.210(a)(1), which says that a second class borough may, by ordinance, provide transportation systems on a non-area wide basis. Existing statute, 29.48.030(a)(12), currently allows a municipality to exercise the powers necessary to provide for transportation systems. There is no significant change here from existing statute.

There is one additional item which is not addressed in Mr. Falke's letter but which I would like to address in this memorandum. I believe some misunderstanding has arisen over proposed section 29.40.090, Short Plat Procedure. The confusion arises from persons reading the title of the section without reading the body. The short plat procedure should not require any more formal procedures than the present waiver process. It is left to each local government to set whatever procedural requirements suit its situation. As in the case of the present waiver procedure, the proposed short plat process would allow boroughs to exempt the creation of a small number of lots from standard subdivision procedures.

I believe it should be emphasized that the thrust of SB 180 is not force new powers on municipalities, but to allow them a greater flexibility to meet their individual circumstances as determined by their citizens.

Objection - one of amendments - re: pen. int. on upaid taxes
raised from 20% (16)
10% (8)

Amendment - back to 10%

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~~ "shall" establish notice, hearing and other procedural requirements for the review, consideration, approval, alteration ~~and re-~~ shall? 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

REALTOR®

ALASKA ASSOCIATION OF REALTORS®
1818 W. Northern Lights Blvd., Suite 104 • Anchorage, Alaska 99503
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:ew

Attachment

CC: Senator Don Gilman
Senator Jay Kerttula
Senator Arliss Sturgulewski

TITLE 29 REVISIONS
Comment on CSSB 180 (C&RA)am

The following language is recommended to conform as closely as possible with present law relating to subdivision waivers and to define the flexibility of local government in establishing a short plat procedure.

Sec. 29.40.090. WAIVERS AND SHORT PLATS. (a) Notwithstanding other provisions of this chapter, the assembly shall establish short or abbreviated plat procedures in accordance with this section upon satisfactory evidence that

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

(2) the land is divided into four or fewer parcels;

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

(4) no vacation of a 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 created by subdivision is five acres in size or larger, 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 a short plat procedure.

29.40.100. INFORMATION REQUIRED. Except as otherwise provided for in AS 29.40.090, a plat shall show

(1) initial point of survey;

(2) original or reestablished corners and their descriptions;

(3) actual traverse showing area of closure and all distances, angles, and calculations required to determine initial point, corners, and distances of the plat; and

(4) other information that may be required by ordinance.

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~~ shall 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)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

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 inadvertantly 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 authorized 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.

3. On page 192, line 28 an existing chapter in Title 29 was inadvertantly 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 contract 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.

TBJ: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

Pat Notes

CSSB 180

Notes Chapter 29.14 - Capital City

Chp 143 1978 - Effective date =
"Thirty days after certification of adoption of a bond issue for relocation costs."
-As in Tom's memo.-

-

1981 Legislation Attached -

Now 82 - voters approval " the total cost to the state of providing for completion of relocation of a [illegible] final state capital."

The effect of Chp. 14 included in SB180 would enact the Capital City Council on July 1, 1982.

Possible to ~~repeal~~ delete Chp. 14 from SB180. & let it remain in existing law — w/ Bond passage as effective date.

Ques: for Ken Vassar - What was the purpose of [illegible] date of Capital City Council to bond passage rather than 1982 election or anything else?

he'll be back Monday.

Chapter 54

AN ACT

Relating to relocation of the state capital; repealing and reenacting the law enacted by the initiative popularly known as the 'FRANK Initiative' to provide for the determination of the costs of capital relocation, amending laws relating to the New Capital Site Planning Commission, and conditionally repealing laws relating to relocation of the state capital.

---

* Section 1. AS 44.06 96 is repealed and reenacted to read:

Sec. 44.06.196. CAPITAL RELOCATION EXPENDITURES. (a) Except for money used for planning, design, studies, and field investigations in accordance with the provisions of AS 44.06.200 - 44.06.299, state money may be spent to relocate the state capital from its present location to the new capital site at Willow only after a majority of those voting on the proposition at the 1982 general election have approved a ballot proposition that includes the total cost to the state of providing for completion of relocation of a functional state capital at the new capital site at Willow as provided in this section.

(b) The ballot proposition prepared and submitted to the voters under this section shall also show:

(1) the amount of the total cost that it is estimated may be defrayed by the net proceeds from disposal of land in the new capital site at Willow;

(2) the estimated cost, through the relocation completion

date, of providing for new or expanded facilities in Juneau and elsewhere to accommodate estimated growth in state government if the capital is not relocated;

(3) an estimate of the number of central state employees who are reasonably expected to be relocated from Juneau and from other existing, named locations to the new capital site at Willow; the estimate prepared under this paragraph shall be prepared in a manner consistent with the methodology used by the commission in determining the estimate in its 1978 report of the number of central state employees who are reasonably expected to be relocated to the new capital site at Willow, and the estimate shall be supported by information obtained from each of the branches of government;

(A) an estimate of the population reasonably expected to reside at the new capital site at Willow on the relocation completion date; the estimate prepared under this paragraph shall be based on the number of central state employees who are reasonably expected to be relocated to the new capital site at Willow estimated under (3) of this subsection; and

(5) the estimated costs, through the relocation completion date, of

(A) capital improvements;

(B) relocation of personnel and equipment; and

(C) indemnification under AS 44.08.

(c) The sum of the following costs, as estimated by the commission, shall be the total cost to the state that shall be included in the ballot proposition submitted to the voters under this section:

(1) the cost to the state as of the relocation completion date of the land development, capital improvements, equipment, and furnishings necessary to provide a functional state capital;

(2) the cost to the state as of the relocation completion date of relocating the central state employees and their dependents and household goods to the new capital site at Willow;

(3) the cost to the state as of the relocation completion date of moving offices, office equipment, and office contents sufficient to accommodate the central state employees at the new capital site at Willow;

(4) the cost to the state as of the relocation completion date of the indemnification requirements of AS 44.08;

(5) the cost to the state of the plans, designs, studies, and field tests for relocation of the capital through the relocation completion date;

(6) the cost to the state of the elements set out in the basic development plan described in (d) of this section, including payments deferred beyond the relocation completion date, to the extent those costs are related to relocation and are not otherwise provided for in items (1) - (5) of this subsection; and

(7) the cost to the state of financing the costs specified in this subsection.

(d) To estimate the costs under (c) of this section, the commission shall prepare a basic development plan. The commission shall prepare the basic development p an by revising the detailed development plan and cost estimates prepared by the commission in its report of March 15, 1978, in accordance with the provisions of AS 44.66 235 and this section. In making its revision, the commission shall revise those assumptions in the detailed development plan, if any, that are shown by substantial evidence to be erroneous and shall use the average rate of growth for central state positions and the average annual rate of inflation for construction costs and for other costs for the preced-

ing 10 years, taking into account any unusual growth or decline in growth caused by special circumstances. However, in estimating costs under (c) of this section, if public money is used for the development of facilities that will be conveyed to persons for private use and the public money will be recovered over a period of years, the estimated cost of the facility, for purposes of providing a cost estimate under (c) of this section, is the estimate of the difference between the amount expected to be recovered and the amount that would have been recovered if the public money had been invested over the same period of years at the average rate of return for investments made under AS 37.10.070.

(e) The commission shall prepare an estimate of the net proceeds reasonably expected to be received from the disposal of land at the new capital site at Willow through the relocation completion date. For purposes of this estimate, "net proceeds" means the increased value of lands expected to be disposed of if relocation occurs less the current value of those lands to the state in the absence of relocation of the state capital, taking into account the likelihood of disposal of those lands and of their producing revenue to the state.

(f) In estimating costs through the relocation completion date of providing for new or expanded facilities in Juneau and elsewhere in the absence of relocation, the commission shall

(1) exclude from its estimates the costs of facilities that would be required in Juneau and elsewhere even if relocation of the state capital were to proceed;

(2) use the same projections for growth in state government that it uses in preparing the basic development plan under (d) of this section and the cost estimates for the new capital site at Willow; and

(3) base its estimate of total space to accommodate its

estimate of the growth of state government on the state's past and current practice of providing public facilities at Juneau and elsewhere.

(g) In making its estimates, the commission shall neither overstate nor understate the costs, but rather shall make the most realistic estimates possible with the evidence available to it.

(h) The commission shall, on August 16, 1982, provide the legislature, the governor, the lieutenant governor, the director of elections, and the public with its basic development plan and a report setting out the cost estimates required by this section and the number of central state employees to be relocated from existing, named locations to the new capital site at Willow.

(i) After receipt of the report of the commission, the director of elections shall prepare a ballot proposition in accordance with this section and place it on the ballot at the 1982 general election.

(j) If the ballot proposition provided for in this section is approved by a majority of the votes cast on the question, an amount equal to the estimate of total costs may be expended to complete relocation of the capital. If the ballot proposition is rejected by a majority of those voting on the proposition, the Capital Relocation Initiative (AS 44.06.100 - 44.06.190), the "FRANK Initiative" as amended (AS 44.06.195, 44.06.196), the laws establishing the New Capital Site Planning Commission (AS 44.06.200 - 44.06.299), and the Relocation Indemnification Act (AS 44.08) are repealed.

(k) In this section

(1) "central state employees" means employees principally involved in matters that concern statewide activities of the state government rather than regional or local activities of the state government;

(2) "functional state capital" means a city that has the public buildings, public utilities, access roads, streets, and other facilities necessary to meet the operational needs of state government and to accommodate the numbers and classifications of central state employees estimated in (b) of this section, the population estimated in (b) of this section, and the general public;

(3) "relocation completion date" means the date that the commission, based on substantial evidence, estimates is the earliest practical date by which a functional state capital can be established in the new capital site at Willow.

* Sec. 2. AS 44.06.210(c) is amended to read:

(c) The members are entitled to receive <u>$200</u> [$100] per day for their service on the commission and per diem and travel expenses as authorized by law.

* Sec. 3. AS 44.06 is amended by adding a new section to read:

Sec. 44.06.235. PLANS. (a) The purpose of the commission is to prepare detailed plans for development of the capital site within the guidelines enumerated in this chapter.

(b) A basic development plan shall be completed in time to meet the requirements of AS 44.06.196 and shall be subject to public comment during its formulation. Following completion of the basic development plan, the commission shall make public presentations of it throughout the state.

(c) The basic development plan shall

(1) include, but need not be limited to, the following elements: government facilities, community facilities, transportation, public utilities, communication facilities, commercial and industrial development, residential development, resources, and environmental aspects; however, the plan shall assume that the development of commercial, industrial, and residential facilities shall be provided by the private sector to the maximum extent feasible;

(2) include provisions addressing each element described in (1) of this subsection in terms of its social and economic impact;

(3) address governmental jurisdictions, including statements as to the appropriate planning and development authority and recommendations as to the forms and powers of the local government; and

(4) develop a planning and implementation work program.

(d) The commission shall perform physical and geotechnical site-specific analysis and related mapping.

(e) The commission shall conduct an analysis of the opportunity for the reorganizing and regionalization of state government, and develop a list of executive agencies that are expected to be located in the capital. This list shall include the offices to be moved, the number of personnel to be employed in those offices, and the anticipated required office space for that number of persons. This list shall be used for capital site planning purposes only, and is not binding as to which executive agencies may be located in the capital. The commission shall then develop a relocation phasing plan.

(f) The commission shall recommend to the legislature the type of development entity that would be responsible for capital city development as well as the powers and authority that should be vested in this development entity.

(g) The commission shall conduct a cost analysis that includes proposed construction schedules and related cost studies including but not limited to construction costs and escalation and energy-efficient construction costing. The commission shall also prepare financing analysis including the investigation of funding alternatives and submission of a recommended financial plan to the legislature.

(h) The commission shall determine the environmental and ... permits necessary for the construction of the capital and shall recommend to the legislature any possible methods to expedite this process while protecting the environmental quality of the area.

(i) The commission may undertake other activities as are appropriate to carry out its functions, including but not limited to investigating the most economical and expeditious means of procurement, construction methods, construction alternatives, and labor costs.

(j) The commission shall provide a comprehensive assessment of the social, economic and environmental impact on the Matanuska-Susitna Borough and the City and Borough of Juneau in accordance with generally accepted standards for these procedures. The assessment shall emphasize the effect of governmental relocation on all items listed in this section.

* Sec. 4. AS 44.06 is amended by adding new sections to read:

Sec. 44.06.270. GENERAL DEVELOPMENT PLAN. (a) Simultaneously with the preparation of the basic development plan under AS 44.06.190 and 44.06.233(b), the commission shall begin preparation of a general development plan for the new capital site at Willow. To the extent that they are not adequately covered by the basic development plan prepared by the commission, the general development plan shall include but is not limited to,

(1) an estimate of the proposed uses of land throughout the entirety of the new capital site at Willow, with a general allocation of the amounts and proportions of land to be devoted to governmental, residential, commercial, industrial, institutional, and public uses, and indicating the anticipated population and building densities for the new capital site at Willow based on the proposed uses of the land;

(2) an estimate of the cost, number, nature, and general location of governmental and institutional facilities relating to use of the site as the new capital of the state, public transportation and major arterial street systems, parks and recreational facilities, water, sewer and drainage systems, electric, telephone and other energy or communications systems or utilities, and health, educational and community facilities;

(3) the approximate time schedule for the stages of development of the new capital site at Willow with reference to both the various parts of the new capital site and to the various types or categories of land uses proposed;

(4) the means of financing the facilities described in (2) of this subsection, the anticipated sources of money for completion of the facilities, and the means by which borrowed money required to complete the facilities is to be repaid; and

(5) any additional statements or documentation that the commission considers necessary or appropriate.

(b) The commission shall include in the general development plan an estimate of

(1) the minimum acreage of land to be allocated for the location and construction of state offices and related state facilities; and

(2) the minimum acreage of land to be set aside and allocated for parks, lakes, recreation and open space use, that, when developed, is available for the use and enjoyment of the general public.

(c) The commission shall hold at least one hearing in each judicial district of the state to receive comments from interested parties on the general development plan proposed by the commission. Each hearing shall be held in a community of the state selected by the commission. Public notice of a hearing under this subsection shall be given

by the commission by publication in a newspaper of general circulatio in the community.

(d) Following the completion of public hearings, the commission shall approve the general development plan. The plan may be approved with or without amendment. To be adopted, the general development plan requires approval by at least two-thirds vote of the full membership of the commission upon a finding that the plan is in accordance with and furthers the purposes of this chapter. The commission shall submit the general development plan to the assembly of the Matanuska-Susitna Borough and becomes effective only after review and comment by the assembly. The assembly shall submit its comments on the general development plan to the commission not later than 60 days after submission of the plan to the assembly.

(e) Maj amendments to the general development plan may be made in accordance with the same procedure set out in this section for approval of the plan. Minor amendments of limited application may be made without following the procedure of this section. However, when adopting a minor amendment, the commission shall publish notice of the proposed amendment that it considers appropriate and shall invite written comments on the proposed amendment before its adoption.

(f) An amendment to the general development plan takes effect on the date set by the commission. However, a major amendment may not take effect unless it is reviewed by the Matanuska-Susitna Borough in accordance with (d) of this section.

Sec. 44.06.280. SPECIFIC DEVELOPMENT PLANS. (a) Simultaneously with the preparation of the basic development plan under AS 44.06.[illegible] and 44.06.235(b), the commission shall also begin preparation of one or more specific development plans for the new capital site at Willow. A specific development plan includes, but is not limited to,

(1) a description of the area to be developed;

(2) a detailed and specific statement of the proposed uses in the area to be developed, including proposed locations of all buildings and structures;

(3) a general description of the land-use restrictions or covenants proposed for the area to be developed;

(4) a map of the existing and proposed transportation and utility systems in the area to be developed;

(5) a statement of the methods by which the property in the area to be developed may be disposed of;

(6) a statement of the relationship between the specific development plan and the general development plan; and

(7) any additional statements or documentation that the commission considers necessary or appropriate.

(b) A specific development plan shall be approved by the commission only after the general development plan has been adopted by the commission. A specific development plan becomes effective only after review and comment by the assembly of the Matanuska-Susitna Borough. The assembly shall submit its comments within 60 days of submission of the plan to the assembly.

(c) Amendments to a specific development plan may be made according to the procedure established in this section for approval of a specific development plan.

(d) The commission shall record a specific development plan and any amendments in the appropriate recording district.

(e) A specific development plan constitutes the controlling document and land use plan for the area to be developed.

(f) Approval of a specific development plan is an amendment to the relevent portion of the general development plan. A specific de-

velopment plan which constitutes a substantial change from the general development plan is subject to the provisions applicable to amendments to the general development plan under AS 44.06.270(d) and (e).

Sec. 44.06.290. LAND. Land within the new capital site at Willow reserved by the commissioner of natural resources under AS 44.06.130 as "reserved use land" may not be classified and made available for homesites under AS 38.08.

Sec. 44.06.299. DEFINITION. In AS 44.06.195 - 44.06.299, "commission" means the New Capital Site Planning Commission.

* Sec. 5. AS 44.06.230 is repealed.

* Sec. 6. FILLING VACANCIES IN COMMISSION MEMBERSHIP; MEETING. Within 15 days after the effective date of this Act, the governor shall fill any vacancies in the membership of the New Capital Site Planning Commission and shall call the first meeting of the commission.

* Sec. 7. REPORTS. The New Capital Site Planning Commission shall provide reports of its work under AS 44.06.196, 44.06.235, and 44.06.270 - 44.06.299 by April 15, 1982, and August 16, 1982. These reports shall be distributed to the governor, presiding officers of the legislature, chief justice of the supreme court, and the general public.

LA

Source

HB 314 am S

Relating to employm
effective date.

BE IT ENACTED BY THE LE

THE AC

UNDERLINED MAT
THE LAW AND BR
DELETIONS FRO
REPEALED AND R
LINE OF EACH R

Approved by the Gove
Actual Effective Dat

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 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 Attoney 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.

21-P1LH

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 modifiedversion 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 M[illegible]rter, Director
Local Government Assistance Division

Enclosures

cc: Senator Don Gilman

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

P. O. Box 1166
Fairbanks, Alaska 99707
452-4275

MAR 23 RECD

Eleventh Open Letter to all
Legislators of the State of Alaska

March 15, 1982

Re.: CSSB 180 am - An Unconstitutional Act--(It will eliminate maximum local self-government and local voter approval of municipal powers to be exercised by local governments.)

Dear Representative O'Connell:

The State Senate passed CSSB 180 am 13 to 6, among those who voted No was every member of the Senate Judiciary Committee. In my recent letters, of which I sent you copies, I warned that passage of CSSB 180 as written would result in law conflicting with the principles set forth in the Alaska Constitution, Article X in particular. Now it will be the responsibility of the State House to make the necessary corrections, or to defeat the bill.

The State Senate amended CSSB 180 on page 115, changing the rates of penalty and interest from 20 % to the present 10 % and from 15 % to the present 8% maximum rate. Apparently it was overlooked to make the same adjustment on page 122, line 25; the House should make this correction.

The Senate further amended AS 29.25.070(a) by deleting "and may require mandatory, nonsuspendable imprisonment not to exceed five days" but failed to correct the ambiguously termed "a municipality may prescribe penalties" language. Line 4, page 59 should be further amended to reflect as follows: "the legislative body of a municipality may prescribe by ordinance penalties ..." (If this correction is not made, AS 29.25.070(a) may be interpreted to mean that the mayor or a department head may by regulation prescribe penalties. Under present law, AS 29.38.200, the assembly or council may prescribe a penalty.)

AS 29.25.070(b) should be amended by deleting on page 59, lines 11 and 12 "or a threatened violation" (any such allegation will most likely be conflicting with first amendment rights - freedom of speech - and therefore not be upheld by the courts; it will be a tool solely for harassment actions, that is something not for the good of the people as a whole.) This provision should be further amended by deleting on page 59 lines 13 and 14 "Each day that a violation of an ordinance continues constitutes a separate violation." (This is like above a provision for the purpose of harassment and fear-provocation, because

if applied as written, it may wipe out one's total investment for a violation of a land use regulation; or is this the true indent?') Likewise and for the same above stated reasons AS 29.40.190 should be amended by deleting on page 94, line 25 "or threatened violation" and by deleting AS 29.40.190(b) "Each day that an unlawful act or condition continues constitutes a separate violation." on page 94, lines 27 and 28. Chapter 40 should be further amended by deleting AS 29.40.180 in its entirety (page 94, lines 6 through 16) because this provision is basically covered by AS 29.25.070(a) and any proposed provisions over and above those of AS 29.25.070(a) therein must be considered violative of the U.S. Constitution and our Alaska Constitution, Article I, in particular. (Only if the proposed imposements of Chapter 40 are written and recorded in a manner as provided for restricted covenant within an existing deed may they be enforcable in a lawful and constitutional way.; 'No State shall pass any law impairing the obligation of contract.") For the reasons stated it would be advisable to change many of the "shalls" to "mays", especially when enforcement without specific written consent of the individual property owner may be possible, within Chapter 40.

AS 29.40.060(b) should be deleted (page 89, lines 19 to 23) because it will not provide due process of law and is conflicting directly the Rules of Appellate Procedure. It could be amended to read "An appeal to the superior court is an administrative appeal, the record for that may be prepared by the hearing officer, board of adjustment, or other body. The superior court, may sit with or without a jury, and may upon motion of a party or upon his own discretion in lieu of an appeal grant a trial de novo."

Not the number of individuals must be defined nor the matter for petition must be restricted beyond the requirements of the Constitution, therefore on page 62, line 13 should be amended to replace shall for "may" be signed by at least 10 voters ... and AS 29.26.-110(a) "(3) relates to a legislative rather than to an administrative matter; and (4) would be enforcable as a matter of law." on page 62, lines 21 through 23, should be deleted. On page 63, lines 6 and 24 "60 days" should be replaced with "90 days", in order to be in conformance with present law requiring a period 90 days during which signatures for a petition may be secured. (reasons more detailed for the above are enumerated in my 8th open letter dated 2/14/82, of which I mailed you a copy)

Although there is no first class borough incorporated at this time, people who like to consider incorporation with first class municipal powers should have the option to vote on areawide transportion systems, such as bus, railroad, pipeline, or truck-transportation, therefore AS 29.35.200(b)(1), line 21 at page 78, should be deleted. Established second class boroughs may acquire additional area-wide and non-areawide municipal powers by majority voter approval of the people affected only, and each proposed additional power to be exercised by a second class borough government must appear separately on the ballot. This right to vote for the approval of each additional power was retained by the people of second class boroughs at the time they voted to incorporate with the powers of a second class borough, therefore it is unlawful and unconstitutional for the Legislature to "confer" such powers through local or special legislation (Alaska Constitution, Article I, Sections 2, 15, 21, Article II, Section 19 and Article X, Section 1 in particular.) The State may only confer powers of the State (such as Health, Education and Welfare, etc.) and then only with the consent of the local governments, and in the case of second class boroughs, with voter approval. Although many powers were conferred without local voter approval, people accepted such legislation without judicial determination, not because it was lawful or constitutional, but most likely because they felt it was not worth the hardships and troubles associated with such litigation. The people of the Fairbanks North Star Borough voted only for the borough government to provide for public bus transportation, proposed AS 29.35.210(a)(1) and AS 29.35.210(b)(1) would allow the borough government to provide for any other transportation system without voter approval of those affected, and this will most likely be challenged in court; AS 29.35/210(a)(8) would allow the borough government to unrestrictively provide for "economic development", and that is something the Fairbanks voters turned down with 75% No-votes, and this is one provision which most certainly will be challenged, should it become law. Therefore, I urge the House to amend CSSB 180 am by deleting on page 79 lines 5, 16, and 22, "(1) provide transportation systems;" and "(8) provide for economic development;" nonareawide and "(1) provide transportation systems;" areawide. (Please see my 9th open letter, of which I sent you a copy, for more detailed facts regarding this matter.)

AS 29.35.490(c) at page 86 should be amended by adding "The exercise of each power in a service area which includes only vacant, unappropriated, and unreserved land owned by the borough or the state must be approved by a majority vote at an election held areawide in the borough; if the exercise of more than one additional municipal power is proposed, each must appear separately on the ballot." for the reason that in second and third class boroughs it was agreed at the time of incorporation between the voters and their governments that each additional municipal power exercised by the local borough government must be approved by the voters who pay for it or are affected. For example should the borough government decide a service area for police or fire protections shall be established on vacant, unappropriated, and unreserved land owned by the borough or the state, all the people of that borough will be affected and pay a portion of the cost of such service area, therefore they must have the opportunity to vote for the exercise of each proposed service in such a service area. Also this argument is presently before the Alaska Supreme Court, case # 5761/5781, challenging the constitutionality of AS 29.63.090(a) and (f).

For the reasons stated in my Tenth open letter to all Legislators, of which I sent you a copy, and specifically for the reason that the Alaska Constitution, Article X, demands the Legislature to provide for law for maximum local self-government, incorporation for new third class boroughs must be provided for, as well as reclassifaction provisions from second class borough status to third class borough status, therefore, the following amendments to CSSB 180 am should be made:

page 2, line 25: add after first "or third"class borough;

page 4, lines 23 and 24: delete "An area may not incorporate as a third class borough."; and at line 25 add after second "or third" class borough:; and add likewise on page 5, line 24;

page 6, between lines 5 and 6 add "for a third class borough, a proposed designation of the powers to be exercised on a service area basis;"

page 7, line 26, add after each "areawide and" nonareawide power;

page 7, line 27, add after Adoption of "an additional areawide or";

page 10, lines 11 and 19 add after second class borough, "third class borough,"; and at line 15 after second "or third" class borough, ... ;

page 173, line 7, add after second "or third" class;

•pertains to second class borough only

AS 29.10.010.(a) (at page 26 of CSSB 180 am) should be amended by adding "A second or third class borough shall follow the proceedings set forth under AS 29.06.200 - 29.06.350 for the election of commission members and charter adoption." for the reason to insure more adequate representation of the areas outside cities and to insure a separate vote between the areas outside cities and the cities. The reasons are further detailed in my letter to the Senate C&RA dated 3/11/80, copy of which is attached hereto.

Please give careful consideration to the above made suggestions. Should CSSB 180 am become law without the proper amendements, Title 29 will no longer provide the law for maximum local self-government as required by our Alaska Constitution.

Very truly yours,

Wolfgang Falke

Wolfgang Falke

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 acco. lingly

Page 192, lin: 28:

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

REALTOR®

ALASKA ASSOCIATION OF REALTORS®
1818 W. Northern Lights Blvd., Suite 104 • Anchorage, Alaska 99503
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:ew

Attachment

CC: Senator Don Gilman
Senator Jay Kerttula
Senator Arliss Sturgulewski

TITLE 29 REVISIONS
Comment on CSSB 180 (C&RA)am

The following language is recommended to conform as closely as possible with present law relating to subdivision waivers and to define the flexibility of local government in establishing a short plat procedure.

Sec. 29.40.090. WAIVERS AND SHORT PLATS. (a) Notwithstanding other provisions of this chapter, the assembly shall establish short or abbreviated plat procedures in accordance with this section upon satisfactory evidence that

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

(2) the land is divided into four or fewer parcels;

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

(4) no vacation of a 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 created by subdivision is five acres in size or larger, 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 a short plat procedure.

29.40.100. INFORMATION REQUIRED. Except as otherwise provided for in AS 29.40.090, a plat shall show

(1) initial point of survey;

(2) original or reestablished corners and their descriptions;

(3) actual traverse showing area of closure and all distances, angles, and calculations required to determine initial point, corners, and distances of the plat; and

(4) other information that may be required by ordinance.

(d) The commission shall
(1) act as the platting board;
(2) act upon requests for variances;
(3) act upon requests for conditional uses.

(e) Subject to § 245 of this chapter, no platting request, variance or conditional use may be granted except upon an affirmative vote of a majority of the commission.

(f) The commission shall designate its presiding officer and shall meet as frequently as is necessary. The commission shall establish, subject to approval by the assembly, rules and regulations for the conduct of its meetings. Meetings shall be public and minutes shall be kept. Minutes and records shall be filed with the municipal clerk and retained as public records. (§ 2 ch 118 SLA 1972)

(g) Exceptions may be granted to building, housing and related codes by the planning commission when an applicant for an exception demonstrates that the exception will result in increased energy efficiency, unless the planning commission determines that the exception would endanger the health or safety of the public.
(am § 3 ch 83 SLA 1980)

Effect of amendment. — The 1980 amendment, effective June 13, 1980, added subsection (g).

C.J.S. reference.—62 C.J.S. Municipal Corporations § 227.

C.J.S. reference.—62 C.J.S. Municipal Corporations § 227.

Sec. 29.33.085. Comprehensive plan. (a) The comprehensive plan is a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the borough, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation.

(b) The assembly shall adopt a comprehensive plan based upon the recommendations of the planning commission. The assembly may modify the plan, provided that it first obtains the recommendations of the planning commission. The planning commission shall undertake an overall review of the plan at least once every two years and shall present recommendations based on the review to the assembly. (§ 2 ch 118 SLA 1972)

Sec. 29.33.090. Zoning. (a) In accordance with the comprehensive plan, the assembly shall regulate and restrict the use of land and improvements by districts or contract zoning to permit specific uses provided for in the contract. Regulations shall be uniform for each class or kind of building, structure, land or water area within each district, but the regulations may differ among districts and exceptions may be made in order to provide for the preservation, maintenance and protection of historic areas, buildings and monuments. In this section, "contract zoning" means a zoning reclassification to a less restricted use when the owner of the rezoned property, either through an agreement with the assembly or a covenant in favor of the borough, places restrictions on the use of the land beyond the zoning requirements generally attaching to the new district in which the property has been placed. The assembly shall hold a public hearing on the proposed contract zoning.

(b) Zoning regulations adopted under (a) of this section may include, but are not limited to, restriction of

(1) land use;

(2) building location and use;

(3) the height and size of structures;

(4) the number of stories in buildings;

(5) the percentage of lot which may be covered;

(6) the size of open spaces;

(7) population density and distribution.

(c) Zoning regulations are designed to

(1) provide for orderly development,

(2) lessen street congestion;

(3) promote fire safety and public order;

(4) protect the public health and general welfare;

(5) prevent overcrowding;

(6) stimulate systematic development of transportation, water, sewer, school, park and other public facilities;

(7) encourage efficiency in the use of energy and the substitution of energy from renewable sources for energy from fossil fuels.

(d) Repealed by § 45 ch 85 SLA 1979.

(e) A zoning ordinance adopted or amended under (a) of this section may not preclude an activity authorized under a license or permit issued under AS 04 if the activity was licensed or permitted by the Alcoholic Beverage Control Board before the adoption of the zoning ordinance or zoning ordinance amendment.

(am § 1 ch 104 SLA 1974; am § 3 ch 142 SLA 1977; am § 45 ch 85 SLA 1979; am § 4 ch 83 SLA 1980; am § 9 ch 131 SLA 1980)

Effect of amendments. — The 1974 amendment added "or contract zoning to permit specific uses provided for in the contract" to the end of the first sentence of subsection (a) and added the third and fourth sentences of that subsection.

The 1977 amendment added subsection (d).

The 1979 amendment repealed former subsection (d), which read: "The assembly shall regulate and restrict the use of state land within the borough which is vacant, unappropriated and unreserved and which is found suitable for classification and disposal for the homesite entry under AS 38.05.010. Compliance with the provisions of this subsection is a prerequisite to issuance of the homesite entry permits for land within the borough."

The first 1980 amendment, effective June 13, 1980, added paragraph (7) in subsection (c).

The second 1980 amendment, effective July 1, 1980, added subsection (e).

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

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

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 inadvertantly 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 authorized 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.

3. On page 192, line 28 an existing chapter in Title 29 was inadvertantly 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 contract me if you have any questions regarding these techncial corrections and let me know if you would like the corrections incorporated into a committee substitute for your committee.

TBC:1jb

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~~ shall establish notice, hearing and other procedural requirements for the review, consideration, approval, alteration and replatting 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)

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

(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.

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

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

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

Changes made in Committee:

	CSSB 180	CSHB 170
1.	600 pop. necessary for reclassification of 2nd class to 1st class status.	400 population requirement for reclassification
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.	---------none---------
3.	----------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 proceedure. Returned to mandate of current law in waiver proceedure. (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)

CSSB 180	CSHB 170
8. By Gilman/Kerttula - amended percentages back to current law. (Pg. 115)	Rates of Penalty & Interest: 20%, 15%, 20%
9. By Sen. CRA- amended definition of 'subdivision' to be consistent with other statutory references. (Pg. 174)	

TABLE I

LOCAL ASSESSMENT POLICY

BOROUGHS	RESIDENTIAL AV	RESIDENTIAL EX	GENERAL PERSONAL PROPERTY AV	GENERAL PERSONAL PROPERTY EX	MOTOR VEHICLES AV	MOTOR VEHICLES EX	BOATS & VESSELS AV	BOATS & VESSELS EX	BUSINESS INVENTORY AV	BUSINESS INVENTORY EX	AIRCRAFT AV	AIRCRAFT EX
ANCHORAGE, MUNICIPALITY OF	X	-	X	-	2	-	X	-	X	-	Y	-
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	-	-	Y	-	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	-
CITIES												
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	-		NA
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))

FRIDAY, MARCH 26
SB 830, SB 836, CSSB 180 (C: RA) am

ALLEN TESCHE
DEPUTY MUNICIPAL ATTORNEY
MUNICIPALITY OF ANCHORAGE

SUPPORTS THE BILL

CONCERNED OVER AN AMENDMENT WHICH IS TO BE PROPOSED.

THE AMENDMENT WOULD HAVE THE EFFECT OF EXEMPTING FROM MUNICIPAL PLANNING, PLATTING, AND ZONING REGULATIONS CERTAIN ENERGY RELATED FACILITIES OR OTHER PROJECTS WHICH EXIST OR ARE PERMITTED UNDER SOME FEDERAL PERMIT OR LICENSE.

WE'VE REVIEWED THE AMENDMENT AND IT APPEARS TO BE A PROPOSED LIMITATION ON HOME RULE POWERS. IF THIS AMENDMENT IS OFFERED, LIKE OPPORTUNITY TO FURTHER COMMENT ON THE AMENDMENT. AT THIS TIME WE'D STRENUOUSLY OPPOSE INCLUSION OF THAT AMENDMENT IN THE LEGISLATION

THE EFFECT OF THAT AMENDMENT WOULD BE TO PERMIT VIRTUALLY ANY KIND OF FACILITY THAT EXISTS

TO BE TOTALLY EXEMPT FROM MUNICIPAL PLATTING, PLANNING, ZONING REGULATIONS INCLUDING HOME RULE MUNICIPALITIES; AND THAT IS THE VERY KIND OF SIGNIFICANT SUBSTANTIAL POLICY CHANGE WHICH, IN OUR VIEW, SHOULD NOT BE PUT IN THIS HOUSEKEEPING LEGISLATION.

CLOCKSIN: UNDER EXISTING LAW AND UNDER THIS PROPOSED AMENDMENT, DOES THE MUNICIPALITY OF ANCHORAGE HAVE THE AUTHORITY, SHOULD IT DECIDE TO DO SO, TO IMPOSE RENT CONTROL?

TESCHE: IN MY VIEW, UNDER THE EXISTING STATUTES AND THE HOME RULE CHARTER OF ANCHORAGE, ANCHORAGE CAN RIGHT NOW IMPOSE RENT CONTROL IF THE ASSEMBLY CHOOSES TO DO SO. IF THIS BILL WERE PASSED I DON'T [redacted] BELIEVE THAT WOULD EFFECT ANCHORAGE'S ABILITY TO IMPOSE RENT CONTROL IF ITS ASSEMBLY WANTED TO.

STEVEN MORRISSETT
ATTORNEY, MAT-SU BOROUGH

SUPPORT THE REVISED TITLE 29

THE HAND OUT IS A PROPOSED CHANGE WHICH IS STRICTY A HOUSE KEEPING CHANGE RELATING TO THE SUBDIVISION PLAT PROCESS AND SPECIFICALLY

TO THE PROCESS OF SUBDIVISION WAIVERS.

CURRENT ALASKA STATUTE 29.33.170 PROVIDES FOR A WAIVER PROCESS FROM THE SUBDIVISION REGULATIONS IN CERTAIN CASES. THOSE CERTAIN CASES ARE WHERE YOU'RE LOOKING AT THE DIVISION OF A LARGE PARCEL, 40-20 ACRES. YOU'RE NOT LOOKING AT AN ANCHORAGE 6000 SQ. FT. LOT, BUT A LARGE PARCEL NORMALLY DIVIDED BY ALLOCATE. THE WAY THE CURRENT STATE STATUTE READS, ALLOWS A WAIVER PROCESS. ALLOWS AN INDIVIDUAL TO COME AND GO THROUGH A VERY ABBREVIATED ADMINISTRATIVE PROCESS. THERE'S NOT NECESSARILY A PUBLIC HEARING, THERE'S NO FORMAL SURVEY REQUIREMENTS AND THAT ALLOWS FOR CHEAP SUBDIVISION OF LARGE PARCELS UP TO 4 INDIVIDUAL PIECES SO LONG AS NONE OF THE INDIVIDUAL PIECES IS SMALLER THAN 5 ACRES.

THE CURRENT LANGUAGE DOES NOT CLEARLY ALLOW THIS WAIVER PROCESS TO CONTINUE. THE LANGUAGE I HAVE PROPOSED IS SIMPLY AN ADDITION TO THE PROPOSED SUB-SECTION(b) OF THE LAST PART OF THAT LAST SENTENCE; INCLUDES A PROVISION FOR THE WAIVER OF SURVEY AND OTHER FORMAL REQUIREMENTS WHERE EACH PARCEL CREATED IS 5 ACRES OR LARGER IN SIZE. OF THIS, I BELIEVE WOULD MAKE THE PROPOSED TITLE 29 REVISION CONSISTENT WITH

CURRENT LAW. I THINK IT WOULD BE APPROPRIATE TO MAKE THIS CORRECTION AND KEEP THE WAIVER PROCESS IN THE LAW.

O'CONNELL: OTHERS HAVE COME TO ME WITH THE SAME THING. I ASSUME THIS PROPOSED AMENDMENT WILL BE TAKEN UP AND DEALT WITH AS PROPOSED AMENDMENT TO THE BILL.

MORRISSETT: PURPOSE IN PUTTING THIS PARTICULAR LANGUAGE FOR IT; IT SEEMS A SIMPLE WAY TO ACCOMPLISH IT.

CLOCKSIN: AS I UNDERSTAND, THE NEW LANGUAGE "AND WOULD PROVIDE FOR WAIVER OF SURVEY..." THAT'S THE ONLY CHANGE?

MORRISSETT: YES

O'CONNELL: THE "SHALL" WAS PUT IN BY THE SENATE SO I IN THERE NOW

CLOCKSIN: WAS THIS AMENDMENT PROPOSED EITHER IN THE SENATE COMMITTEE OR ON THE FLOOR OF THE SENATE

MORRISSETT: NO