

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

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29.58.300	29.47.400	Sale
29.58.210	29.47.410	Forms and Terms
29.58.310	29.47.420	Interest Rate
29.58.320	29.47.430	Redemption Before Maturity
29.58.340	29.47.440	Borough Indebtedness
New	29.47.450	Service Area Debt
		CHAPTER 55. MUNICIPAL PROGRAMS
29.48.108	29.55.010	Creation of Local Historical District
		Commissions
29.48.110	29.55.020	Establishment of Historical Districts

CHAPTER 60. STATE PROGRAMS

Article 1. Municipal Tax Resource

Equalization

29.88.010	29.60.010	State Equalization of the Tax Resources for Municipal Services
29.88.015	29.60.020	Determination of Population
29.88.020	29.60.030	Determination of Millage Rate Equivalent Reports
29.88.025	29.60.040	Limitation on Computation and Use of Payments
29.88.030	29.60.050	Tax Equalization Account
29.88.035	29.60.060	Administration
29.88.040	29.60.070	Definitions
29.88.045	29.60.080	

Article 2. State Aid for Miscellaneous Purposes

29.89.010	29.60.100	Revenue Sharing Payable
29.89.020	29.60.110	State Aid to Municipalities for Roads
29.89.030	29.60.120	State Aid to Municipalities and Other Eligible Recipients for Health Facilities and Hospitals
29.89.040	29.60.130	State Aid to Volunteer Fire Departments not in Organized Municipality
29.89.050	29.60.140	State Aid to Native Village Governments
29.89.060	29.60.150	Population Determination
29.89.070	29.60.160	Area Cost-of-Living Differential
29.89.080	29.60.170	Miscellaneous Services Account
29.89.090	29.60.180	Regulations
29.89.100	29.60.190	Definitions

Article 3. State Aid for Hospital Construction

29.90.010	29.60.230	State Aid for Hospital Construction
29.90.020	29.60.240	Hospital Construction Assistance Account
29.90.030	29.60.250	Definitions
New	29.60.260	Application

Article 4. Administration of Municipal Financial Programs

29.95.010	29.60.280	Allocation and Distribution
29.95.020	29.60.290	Qualification for Minimum Payment
29.95.030	29.60.300	Proration of Payments

29.18.201	29.65.010	CHAPTER 65. GENERAL LAND GRANT Determination of Entitlement of Home Rule and General Law Boroughs and Unified Municipalities
29.18.203	29.65.020	Determination of Entitlement for Newly Incorporated Municipalities
29.18.204	29.65.030	Status of Entitlements
29.18.205	29.65.040	Fulfillment of Land Entitlements
29.18.206	29.65.050	School, University, and Mental Health Land
29.18.207	29.65.060	Selection and Conveyance Procedure
29.18.208	29.65.070	Payment for Land Deficiency
29.18.209	29.65.080	Authorization for Land Exchanges
29.18.210	29.65.090	Public Purpose and Expansion Needs
29.18.211	29.65.100	Election of Benefits
29.18.212	29.65.110	Administration
29.18.213	29.65.120	Definitions
New	29.65.130	Application
29.73.030	29.71.010	CHAPTER 71. GENERAL PROVISIONS
New	29.71.020	Adverse Possession
29.73.040	29.71.030	Dedication of Municipal Property
29.78.010	29.71.040	Taxation of Municipalities Definitions

#2 Cook ✓

A M E N D M E N T

TO: CSSB 180(C&amp;RA)

By Ferguson

CSHB 170(C&amp;RA)

1  
2  
3 Page 104, line 28, after "residing" insert:

4 "or working at an isolated job site"

5  
6 Page 105, line 6:

7 Delete "residents of" and insert "persons residing or working at a  
8 remote job site in"

9  
10 Page 105, line 13:

11 Delete "population" and insert "number of persons residing in a muni-  
12 cipality"

13  
14 Page 105, line 16:

15 Delete "the" and insert "shall include permanent residents and military  
16 personnel or employees of a military reservation located in the muni-  
17 cipality. For purposes of this section, the number of persons working  
18 at an isolated job site in a municipality shall be determined by the  
19 commissioner of community and regional affairs based on information  
20 supplied by employers of persons at isolated job sites. The"

21  
22 Page 105, line 17:

23 Delete "its population" and insert "the number of persons residing or  
24 working at a remote job site in the municipality"

25  
26  
27  
28  
29

Page 145, line 24:

Delete "(a)"

Page 145, line 25, after "shall" insert:

"include permanent residents, military personnel or employees of a military reservation located in the taxing unit, and persons working at an isolated job site in the taxing unit. Population shall"

Page 145, line 28, after "reliable" insert:

"and by information supplied by employers of persons at isolated job sites"

Page 145, line 29:

Delete all material

Page 146, line 1:

Delete all material

Page 152, line 26, after "shall" insert:

"include permanent residents, military personnel or employees of a military reservation, and persons working at an isolated job site. Population shall"

Page 152, line 29:

Delete "or"

Page 153, line 1, after "payrolls" insert:

","and information supplied by employers of persons at isolated job sites"

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1 of the land and the anticipated percentage of income. An applicant  
2 using this procedure shall file with the assessor before February 1 of  
3 the following year a notarized statement of the percentage of gross  
4 income attributable to the farm use land. Failure to make the filing  
5 required in this subsection forfeits the exemption.

6 (d) In the event of a crop failure by an act of God the previous  
7 year, the owner or lessee may submit an affidavit affirming that 10  
8 percent of his gross income for the past three years was from farming.

9 (e) Subject to legislative appropriations for the purpose, the  
10 state shall reimburse a borough or city, as appropriate, for the real  
11 property tax revenues lost to it by the operation of this section.

12 Sec. 29.45.075. MOBILE HOMES. Mobile homes, trailers, house  
13 trailers, trailer coaches and similar property used or intended to be  
14 used for residential, office, or commercial purposes and attached to  
15 the land or connected to water, gas, electric, or sewage facilities are  
16 classed as real property for tax purposes unless expressly classified  
17 as personal property by ordinance. This section does not apply to  
18 house trailers and mobile homes that are unoccupied and held for sale  
19 by persons engaged in the business of selling mobile homes.

20 Sec. 29.45.080. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROP-  
21 ERTY. (a) A municipality may levy and collect taxes on property  
22 taxable under AS 43.56 only by using one of the methods set out in (b)  
23 or (c) of this section.

24 (b) A municipality may levy and collect a tax on the full and  
25 true value of property taxable under this chapter and under AS 43.56 as  
26 valued by the Department of Revenue at a rate not to exceed that which  
27 produces an amount of revenue from the total municipal property tax  
28 equivalent to \$1,500 a year for each person residing in its boundaries.

29 (c) A municipality may levy and collect a tax on the full and

1 true value of that portion of property taxable under this chapter and  
2 under AS 43.56 as assessed by the Department of Revenue which value,  
3 when combined with the value of property otherwise taxable by the  
4 municipality, does not exceed the product of 225 percent of the average  
5 per capita assessed full and true value of property in the state multi-  
6 plied by the number of residents of the taxing municipality. For  
7 purposes of this subsection, the average per capita assessed full and  
8 true value of property in the state shall be calculated without regard  
9 to the assessed value of taxable property under AS 43.58.

10 (d) By February 1 of each assessment year a taxing municipality  
11 must inform the Department of Revenue which method of taxation the  
12 municipality will use.

13 (e) For purposes of this section, population shall be determined  
14 by the commissioner of community and regional affairs based on the  
15 latest statistics of the United States Bureau of the Census or on other  
16 reliable population data, and the commissioner shall advise each muni-  
17 cipality of its population by January 15 of each year.

18 Sec. 29.45.090. TAX LIMITATION. (a) A municipality may not,  
19 during a year, levy and tax for any purpose in excess of three percent  
20 of the assessed valuation of property in the municipality. All property  
21 upon which a tax is levied shall be taxed at the same rate during the  
22 year.

23 (b) A municipality, or combination of municipalities occupying  
24 the same geographical area, in whole or in part, may not levy taxes (1)  
25 that will result in tax revenues from all sources exceeding \$1,500 a  
26 year for each person residing within their boundaries; or (2) upon  
27 value that, when combined with the value of property otherwise taxable  
28 by the municipality, exceeds the product of 225 percent of the average  
29 per capita assessed full and true value of property in the state mul-

1 tiplied by the number of residents of the taxing municipality. If two  
2 or more municipalities occupying the same geographical area, in whole  
3 or in part, attempt to levy a tax (1) the combined levy of which would  
4 result in tax revenues from all sources exceeding \$1,000 a year for  
5 each person residing within their boundaries; or (2) upon value that,  
6 when combined with the value of property otherwise taxable by the  
7 municipality, exceeds the product of 225 percent of the average per  
8 capita assessed full and true value of property in the state multiplied  
9 by the number of residents of the taxing municipality, the commissioner  
10 shall apportion the lawful levy and equitably divide these revenues on  
11 the basis of need, services performed, and other considerations in the  
12 public interest. For the purpose of this subsection, population shall  
13 be determined by the commissioner based on the latest statistics of the  
14 United States Bureau of the Census or on other reliable population  
15 data. For purposes of this subsection, the average per capita assessed  
16 full and true value of property in the state shall be calculated without  
17 regard to the assessed value of taxable property under AS 43.58.

18 Sec. 29.45.100. NO LIMITATIONS ON TAXES TO PAY BONDS. The limita-  
19 tions provided for in AS 29.45.080 - 29.45.090 do not apply to taxes  
20 levied or pledged to pay or secure the payment of the principal and  
21 interest on bonds. Taxes to pay or secure the payment of principal and  
22 interest on bonds may be levied without limitation as to rate or amount,  
23 regardless of whether the bonds are in default or in danger of default.

24 Sec. 29.45.110. FULL AND TRUE VALUE. (a) The assessor shall  
25 assess property at its full and true value as of January 1 of the  
26 assessment year, except as provided in this section, AS 29.45.060, and  
27 29.45.230. The full and true value is the estimated price that the  
28 property would bring in an open market and under the then prevailing  
29 market conditions in a sale between a willing seller and a willing

1 (A) the actual revenue derived from the levy and collec-  
2 tion of local taxes in the taxing unit for municipal services  
3 during the preceding fiscal year of the taxing unit;

4 (B) motor vehicle payments received by the municipality  
5 during the preceding fiscal year under AS 28.10.431;

6 (C) revenue from fees, rentals, leases, penalties,  
7 licenses or permits received during the preceding fiscal year by  
8 the municipality for a function or service over which it has con-  
9 trol, including revenues derived from parks and recreation ser-  
10 vices, mass transit, offstreet parking, and garbage and solid waste  
11 disposal services;

12 (D) special assessments received during the preceding  
13 fiscal year; and

14 (E) payments received by a municipality from a utility  
15 that are in place of taxes levied and collected by the municipal-  
16 ity;

17 (2) excludes

18 (A) revenue derived from the levy and collection of  
19 municipal taxes and appropriated for the operating expenses and  
20 debt service of utilities;

21 (B) revenue from interest earned on investments and from  
22 the sale and lease of land or equipment; and

23 (C) all other revenue from whatever service derived.

24 Sec. 29.60.020. DETERMINATION OF POPULATION. (a) For purposes of  
25 AS 29.60.010 - 29.60.080, the population of a taxing unit shall be  
26 determined annually by the latest figures of the United States Bureau of  
27 the Census or other population data that, in the judgment of the depart-  
28 ment, is reliable.

29 (b) The population of the taxing unit includes the population of

1 any military reservation that is a part of the taxing unit.

2 Sec. 29.60.030. DETERMINATION OF MILLAGE RATE EQUIVALENT. (a)

3 The department may require a municipality to return a certification,  
4 signed by the municipal treasurer or manager and the mayor, that provides  
5 an estimate of the locally generated revenue received by the municipality  
6 during the preceding fiscal year.

7 (b) By October 15 of each year, the department shall make an  
8 initial determination of the millage rate equivalent of each taxing unit  
to be used for computing and distributing equalization entitlements for  
10 the current fiscal year under AS 29.60.010 - 29.60.080. The department  
11 shall base the initial determination on the estimates in the certifica-  
12 tion returned by a municipality under (a) of this section.

13 (c) As early as possible, but not later than December 15 of each  
14 year, the department shall make a final determination of the millage  
15 rate equivalent of each taxing unit to use to compute and distribute  
16 equalization entitlements under AS 29.60.010 - 29.60.080. The depart-  
17 ment shall base the determination on audits, financial statements and  
18 other financial reports prepared and submitted by a municipality. The  
19 department shall adjust the locally generated revenue reported by a  
20 municipality to exclude the municipal revenue claimed that does not  
21 qualify for inclusion in or recognition as locally generated revenue for  
municipal purposes under AS 29.60.010(c)(1). The adjustment shall be  
23 made by deducting from total revenue claimed by the municipality the  
24 amount of the department's estimate of revenue that is not recognized  
25 for municipal purposes.

26 (d) The full and true assessed property value shall be determined  
27 by the department in the manner provided for the computation of state  
28 aid to education under AS 14.17.140. When the determination of locally  
29 generated revenue includes revenue of a utility received under AS 29.-

1 (c) Subsections (a) and (c) of this section apply to home rule and  
2 general law municipalities.

3 Sec. 29.60.130. STATE AID TO VOLUNTEER FIRE DEPARTMENTS NOT IN  
4 ORGANIZED MUNICIPALITY. (a) The department shall pay to a volunteer  
5 fire department registered with the state fire marshal and serving an  
6 area not in an organized municipality a sum for protection purposes  
7 equal to \$10 per capita for the population served by the fire department,  
8 as determined by the state fire marshal.

9 (b) A grant shall be made under (a) of this section to facilitate  
10 the organization of a volunteer fire department in an area not in an  
11 organized municipality, upon application of the proposed fire protection  
12 group to the state fire marshal and upon approval of applications accord-  
13 ing to standards of organization and service prescribed by regulations  
14 adopted by the state fire marshal.

15 Sec. 29.60.140. STATE AID TO NATIVE VILLAGE GOVERNMENTS. The  
16 state shall pay \$25,000 to a Native village government for a village  
17 that is not incorporated as a city under this title. In this section,  
18 "Native village government" means

19 (1) a local governing body organized by authority of the Act  
20 of Congress of June 18, 1934 (25 U.S.C. sec. 476); or

21 (2) a traditional village council or, if there is no tradi-  
22 tional village council, the paramount chief or other local governing  
23 body of a Native village that meets the requirements of the Alaska  
24 Native Claims Settlement Act (43 U.S.C. sec 1601 - 1628).

25 Sec. 29.60.150. POPULATION DETERMINATION. For purposes of AS 29.-  
26 60.100 - 29.60.130, population shall be determined by the latest figures  
27 of the United States Bureau of the Census or other reliable population  
28 data, including but not limited to public school enrollment figures,  
29 public utility connection, registered voters, or certified employment

1 payrolls

2           Sec. 29.60.160. AREA COST-OF-LIVING DIFFERENTIAL. (a) Payments  
3 to a municipality or other eligible recipient under AS 29.60.110 -  
4 29.60.120 shall reflect area cost-of-living differentials. Payments  
5 shall be based on the sum of per capita, per mile and per bed or facil-  
6 ity grants due each municipality or other recipient multiplied by the  
7 appropriate area cost-of-living differential. The area cost-of-living  
8 differential for each recipient shall be determined annually by election  
9 district under the provisions of AS 39.27.030. Application of the area  
10 cost-of-living differential may not result in distribution of an amount  
11 less than the amount of the payment determined without reference to  
12 application of this section.

13           (b) The election districts used to establish area cost-of-living  
14 differentials under (a) of this section are those designated by the  
15 proclamation of reapportionment and redistricting of December 7, 1961,  
16 and retained for the house of representatives by proclamation of the  
17 governor September 3, 1965.

18           Sec. 29.60.170. MISCELLANEOUS SERVICES ACCOUNT. The miscellaneous  
19 services account is established. Money to carry out the provisions of  
20 AS 29.60.100 - 29.60.180 shall be allocated by the department to the  
21 account in accordance with AS 29.60.280. If amounts in the account are  
22 insufficient to pay each municipality's or other recipient's share  
23 authorized under AS 29.60.100 - 29.60.180, the amounts that are avail-  
24 able shall be distributed pro rata among eligible municipalities and  
25 other recipients.

26           Sec. 29.60.180. REGULATIONS. The department shall adopt regula-  
27 tions necessary to carry out the purposes of AS 29.60.100 - 29.60.180.  
28 The regulations shall include minimum standards required to qualify a  
29 municipality or other recipient for payments for each service. The

Cook

A M E N D M E N T

#1

TO: CS FOR SENATE BILL NO. 180 (C&RA)  
CS FOR HOUSE BILL NO. 170 (C&RA)

1  
2 Page 10, lines 1 - 29, after "Sec. 29.05.180.":

3 Delete all material and insert

4 "ORGANIZATION GRANTS. (a) For the purpose of defraying the cost of  
5 transition to borough or city government and in order to provide for  
6 development and interim governmental operations, each first class  
7 borough, second class borough, and city incorporated after July 1, 1982,  
8 or, in the case of a second class city, incorporated or reclassified  
9 after July 1, 1982, is entitled to an organization grant equal to \$10  
10 for every voter who voted in the incorporation election. However, each  
11 incorporated first or second class borough and each first class city  
12 incorporated or established by reclassification outside an organized  
13 borough is entitled to at least \$25,000.

14 (b) Within 30 days after the date of incorporation of a first  
15 class borough, second class borough, or city after July 1, 1982, the  
16 Department of Community and Regional Affairs shall determine the number  
17 of voters in the municipality who voted in the incorporation election.

18 (c) Within 30 days after the completion of its findings, or as  
19 soon after that as money is appropriated to it for the purpose, the  
20 Department of Community and Regional Affairs shall transmit to the  
21 municipality the total amount of money to which the municipality is  
22 entitled under this section.

23 (d) This section does not apply to a borough incorporated by  
24 consolidation or to a unified municipality."

25  
26 Page 11, lines 1 - 27:

27 Delete all material.  
28  
29

#2 Cook

A M E N D M E N T

TO: CSSB 180(C&amp;RA)

CSHB 170(C&amp;RA)

1

2

Page 94, line 19:

3

After "real property" delete "," and insert "and"

4

After "personal property" delete ", or both"

5

6

Page 94, line 22:

7

Delete "real or personal"

8

Delete ", or both,"

10

Page 100, line 27:

11

After "AS 38.05.069(c)", change the period to a semi-colon.

12

13

Page 100, after line 27, insert:

14

"(3) exempt personal property from taxation."

15

16

Page 123, line 5:

17

Delete "real and personal"

18

19

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A M E N D M E N T

1 TO: CSHB 170(C&RA)

2 CSSB 180(C&RA)

3 Page 1, line 24:

4 Delete "four" and insert "five"

5  
6 Page 1, after line 26, insert:

7 "(3) third class boroughs;"

8  
9 Renumber following paragraphs accordingly.

10  
11 Page 2, after line 27, insert:

12 "(g) A third class borough may reclassify as a first or second  
13 class borough in the manner provided by AS 29.35.320 - 29.35.330 for the  
14 addition of an areawide power by a borough, except the petition or  
15 proposal requests reclassification instead of requesting addition of a  
16 power.

17 (h) At the time of voting on reclassification of a third class  
18 borough to second class or first class status, voters shall vote also on  
19 whether the borough shall on reclassification retain a combined assembly  
20 and school board or elect a separate assembly and board as otherwise  
21 provided for first and second class boroughs. If the majority of votes  
22 cast on the question favors retention of the combined assembly and

1 board, the assembly serving at the time of the reclassification election  
2 continues to serve as the assembly and board on voter approval of reclas-  
3 sification and until terms of assemblymen expire as provided before  
4 reclassification. If a separate board and assembly are approved at the  
5 reclassification election, a school board shall be elected in conformity  
6 with AS 14.12.030 - 14.12.100 at the next regular election, if it occurs  
7 within 90 days of the date of the reclassification election, or otherwise  
8 at a special election within 90 days of the date of the reclassification  
9 election. Expiration dates of terms of school board members elected at  
10 a special election must coincide with the date of the regular election.  
11 Until a board is elected and qualified, the assembly continues to serve  
12 as the board."

13 Page 2, lines 28 and 29:

14 Delete all material.

15 Page 3, lines 1 - 18:

16 Delete all material.

17 Page 4, line 19, after "law" insert:

18 "first or second class"

19 Page 5, line 18, after "a" insert:

20 "first or second class"

Page 14, line 3:

Delete "METHODS OF"

After "CONSOLIDATION." insert:

1       "(a) Two or more municipalities may merge or consolidate to form  
2 a single municipality, except a third class borough may not be formed  
3 through merger or consolidation.

4       (b)"

5  
6 Page 25, line 15, after "AS 29.05":

7 Delete "," and insert "or former AS 29.18.030 for a third class borough,"

8  
9 Page 28, after line 26, insert:

10       "(b) At the time of voting on the proposed charter in a third class  
11 borough, voters shall vote also on whether the borough shall on adoption  
12 of the charter retain a combined assembly and school board or elect a  
13 separate assembly and board as otherwise provided for home rule boroughs  
14 If the majority of votes cast on the question favors retention of the  
15 combined assembly and board, the assembly serving at the time of the  
16 charter election continues to serve as the assembly and board on voter  
17 approval of the charter and until terms of assemblymen expire as pro-  
18 vided before adoption of the charter. If a separate board and assembly  
19 are approved at the charter election, a school board shall be elected in  
20 conformity with AS 14.12.030 - 14.12.100 at the next regular election,  
21 if it occurs within 90 days of the date of the charter election, or  
22 otherwise at a special election within 90 days of the date of the charter

1 election. Expiration dates of terms of school board members elected at  
2 a special election must coincide with the date of the regular election.  
3 Until a board is elected and qualified, the assembly continues to serve  
4 as the board."

5 Re-letter following subsection accordingly.

6 Page 49, line 2, after "BOARDS.", insert "(a)

7 Page 49, line 3:

8 Delete "Members" and insert "Except as provided in (b) of this section,  
9 members"

10 Page 49, after line 6, insert:

11 "(b) The assembly is the school board for a third class borough.  
12 The mayor is the presiding officer of the assembly and president of the  
13 school board. The mayor has all powers of a borough executive, except  
14 that he may not veto an action of the school board."  
15

16 Page 77, line 5, after "basis", insert:

17 ", except areawide exercise of powers other than education and tax  
18 assessment and collection by a third class borough is not authorized"  
19

20 Page 78, line 2:

21 Delete "general law" and insert "first or second class"  
22

Page 79, after line 28, insert:

1 "Sec. 29.35.220. THIRD CLASS BOROUGH POWERS. (a) A third class  
2 borough may, if approved by a majority of the voters at an election,  
3 provide for planning, platting, and land use regulation in accordance  
4 with AS 29.40, except the power may only be exercised within a service  
5 area.

6 (b) A third class borough may exercise any power not otherwise  
7 prohibited by law if approved by a majority of the voters at an election  
8 except the power may only be exercised within a service area."

9 Page 80, after line 6, insert:

10 "(b) A home rule or first class city in a third class borough shall  
11 provide for planning, platting, and land use regulation as provided by  
12 AS 29.40 for first and second class boroughs. A second class city in a  
13 third class borough may provide for planning, platting, and land use  
14 regulation as provided by AS 29.40 for the first and second class bor-  
15 oughs."

16 Re-letter the following subsection accordingly.

17  
18 Page 80, line 20, after "for", insert:

19 "first and second class"

20  
21 Page 80, line 23:

22 After "POWERS.", insert "(a)"

23 After "A", insert "first or second class"

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Page 80, after line 27, insert:

"(b) The acquisition of additional powers under AS 29.35.220 for a third class borough may be initiated in two ways:

(1) a number of voters equal to 15 percent of the number of votes cast at the preceding regular election in the proposed service area may file a petition with the assembly; or

(2) the assembly may propose the acquisition of the power."

Page 84, line 26:

Delete "Boroughs" and insert "First and second class boroughs"

Page 178, lines 26 - 29:

Delete all material

Page 179, lines 1 and 2:

Delete all material

Renumber following bill sections accordingly.

Page 190, line 20, after "AS 28.35.260(10)" insert:

"AS 29.08; AS 29.13; AS 29.18; AS 29.23; AS 29.28; AS 29.33;  
AS 29.38; AS 29.41; AS 29.43; AS 29.53; AS 29.58; AS 29.63; AS 29.68;  
AS 29.73; AS 29.78; AS 29.88; AS 29.89; AS 29.90; AS 29.95;"

A M E N D M E N T

#4

1  
2 TO: CSHB 170(C&RA)

3 CSSB 180(C&amp;RA)

4  
5 Page 102, line 23, after "LAND":

6 Insert "AND COMMERCIAL GREENHOUSES"

7  
8 Page 102, line 27, after "purpose.":9 Insert "A commercial greenhouse shall be assessed on the basis of full  
10 and true value for farm use, whether classified as real or personal  
11 property for municipal purposes."12  
13 Page 102, line 28, after "the":

14 Insert "greenhouse or"

15  
16 Page 103, line 4, after "the":

17 Insert "greenhouse or"

18  
19 Page 103, line 9, after "of":

20 Insert "a commercial greenhouse or"

21  
22 Page 103, line 14, after <sup>the second</sup> "the":

23 Insert "greenhouse or"

24  
25 Page 103, line 24, after "land.":26 Insert "To be a commercial greenhouse the owner or lessee must derive at  
27 least 10 percent of his yearly gross income from the greenhouse or from  
28 the greenhouse together with other commercial greenhouses or farm use  
29 land."30  
31 Page 103, line 27, after "use":

32 Insert "or commercial greenhouse"

Amendment #5

**SUGGESTED AMENDMENTS : MUNICIPAL CLERKS**

**Sec. 29.26.110. APPLICATION FOR PETITION**

**Pg. 62, Line 9 :** Delete "application" and insert petition

**Pg. 64, Line 15:** Delete the (.) at the end of the sentence and  
add at the address provided under 29.26.110 (a)

**Pg. 67, Line 6:** Delete "application" and insert petition

**Pg. 69, Line 2:** Delete the (.) at the end of the sentence and  
add; at the address provided in 29.26.260 (a) (2)

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**Sec. 29.26.060. MAJORITY FLECTIONS**

**Page 60, Line 26:** Delete "Unless otherwise provided by ordinance,"

**Page 60, Line 29:** Delete (.) and insert (.) and add: unless a municipality by ordinance, provides a simple majority recieved for those offices.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

Alaska  
**MUNICIPAL**  
League

SB180

TELEPHONES  
907) 586-1325  
586-6526

204 N. FRANKLIN ST.  
JUNEAU, ALASKA 99801

March 16, 1982

*Kenai -  
this contains  
a synopsis of what  
AML has heard down  
9*

Jacquelyn L. McClintock, Director  
Division of Workers' Compensation  
Department of Labor  
State of Alaska  
P. O. Box 1149  
Juneau, AK 99811

Dear Ms. McClintock:

The Alaska Municipal League, an association of municipalities, was formed thirty-two years ago. One of the objectives set forth in our constitution is to promote general welfare of the cities and boroughs and the general improvement and facilitation of every branch of municipal government and administration.

For many years our members have called on us to assist them in overcoming the high cost of municipal insurance. The demand for relief became so great two years ago that we began working in earnest with Corroon & Black and the National Association of Counties for a solution. On August 14, 1981, at a meeting in Kenai, our Board of Directors heard a proposal on a nationwide plan on group insurance pooling for local government entities. This plan requires that NACo, the state association (AML) and C&B work as equal partners in developing the best program possible with the goal being to use joint buying power of municipalities to maximize the insurance coverage to municipalities at the lowest possible cost.

At the Kenai meeting Corroon & Black informed us that such a program was well within any legal restrictions of the State and, therefore, our Board formally requested C&B to proceed with their study of a group insurance program for AML members in the area of workers' comp and general and auto liability and an advisory committee was appointed to review the plan, make recommendations and work with C&B.

At the next Board meeting on November 8, 1981 following our annual conference in Anchorage, the AML Board reaffirmed their support of the NACo/C&B cooperative self-insurance program and set up deadlines for the AML members interested, still believing there were no restrictions since none had been raised to C&B by any official of the State.

Page 2 - March 16, 1981

Our members were asked to submit resolutions from their governing bodies and information on past and present coverages by January 29. C&B was given until May 1st to come up with the proposed program based on this information and the date of July 1, 1982 was set for its implementation.

However, there now seems to be a doubt in your mind as to whether or not a self-insurance program for municipalities is legal under present statutes. Two points have been raised which put a cloud over this program. One, can municipalities enter into joint agreements with one another, and two, does the reference to "employer" in the workers' comp statutes limit a program to one employer since the term is singular.

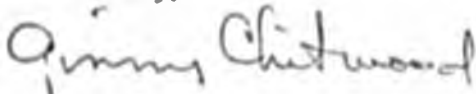
We feel the answer to the first question is yes and ask you to refer to the cooperative agreement clause in the section of law governing local government wherein it states: "AS 29.48.010 Municipalities have the following general powers, subject to other provisions of law:

- (1) to enter into agreements, including those for cooperative or joint administration of any functions or powers with a local government, with the state, or with the United States."

In answer to the second point raised we ask you to refer to the general provisions statute: "01.10.050 (b) Words in the singular number include the plural, and the words in the plural include the singular." In other words, drafting in the Alaska State Statutes is done in the singular but can be interpreted in the singular or the plural unless it is spelled out differently.

Since many municipalities are preparing to enter this program in July and there has been considerable effort put in the program already and much more to do, we respectfully ask that a decision be made as to whether or not our program is valid and legal under the present laws of Alaska and, if not, what exactly is it that needs to be done in order that we can comply.

Sincerely,



Ginny Chitwood  
Executive Director

# MEMORANDUM

# State of Alaska

TO: Jacquelyn L. McClintock, Director  
Division of Workers' Compensation  
Department of Labor

DATE: April 19, 1982

FILE NO: J66-562-82

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Authority of  
Workers' Compensation  
Board to permit group  
self-insurance under  
AS 23.30.

by:   
Gary I. Amendola  
Assistant Attorney General

You have requested an opinion as to whether the Workers' Compensation Board has the authority under the Workers' Compensation statutes to grant approval for self-insurance pools. You have also requested an opinion whether the Workers' Compensation Board may authorize the Alaska Municipal League to form a group self-insurance pool for workers' compensation.

AS 23.30.075(a) reads as follows:

Employer's liability to pay. (a) An employer under this chapter, unless exempted, shall either insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers' compensation insurance in this state, or shall furnish the board satisfactory proof of his financial ability to pay directly the compensation provided for. If an employer elects to pay directly, the board may, in its discretion, require the deposit of an acceptable security, indemnity or bond to secure the payment of compensation liabilities as they are incurred.

AS 23.30.090 requires the Workers' Compensation Board to issue a certificate to those employers who qualify as self-insurers and who have filed satisfactory proof of those qualifications, i.e., that the employer has the financial ability to directly pay workers' compensation benefits provided for under AS 23.30.

Under Alaska law an employer must provide workers' compensation benefits for all employees, unless exempted, and can do so by either insuring with a duly authorized insurance company or association or by becoming self-insured.

April 19, 1982

AS 23.30.265(19) defines "self-insurer" as "an employer who, instead of insuring his liability under this chapter as it provides, elects to pay directly the compensation provided for, and who has furnished to the board satisfactory proof of his financial ability to make the direct payments." The law expressly provides only the two methods by which employers may secure workers' compensation benefits for their employees. No reference is made to group self-insurance or to the pooling of employers' liabilities. Whether the sections of AS 23.30.075 are read in the singular or plural (see AS 01.10.050(b)), the plain meaning of the law does not include the concept of group self-insurance pools.

The concept of group self-insurance differs substantially from the individual self insurance provisions of the Alaska Workers' Compensation statutes. Group self-insurance pools typically require that employers engaged in similar businesses and having similar risk exposures form an association. Normally, the association would appoint a board of trustees, which in turn would hire an administrator to oversee the fund and hire safety, claims and service companies to perform day to day services. An indemnity agreement is normally required to be signed by all participating members, unless the pool is of governmental entities. Each association member would become joint and severally liable for the payment of the workers' compensation benefits of all members. Several state statutes which have been reviewed contain specific enabling legislation authorizing group self-insurance pools. See, e.g., North Carolina Workers' Compensation Act, GS 97-93; Consolidated Laws, as amended, of the State of New York, Chapter 67, §50, subd. 3-A; Florida Workers' Compensation Law, \*44.57.

Since it was first enacted in 1927, the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. § 901 et. seq., expressly contained a section permitting group self-insurance pools. 1/

1/ 33 U.S.C § 932(a)(1) reads:

Security for compensation. (a) Every employer shall secure the payment of compensation under this Act -

(1) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association, or with any other person or fund, while such person or fund is authorized (A) under the laws of the United States or of any State, to insure workmen's compensation, and (B) by the commission [Secretary of Labor], to insure payment of compensation under this Act; ...

State and federal statutes may be in pari materia, and if so, should be construed together, for it may be presumed that the legislature had in mind existing federal statutes relating to the same subject matter when enacting the statute being construed and that affected parties would have their understanding of the state act influenced by it since the people of the state are subject thereto. Volume 2A, Sands, Sutherland Statutory Construction, § 51.06.

Alaska Supreme Court opinions noting the similarity between portions of our Workers' Compensation Act and the federal act support the idea that the legislature had in mind the federal act at the time that our state law was enacted. The legislature apparently selectively chose portions of it for use in the Alaska statutes on workers' compensation. See Fishback and Moore of Alaska Inc. v. Lynn, 430 P2d 909 (1967); Johns v. State Department of Highways, 431 P2d 148 (1967).

It can be inferred from the absence of any reference to group self-insurance pools, that the legislature intended at that time to not include that method by which workers' compensation coverage could be provided in the State of Alaska.

There is ample authority for the proposition that administrative agencies perform their duties pursuant to the statute that creates them; they may not enlarge that authority or exceed it. Fleming v. Pema County, 611 P2d 110 (Arizona 1980); Rogers v. Atensio, 608 P2d 813 (Colorado 1979); State ex rel State Tax Appeal Board v. Montana Board of Personnel Appeals, 593 P2d 747 (Montana 1979). The power and authority of an administrative agency is limited by the express or necessarily implied legislative grant. City of Yakima v. Yakima Police and Fire and Civil Service Commission, 631 P2d 400 (Washington 1981); Marley v. Canon, 618 P2d 401 (Oklahoma 1980).

At present, the law gives the Workers' Compensation Board no guidance on the regulation of the group self-insurance pool. The guidelines required to insure that the pool operates in a financially sound manner and in a manner that is otherwise consistent with the purposes of AS 23.30 are totally lacking and beyond the expertise and scope of authority of the board to promulgate.

In order for the Workers' Compensation Board to justify permitting group self-insurance pools, the meaning of the relevant statutes involved would necessarily be

distorted beyond the plain meaning contained therein, in violation of AS 01.10.040. In addition, to do so would be contrary to the rules of law governing the power and scope of authority of administrative agencies.

It is our opinion that the Workers' Compensation statutes (AS 23.30) do not authorize the Workers' Compensation Board to grant approval for group self-insurance pools.

You have also questioned whether the Alaska Municipal League may enter into a group self-insurance pool under the powers conferred on boroughs and cities in Article X, § 13 of the Constitution of the State of Alaska and Article 5 of AS 29.48.

Article X, § 13 of the Constitution of the State of Alaska states:

Agreements; transfer of powers. Agreements, including those for cooperative or joint administration for any functions or powers, may be made by any local government with any other local government, with the state, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

Article X, § 1 of the Constitution of the State of Alaska states:

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

AS 29.48.310 - 330 2/ and the case law interpreting them reaffirm the notion that municipal governments in the State of Alaska were given broad powers and that such powers should be construed liberally. See Liberati v. Bristol Bay Borough, 584 P2d 1115 (1978); Bookey v. Kenai Peninsula Borough, 618 P2d 567 (1980).

The broad grant of powers and the liberal construction given thereto indicate that municipal governments in the State of Alaska, through the Alaska Municipal League, can associate in order to provide workers' compensation coverage for their employees.

However, the Workers' Compensation Board is still without authority to grant approval for such a group self-insurance plan. The Workers' Compensation Board has no authority pursuant to statute to promulgate regulations in order to to administer such a concept and therefore has no guidelines by which to grant approval for such a program. Irrespective of whether municipal governments have the power under AS 29 and the Constitution of the State of Alaska to associate for the purpose of pooling workers' compensation coverage, the Workers' Compensation Board cannot grant the authority to do so.

GIA/bap

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2/ AS 29.48.310 through AS 29.48.330 read as follows:

AS 29.38.310. General construction. A liberal construction shall be given to all powers and functions of boroughs and cities conferred in this title.

AS 29.48.320. Extent of powers. Unless otherwise limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

AS 29.49.330. Enumeration of powers. Specific examples within an enumerated power or function conferred upon boroughs or cities in this title are illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

Waukegan  
Waukegan  
Yuba City

Ok. municipalities  
interested in AMC program

St. Mary's

Seldovia

Kotzebue

Kennicott

Cordova

Tenakee Springs

Whittier

Akutana

Seward

Sitka

Dillingham

C/B Juneau

Sleetna

Palmer

Houston

Wrangell

King Cove

Kodiak Island Borough

Ketchikan

Homer

Port Lions

Petersburg

Beckley

Haines

Mont-Su Sono

Kenai Peninsula Borough

Ketchikan Gateway Borough

SUMMARY OF POOL PLANS IN OPERATION\*

NAME OF POOL (CONTACT/PHONE)	DATE POOL BEGAN/TYPES OF COVERAGE	NUMBER OF PARTICIPATING AGENCIES	SERVICE ORGANIZATION/ EXCESS INSURER	PREMIUMS	PREMIUM BREAKDOWN	POOL RETENTION	EXCESS INSURANCE	DIVIDENDS/ EXPERIENCE MODIFICATION	BEGINNING EXPERIENCE
Texas Municipal League Workers' Compensation Joint Insurance Fund (Bill Martin/512-478-6601)	July 1974/WC October 1981/ liability	1974-75:130 Cities:1980: approx. 500	Texas Employers In- surance Assoc./ Employers Casualty of Texas	1st yr:\$5M 1980-81: \$37M	Losses 52%; Excess 1.3%; Admin. 7%; Claims, loss control (bas- ed on stan- dard premium)	\$400,000 per occ. agg. of 70% of earned contribu- tions	\$30M	Dividends of 8% have been paid each of 1st 4 yrs.; dividends returned over 10 yrs. \$3M re- funded in 1st 5 yrs.	Initial pre- mium savings; 25% discount off state rates. Duffer fund & re- serves = \$9.5M
Redwood Empire Insurance Fund (Sonoma County) (Frank James/707-938-2388)	July 1976/WC March 1978/lia- bility, property, auto & aircraft	14 cities; agg. pop. 120,000 range 2,840 to 22,000	ESIS (WC)/Employ- ers Rn (WC); Head Rn, Pine Top, Integ- rity (liability); Harbor (property)	1980-81: \$1,025,000; WC:\$450,000; Liability: \$450,000; Property: \$125,000. GL based on budget; AL based on # & type of ve- hicle; WC based on 30% discount; property based on values	Losses:40-50%; Excess insur- ance:12%; Administra- tion:5%	WC \$100,000; Lia. \$100,000; Prop. \$25,000; (City retentions- WC: \$1,000 to \$10,000; Lia.: \$1,000 to \$25,000; Prop.: \$1,000)	WC: \$2M Lia.: \$10M Prop.: \$2M	No dividends; loss experience modification based on prev. 3 yrs. of indi- vidual loss ex- perience using credits & debits, subject to 30% maximum; 1979: unallocated re- serve \$2M; ex- pect to provide 45% up-front discount on July 1, 1981	Overall sav- ings of 45% to 50% for original mem- bers over 1st 4 years
Alabama Municipal Self-Insurance Corporation (John Watkins/205-262-2566)	October, 1976/WC	242 cities, utility boards & other local entities; lar- gest \$50,000	Hill Desk Management/ Lloyds	1980: \$2.4M based on state rate by job clas- sification less 15%	1979-80 claims: 70% Claims hand- ling, safety, etc.: 10%; administra- tion: 3%; ex- cess ins.: 11%	\$100,000 per occ. agg. of 75% of contributions	\$5M	Refund of 4% of premium to cities for 1st yr. Dividends to members with good loss exper- ience (LR 70%); 1st yr. \$22,000; 2nd yr. \$115,000; 3rd yr. \$202,000	Initial pre- mium savings 15% discount off state rates. Saved members over 10 years \$1.5M in 4 years
Alabama Association of Counties Workers' Compensation Self-Insurance Fund (O. L. "Buddy" Harpless/205-263-7594)	November 1976/WC	58 counties & 5 other entities	Risk Management Services/Lloyds	1980-81 app. \$1.75M based on state rates less 15% disc.	Excess ins. claims, loss control, ac- tual: 25- 30%	\$100,000 per occ. agg. \$1M	Unlimited	None returned \$500,000 since inception	Initial pre- mium savings 15% discount off state rates. In- stantiated over- all savings 35-50%

## SUMMARY OF POOL PLANS IN OPERATION\*

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Michigan Workers' Compensation Self-Insurance Fund (Gene Berrodin/ 303-662-3246)	May 1977/WC authorized expansion into liability. Possible mid-1981 start-up	255 cities, counties, townships	Yaeger & Co./Mead Co (aggregate stop-loss)	1980: \$9.1M based on state rates discounted by 30%	12% admin; 1% excess; 50-60% loss fund	\$200K per occ. 50% of standard premium	\$5M per occ. and \$3M aggregate	2 dividends since 1977. Est. 15-20% dividend for 1979	Initial premium savings 20% up-front discount. Est overall savings 40%
Marin County Joint Powers Authority (Harlin Barry/ (415) 924-2405)	July 1, 1977 (WC - 8) July 1, 1978 (Lia. - 7) July 1, 1980 (Prop. - 7)	8 cities; agg. pop. 103,784; range: 2,638 - 39,238	WC-ESIS; Lia. - George Hills	Approx. \$354,000	Claims: WC - \$14,000 Lia - \$18,000 Risk Manager - \$12,000 Excess Ins.: WC - \$ 50,000 Lia - \$225,000 Prop - \$ 35,000	Member retains \$100,000 per occ. for WC & Lia. and \$5,000 for prop.	\$10M per occ.	Not applicable as each member pays all its own losses	Saved \$1.25M since incept. WC reserve = \$1.5M. Lia. reserve = \$300,000. Anticipate that no contributions to pool will be required within a few yrs. Buffer fund \$250,000 from which members may borrow to pay large lia losses. Not used to date.
All admin. by Florida Municipal Self-Insurance Fund Florida Municipal Lia. Self-Insurers Program (Joyce Case/ 904-222-9684)	Lia./Oct. 1979	136 Liability	Risk Management Services - Mead Co	1981/82 Renewal \$1.75M	15% adm. cost 7% agg. excess 78% loss fund	\$100K/person \$200K/occ. agg. of 80%	\$2M agg.	None authorized through this date	Begin. Exper. Anticipate avgr. savings of 20%
Florida Municipal Self-Insurers Fund - WC	Dec. 1977/ WC	227 WC	Risk Mgt. Servs./ Lloyd's	\$7M	5-14% excess 16% adm. cost 70% loss fund	\$100K/per. occ. agg. of 70%	\$1M agg. \$3M specific	Div. through 1979/1981 = \$1.525M	Anticipate savings of 40% for WC
Florida Municipal Health Trust Fund	May 1980/Health	87 Health	Mill Richards & Co./ Lloyd's	\$4.2M	14% adm. cost 2% excess 84% loss fund	\$50K/(und retention) agg. of 85%	\$1M agg. \$1M specific	None authorized through this date	Avg. savings of 15%

## SUMMARY OF POOL PLANS IN OPERATION

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Contra-Costa County Municipal Risk Management Authority (Jeff Pettegrew/ 415-943-1100)	Feb. 1978/Lia. Feb. 1979/WC Feb. 1980/Prop. Studying expansion into Employee Benefits	14 cities;agg. Pop. 381,072; range 1,860 - 99,476	(Full-time risk mgr.); George Hills (claims) Scott Wetzell/ Pine Top, Admiral	\$200K for 1st excess lia. layer; \$17K for 2nd excess lia.	\$750K col- lected from members to cover: • Claims adjusting • Current losses • Premiums to carriers • Overhead	WC: \$200K per occ. Lia: \$250K per occ. Prop: \$10K	\$10M	No dividends; Prens. based on exposure base rate and exp. modification (based on diff. between mem- bers loss and expense ratio and pools) pool ratio for lia. 60%, WC 30%	Initially 10% of previous rates, frozen for 3 years. Now can take 50% retention.
Orange County JPA (Ross Oliver/ 714-(26-0260)	Aug. 1978/Lia. (CGL & AL) July 1979/WC March 1981/All risk prop. Currently de- veloping Boiler & Machinery	10 cities;public agencies also eligible Lia: 10 cities WC: 9 cities Prop: 10 cities	WC;CDS of Cali.; Lia.;Carl Warren/ Lia.WC; Head Re Prop: Allianz	Lia.: \$429K for 18 mos. WC: \$5166K for 18 mos. Prop: \$96,941 annually for 3-yr. policy	Two Parts: 1) 50% based on W quote 2) 50% based on: • \$ loss per city/total losses • # claims per city/ total claims	Lia: \$100K per occ.per city (\$250K in one case) WC: All \$100K per occ.per city Prop: \$10K per city & 5% of value for earth- quake.	Lia: \$4.9M WC: \$2M Prop: \$10M total	Non paid yet; increasing surplus fund	Members are saving 50% on lia. programs, 20-25% on WC, and 30% on property.
Southern Calif. Joint Powers Authority (James Moore/ 213-594-9751)	April 1978/GL Jan. 1980/WC Oct. 1981/Prop.	36 cities, 41 by end of year only municipalities	Risk Mgt.Servs., Warren McVeigh, Griffin, ESIS/ Agricultural (agg. stop loss)	1980:\$2.7M/ GL \$1.65M/WC Retrospec- tively as- sessed on basis of experience	19% claims pd. 18.6% adm. 5.7% excess 66.6% loss fund	\$100,000 - GL \$20,000 - WC	\$20M	25% retro refund last year	New members post 90% of current com- mercial pre- mium as a deposit. With the very low claim. costs soft excess markets, good loss exp. & 92% invest. success, prem. savings for members are substantial.

SUMMARY OF POOL PLANS IN OPERATION\*

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Maine Municipal Association Workers' Comp. Fund (Kent Hotham/ 207-623-8428)	Nov. 1, 1978/WC	250 municipal-ities, water districts, school dis-tricts, etc.	Penn General/ U.S. Fire (\$1M spec.) Employers Pe (\$4M spec. & \$5M agg.)	\$4.1M	65% loss fund 11.3% excess insurance & 13.7% admin.	\$250,000 per occ. Agg = 65% of contributions	\$10M per occ. & \$5M aggregate	Expect to return 25% or \$225,000 of 1st yr. prem. of which 10% has already been re-turned. The other 15% should be returned in early 1981.	Loss ratio = 31% in 1st yr. Members only being charged 90% to cover loss fund and fixed costs. Remaining 10% is kept by members.
KACO-KML Self-Insurance Fund (Kentucky) (Bob Hart/ 502-223-7668)	July, 1978/WC Studying expansion into lia. & property	308 cities, counties, political subdivisions	Hewitt Coleman Associates/ Aetna	1980: rates are state rates \$4M	50% claims 25% excess 12% admin. & start up	Per occ.: same 80% aggregate	Unlimited per occ. specific & agg. Only 1 in U.S. as of 1/1/81	10% dividend last year. Dividend paid every year	Loss ratio average 50% for 1st 2 yrs. Up-front 10% discount. 20-25% savings overall. Established \$31 loss reserve fund.
Intergovernmental Risk Management (Northwest suburbs of Chicago) (Ed Hanson/ 312-968-0333)	Jan. 1, 1979/ prop.ins., GL, AL, WC, umbrella, crim, E&O, owned builders risk	1980 - 22 cities 1981 - 31 cities 1982 - 33 cities	Gallagher-Bassett	1979: \$1,200,000 1980: \$2,315,457  1981: \$3,188,000 1982: \$3.5M	50% losses 37.5% excess 11% admin.	\$250,000 per occ. Agg. stop loss = \$2.2M (Each city assumes first \$1,000 of loss)	\$5M Lia. \$20M prop. both agg.	75% refunds in 1st 2 yrs., although in future may reduce prems. to reflect surplus.	Estimated savings of 40%
New Hampshire Municipal Workers' Compensation Trust (Paul Genovaise/ 603-225-2841)	Jan. 1979/WC No plans for expansion	103 cities & other agencies. Expect to add 20 per year.	Penn General/ U.S. Fire (Specific) Employers Pe (Aggregate)	\$3.6M prems. calculated in the conventional manner.	\$193,380 excess ins. 75% loss fund 8.04% excess 16.96% admin.	\$200,000 per occ. agg. of 75% of contributions.	\$10M	Expect dividend of at least 50% at end of 1980	No up-front discount. Savings 25-30% in 1st yr loss ratio 24-26% in 2nd yr

## SUMMARY OF POOL PLANS IN OPERATION\*

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Tennessee Municipal League Insurance Pool (Ed Young/ 615-255-6416)	Dec. 1979/Lia. March 1981/WC	82 cities/Lia. 58 cities/WC	Public Risk Mgrs. Inc. ESIS/Trenwick agg. stop loss	Lia: \$1.8M WC: \$800-900K	Based on 1st year: 3% losses 17% excess 66% loss fund 14% admin.	\$300K per occ. agg. of 75% of contributions \$100K per occ.: WC	\$1M agg.	WC: dividends to be based on indiv. loss exp. Lia: 15% discount based on experience	Saved an average of 32% for members; Pd. \$18K in losses 1st 11 mos.
Louisiana Municipal Risk Management Agency (Charles Pasqua/ 504-344-5001)	1979/WC	83 cities  20 cities	Hall Risk Management/Lloyds INA  Mead Inc	\$1.2M based on 15% discount off conventional prem.  \$750,000 (4/1) 25% discount off ISO rates.	75% loss 25% fixed costs (mostly excess insurance) 29% excess	\$175,000 per occ. agg. of 75% of contributions  \$100,000 per occ. agg. of 60% of contributions	\$1M (to become unlimited agg. due to new legislation) \$1M per occ. \$5M agg.	Decision to be made 12 mos. after end of fund year & to be based on individual loss ratios & prems.	Initial prem. savings - 15% discount off state rates.
Connecticut Inter-local Risk Management Agency (Joel Cogen/ 203-772-2168)	July, 1980/WC Study'ng expansion into lia. & heart & hypertension	1980 - 19 1981 - 37	Frank D. Hall/ General Re	In excess of \$7.5M of std. prem, pool contributions based on 15% discount off conventional premium.	of Stand. Prem: 61.25% Claims Excess 7.75% Servs. 11.00% Organ., Admin., Marketing 5.00% Audit, Legal, Actuarial	\$500,000 per occ. \$101 per occ.	\$101 per occ.	Distribution of surplus anticipated based on individual loss experience	Initial prem. savings - 15% discount off state rates. Overall savings as high as 35% or more.
Virginia Municipal Underwriters, Inc. (Brad Harms/ 804-649-8471)	July 1980/WC	79 cities, towns counties, school boards, regional security centers	Hall Risk Mgt./INA	\$2.6M based on manual rates less a non-stock company prem. discount	74% loss fund 15% excess 11% admin.	\$175,000 per occ. agg. of 74% of contributions.	\$5M	Dividends are anticipated based on good loss exper. & investment income. Must be approved by ins. commissioner.	10 up-front savings. Expect savings of at least 20-30%

## SUMMARY OF POOL PLANS &amp; OPERATION\*

NAME OF POOL (CONTACT/PHONE)	DATE POOL BEGAN/TYPES OF COVERAGE	NUMBER OF PARTICIPATING AGENCIES	SERVICE ORGANIZATION/ EXCESS INSURER	PREMIUMS	PREMIUM BREAKDOWN	POOL RETENTION	EXCESS INSURANCE	DIVIDENDS/ EXPERIENCE MODIFICATION	BOOKING COVERAGE
League of Minn- sota Cities Insurance Trust (Peter Tritz/ 612-222-2861)	Jan. 1980/MC, prop. & lia.	MC: approx. 200 Lia: approx. 90	CAR/Obtide (Ber- muda captive) and State Minn. Fac- ility for portion of MC	MC: \$3.75M Lia: \$1.8M	15% excess 10% admin. costs 2% com- missions 73% losses	\$320,000 for MC	Obtide \$2M excess of assets (spe- cific); \$5M excess of \$21 exp. ----- State Minn. Facility; Unlimited excess of \$20K for MC	Dividends re- turned based on pool's exper. 1980 MC = 25%; divid. antici- pated for lia.	MC: 1981-1984 up-front dis- count & vol. discount experience rat. Prop/Lia: 10-60% up- front sav- ings. Loss ratio • 16% paid & incurred • 100%.
Minnesota Counties Insurance Trust Fund (Morris Anderson/ 612-698-4212)	Oct. 1, 1979/MC	1979-80: 35 1980-81: 57	J.A. Price (Broker) Claims Mgt., Inc. Claims), Corp. Risk Managers Inc. (loss control) /Midland	1979-80: \$1.16M 1980-81: \$1.09M (15% dis- count from state rate)	3.5% excess 5% pool re- serve Total pool expenses, claim costs and pool re- serve \$222,986	\$200,000 per occ. (above \$100,000 county SIA)	\$1.21 per occ.	Over \$1M re- turned after last year. Pool returns all reserves to ind. counties if within county SIA.	Average sav- ings of 75% (includes loss reserves returned to counties).
Florida Inter- governmental Risk Management Agency (FIRMA) (Bill McCreary/ 305-592-6080)	Feb. 1, 1980/ Prop., Lia., MC	6 cities (Palm Beach County)	Gallagher Bassett/ Lloyd's/ Pine Top/ Crum & Forster/ Royal Re	\$540,000 (100% dep. of prior insurance costs) based on 1979 premi.	Loss fund 55% Excess ins., Service fees 45%	\$100,000 per occ. \$275,000 exp. (above \$250 city deductible)	\$1.21 per occ. per incu- sion Prop. \$1.01 AL & CL cost pro rata \$5.01 \$4.00 exp. \$2.01 MC	Surplus to mem- bers whose loss- es do not ex- ceed pro rata share of loss fund.	Estimated sav- ings of 32%
South Town's Agency for Risk Management (STAMM) (Illinois) (Jim Gault/ 312-646-8500)	Oct. 1, 1980/ MC Effective Oct. 81/Prop. & Lia.	16	Gallagher Bassett/ Safety Mutual	\$540,000 Based on 95% of annual premium	Excess ins. 11% (current loss ratio 33-00%)	\$100,000 per occ. 9% of annual premium	\$21 per occ. \$21 exp.	Experience rat- ification to take effect at renewal using system of credits & credits up to = 21% based on loss experience.	Estimated sav- ings of 39%.

7  
SUMMARY OF POOL PLANS IN OPERATION

NAME OF POOL (CONTACT/PHONE)	DATE POOL BEGAN/TYPES OF COVERAGE	NUMBER OF PARTICIPATING AGENCIES	SERVICE ORGANIZATION/ EXCESS INSURER	PREMIUMS	PREMIUM BREAKDOWN	POOL RETENTION	EXCESS INSURANCE	DIVIDENDS/ EXPERIENCE MODIFICATION	ACCUMULATED EXPERIENCE
OH. Municipal Assurance Group (Harold Sanford/ 405-528-7515)	Nov. 1980 broad form gen. lio. (include public officials lio., police prof.) AL, Comp & Collis/Health, Dental & MC in future.	89	Crawford & Co. (claims) Rollins, Burdick & Hunter (broker)/Tren- wick	1st yr.: \$134,000 2nd yr.: \$48 total 18% of which in GL) Min.Prem. = \$500 (com- bined AL & GL) Rates: Auto - 75% of annual CL - \$5.5 per 100 of oper.budget unless CB is \$1.91, then \$6.25 per 1000.	Excess: 20% Claims Adj: 8% Overhead: 7% Losses: 65%	\$100,000 specific Agg. of 95% of pool premiums.	\$1M/per occ.	Dividends to be paid depending on expenses. No div. policy established to date.	Savings have not been sizeable thus far.
Portland Board Cities Insurance Authority (Arno Probst/206-259-8799) Jim Strunk/ 206-343-9850	Jan. 1981/Lia. includes GL, AL, Personal Injury.	9	Scott Miles (claims) Fred S. Jones (broker)/ California Union	\$950,000 Prem. for 1st year based on 100% of previous yr. prem.	N/A	\$100,000 per occ. \$500,000 annual agg.	\$6.9% excess (with a \$2M umbrella).	Will not pay dividends, but will reduce future premiums.	Estimated sav- ings of 20%.
Illinois Municipal Liability Risk Mgt. Association (Larry Frank/ 312-525-1220) Rob Conzill/ 312-675-1001)	Jan. 1981/Prop., GL, AL, AFD, Crime Inland Marine & MC (public prof., public officials & incidental religions)	51 cities, villages and incorporated towns.	Laghier & Co. (broker) Martin Boyer (claims) Carson & Cochran (loss control) Northbrook, IL/IC, New England Re (recess)	\$2.7M est. \$2M for 1987. Base prem. based on oper.budget prop. & 5% volume 20% experience adj.	Loss fund 55% Risk Pmt. 37.5% Serv. claims, adm. costs, excess insurance)	MC - \$150,000 Auto \$ 25,000 GL - \$ 25,000 Prop \$100,000 Civil Rights/ \$100,000 (members reten- tion of \$1,000 to \$25,000 annual agg. based on population.	MC/\$1.9M occ. Auto/\$1.5M occ. GL/\$1.1M occ. Prop/\$5.6M occ.	Planned but no formula estab- lished. Future yr. contribu- tions to be based on oper- ating equali- zation & individ- ual annual loss experience.	Savings of at least 25% on target with projections.

SUMMARY OF POOL PLANS IN OPERATION\*

NAME OF POOL (CONTACT/PHONE)	DATE POOL BEGAN/TYPES OF COVERAGE	NUMBER OF PARTICIPATING AGENCIES	SERVICE ORGANIZATION/ EXCESS INSURER	PREMIUMS	PREMIUM BREAKDOWN	POOL RETENTION	EXCESS INSURANCE	DIVIDENDS/ EXPERIENCE MODIFICATION	LOADING EXPERIENCE
North Carolina Interlocal Risk Management Agency (Jim French/ 919-834-1311)	July 1981 - W:	130 agencies out of a possible 440	Hewitt Coleman/ Aetna	\$1.5M; prem. based on manual rates less 15%	N/A	N/A	N/A	Dividends will be paid based on pool exper- ience.	15% initial savings.

- Municipal leagues in Colorado (Jan. 1, 1982), Maryland (July 1, 1981), Kansas and Rhode Island plan to or are considering implementing pools. In addition, non-league sponsored pools are being considered or operating in New York, Missouri and Ohio. Also, there are numerous municipal and school district pools operating in California. Forming a captive insurance company is an option that has been considered by a number of state county associations, the National League of Cities and the National Association of Counties. The Iowa State Association of Counties has established a Bermuda captive, GIF, Ltd. The League of Iowa Municipalities is forming a safety group, dividend program to cover Property, DL, Boiler & Machinery, Auto, Crime, GL, Police & Public Officials, Blanket Contractual Liability, Excess Umbrella; they are self-insured for MC.

Revised January 15, 1982

TESTIMONY OF

JILL M. KENNEDY

CONSULTANT TO THE NATIONAL LEAGUE OF CITIES

ON BEHALF OF THE GEORGIA MUNICIPAL ASSOCIATION

BEFORE THE

HOUSE INSURANCE COMMITTEE

SENATE BILL 250

FEBRUARY 21, 1980

Mr. Chairman and Members of the Committee:

I appreciate the opportunity you have offered today to discuss proposed legislation to allow pooling of workers' compensation risks among cities in Georgia. My remarks are based on work that the National League of Cities, several state municipal associations, my firm and many others have conducted over the last few years in monitoring insurance problems of cities and developments in municipal insurance pooling throughout the country.

In my view, "pooling" is no more than cooperative or collective "self insurance" where cities can be offered a reasonable level of self insurance, coupled with the benefits of group purchase of excess, risk management, claims, safety and professional administrative services. Cooperative insurance and cooperative action among insurance consumers are not new. They are historically an approach taken in response to difficulties faced by similarly situated insureds when commercial markets are too slow in offering needed coverages or when premium rates are considered unreasonably high. In recent years, these approaches have also produced

effective results among local governments in providing protections and saving dollars.

Today more than twenty states have adopted legislation to authorize collective action in this area by city governments. Last year the United States Advisory Commission on Intergovernmental Relations also developed and publicized a model law for state legislatures to consider in allowing local governments this necessary alternative -- to protect themselves, their employees, and their citizens.

The laws in other states vary in several respects, but the vast majority have recognized the unique nature of government pools and treat them more as a partner in delivering the state prescribed benefits to employees, for example, in workers' compensation. Several examples of these approaches are attached to this testimony. By contrast, Senate Bill 250 contains more fiscal and other requirements on municipal pooling than is contained in most of these other states' laws.

Much of the recent activity in municipal insurance pooling has taken place during the last six to seven years. Today, ten statewide workers compensation pools are being run by cities and state associations of cities -- Alabama, Connecticut, Florida, Kentucky, Louisiana, Michigan, Minnesota, New Hampshire, Maine, and Texas. During the next two months, another four can probably be added to this list. In California, more than thirteen regionalized municipal workers compensation pools have been created and are operating.

A common feature of all of the statewide pools is that specific and aggregate excess insurance is purchased to protect members and their funds. An informal survey indicates, however, that few if any losses have ever penetrated this excess layer in the various pools. Another important feature is that each fund has hired professional administrators, claims and safety personnel -- often on a multi year contract basis, to insure that the funds are actuarially sound and claims are processed quickly and accurately. Annual audits are performed by independent auditors and several

pools have hired independent firms to conduct overall performance and evaluation studies.

No state currently treats this form of pooling as an insurance company or business, although several safeguards provide review and audit by insurance or workers compensation departments. There are several reasons for this current track-record. One reason is the nature of the risk itself. Workers' compensation insurance produces roughly \$ 10 billion dollars in annual premiums to insurance companies nationwide, constituting 13.2 percent of all property and liability underwriting, according to the Insurance Institute of America. Many private carriers are increasingly reluctant to offer this coverage, however, and this is documented by the Insurance Institute's finding of several industry-wide adverse underwriting results in the 1970's.

Because workers comp benefits are so closely provided for by state legislation, many experts consider this line of insurance more of a program responding to social needs, designed by states to meet an important protection of working persons. To ensure compliance, state workers comp bureaus are created in most states actively supervising the benefits and delivery. This is quite different than for most other lines and types of insurance. Perhaps more unique is that eighteen state governments are in the workers comp insurance business themselves. These states have established state funds for writing private and public employers' coverage. In six states, these funds are the exclusive (monopolistic) method for securing this insurance.

Opponents of the insurance pools often raise spectres of the "unknowns" in retaining or sharing workers comp risks, the possibility of catastrophic losses and claims with "long tails", thus arguing the need for strong state regulation and supervision. However, for those who are concerned about any of the inherent risk in self insuring (whether individually or collectively), perhaps the American Institute for Property and Liability Underwriters can provide some expert guidance. In its manual on Commercial Liability

*Risk Management*  
Management and Insurance (Volume I, page 462), the *Underwriting*  
~~article~~ institute points out another unique aspect of this

*Risk:*

"The workers compensation exposure lends itself to retention because there is a higher loss frequency for it than for many other loss exposures. With higher frequency comes greater predictability, and predictability is desirable when losses are to be retained."

Another observation on the need for regulation comes in a comprehensive study released last month by the legislature in New York. There, the assembly spent more than one year studying municipal insurance pools and laws and results in other states. This report recommends that local governments be able to form and operate insurance pools and meet minimum standards to ensure proper management and operations. However, it urges that any state regulatory standards or procedures should not impede the creation and operation of insurance pools.

In concluding my remarks, I would like to point out what I consider to be the most important successes which have been achieved by municipal insurance pools. These successes have flourished despite the lack of treatment as "insurance businesses."

1. One of the major benefits of pool operations has been production of better information on this common employer group -- cities -- which has never been available before from the industry. Statistics, including projections which are based on them and their use in underwriting and rating, are the name of the game in "insurance" and we've never had them before on cities. For example, in most states, some 30 to 50 occupational classes may be used to classify city workers under present manual guidelines. The vast majority of these are not by any means exclusive to cities. What has been gleaned by studies in pooled programs is that in fact a better classification and grouping of municipal jobs can and

should be developed. Rates applicable to these job classes in most states (based on manual guidelines) are also based on public and private experience. Although many view cities as "poor risks", detailed studies in a number of states have produced multi year data solely on municipal premiums and losses -- showing that municipal loss ratios in many areas are much less than the average. In Texas, for example, the municipal workers comp pool runs at a 50% or below loss rate as opposed to normal underwriting guidelines which project losses of 60-70% on the average.

2. Improved data and the common business nature of these pools has led to a greater degree of control over the risk itself. This is especially important as cities become better managers and more intimately involved with the exposure and risk. One of the important underwriting characteristics developed by insurance companies focus on this very issue -- internal management, financial position and operations.

3. Each workers comp pool in operation today has put a primary emphasis on loss control and safety services, ranging up to 8% of premium volume for the pools. When one talks with municipal members of these pools, it is often pointed out that these employers rarely received this intensive attention from previous private carriers. Pool managers and members agree as a rule that losses can be effectively reduced by safety engineering. A study of public agency workers comp costs conducted last year by the Institute for Local Self Government in California estimated that as much as 30% of the cost of workers comp claims can be eliminated by safety and loss control. It is reassuring to note that while insurance companies are often criticized for their services in this area, the Insurance Institute of America has found that "There is probably no area of insurance underwriting that is more closely associated with loss control than is workers compensation." (Commercial Liability Underwriting, 1978).

4. Last, but not least, of course, is the aspect of tax

dollar savings which have been realized. A number of the California pools estimate that total savings - up to 30% - are realized in the cost of risk. These figures do not take into account the additional reduced claim volume which accompanies more loss control. Many of the statewide pools have also offered, following extensive feasibility and underwriting studies, at least 15 - 25% discounts off manual rates to begin with. Another savings feature particularly in these days of high interests has also been the investment earnings which allows the interest to work for member cities. While many of the costs associated with traditional insurance, such as acquisition, production, taxes and corporate profits, are also reduced, these pools do rely extensively on the private sector. On the average, these pools put up to 30 percent of each premium dollar in the private sector through purchases of excess insurance and professional safety and claims services. The remaining 70 percent goes directly to injured employees for claims, or to set up reserves and surplus for claims, or is returned back to the city in the form of rebates. This heavy reliance on private sector expertise is also clearly demonstrated by the number of even old line insurance companies and brokerage houses which now extensively market their "ASO" -- administrative services only -- programs for self funded and pooled plans.

I hope you will have an opportunity to consider these advantages and others which have resulted from pooled experiences among cities around the United States as you review Senate Bill 250. The alternative offered to cities by pooling and "self-help" is crucial not only in insurance but in other municipal functions as well.

Thank you for your consideration.

of

## STATES WITH LEGISLATION OR AUTHORITY FOR MUNICIPAL POOLING

Alabama	Workers Comp 1976
California	All lines 1960's
Colorado	All lines 1977
Connecticut	Workers Comp and Liability 1979
Florida	Workers Comp and Liability 1977
Illinois	
Kansas	Liability 1978
Kentucky	Workers Comp
Louisiana	Workers Comp and Liability 1978
Maine	Workers Comp
Michigan	Workers Comp
Minnesota	All 1980
Nevada	
New Hampshire	Workers Comp
New Mexico	All lines 1979
North Carolina	Workers Comp
Oklahoma	All lines 1978
Oregon	Liability and Workers Comp 1970's
Tennessee	Liability and Workers Comp 1979
Texas	Workers Comp 1973 - 74
Virginia	Workers Comp 1979 (applicable to private and public groups)
Washington	All lines 1978
Georgia	Workers Comp 1980 (applicable to public and private groups)

.....groups)

Samples Attached: 1) California 2) Texas 3) Oklahoma  
 4) Colorado 5) Connecticut 6) Model of the  
 U.S. Advisory Commission on Intergovt'l Relations

20 SECTION 6. *Interlocal Cooperation for Self-Insurance Pooling.*

21 (a) Any two or more units of local government in this state are hereby authorized to enter into  
22 agreements with one another for joint or cooperative action to pool financial and administrative re-  
23 sources for the purpose of providing to the participating units insurance, self-insurance, or any com-  
24 bination thereof for [fire and extended coverage,] [workmen's compensation,] [general and pro-  
25 fessional liability,] [fidelity and faithful performance,] [fleet automotive liability,] and [addi-  
26 tional areas] insurance, pursuant to the provisions of [cite general statutory authority for interlocal  
27 cooperation, contracting, and joint enterprise establishment].<sup>7</sup> Appropriate action by ordinance, re-  
28 solution, or otherwise, pursuant to law of the governing bodies of these participating local units, shall  
29 be necessary before any such agreement may enter into force.

30 (b) Any such agreement shall specify the following:

1 (1) its duration;

2 (2) the precise organization, composition, and nature of the separate legal or administrative  
3 entity created thereby, together with the powers delegated thereto, which may be created with its gov-  
4 erning body composed solely of local elected officials ex officio unless otherwise provided.

5 (3) the nature and scope of insurance coverages to be provided;

6 (4) the manner of financing the enterprise, of establishing and maintaining a budget therefor,  
7 and of accounting and keeping records thereof;

8 (5) the permissible method or methods to be employed in accomplishing the partial or complete  
9 termination of the agreement and for disposing of property upon such partial or complete termination;

10 (6) the methods by which coverages are to be extended, premiums or assessments levied and  
11 paid, claims administered and defended against, and financial reserves established and maintained;

12 (7) responsibilities for claims defense and expenses of such defense between the entity estab-  
13 lished and individual participating units;

14 (8) annual or other periodic financial and operating reports to the participating units and to  
15 the general public; and

16 (9) any other necessary and proper matters.

17 (c) If the agreement entered into under this section does not establish a separate legal entity to  
18 conduct such pooled insurance undertaking, it shall, in addition to all items except (2) enumerated in  
19 subsection (b) of this section, contain the following:

20 (1) designation of an [administrator or a joint board] responsible for administering the  
21 interlocal insurance pool, provided that if a [joint board] is designated, the local units of government  
22 party to the agreement shall be represented appropriately; and

23 (2) the manner of acquiring, holding, and disposing of financial reserves and any other as-  
24 sets, including real and personal property, used in the establishment and administration of the inter-  
25 local pool.

26 (d) In addition to information required in subsections (b) and (c) of this section, the agreement  
27 and subsidiary arrangements thereunder [shall] [may] [among other things,]<sup>8</sup> provide for:

28 (1) types of coverage available;

29 (2) a pooling of reserves, or of both reserves and risks;<sup>9</sup>

30 (3) extent of choice among participating units of local government as to the coverages or com-  
31 binations of coverage in which each unit desires to participate;

1 (4) level, by type of coverage, of required self-insurance or deductible, and maximum levels or  
2 excess coverage obtainable for the pool;

3 (5) premium reductions, rebates, or other financial incentives for achieving loss, claim, and  
4 risk reduction, by participating units;

5 (6) procedures for reporting losses and the administrative processing and settlement of claims;

6 and

7 (7) any other provisions necessary for the proper administration of the interlocal insurance  
8 pool.<sup>10</sup>

9 (e) Any unit of local government entering into an agreement pursuant to this section may appro-  
10 priate funds, pay premiums and assessments, and may sell, lease, give, or otherwise supply the [joint  
11 board] [or other legal or administrative entity created to operate an interlocal insurance pool] with  
12 such personnel or services therefor as it may be within its legal power to furnish.

13 (f) Prior to its entry into force, an agreement made pursuant to this section shall be submitted to the  
14 [division]. Within [60] days of receipt of the text of the agreement and other materials associated  
15 therewith, the [division], after consultation with [the state insurance regulatory agency] shall re-  
16 view the agreement, for [technical sufficiency] [and conflict or inconsistency with any provisions  
17 of this act and operations being conducted thereunder].<sup>11</sup> Failure by the [division] to disapprove an  
18 agreement within the [60] days of receipt shall constitute a finding of no objection to such agree-  
19 ment.<sup>12</sup>

20 (g) Prior to its entry into force, an agreement made pursuant to this section shall be filed with  
21 [the keeper of public records in each participating local jurisdiction and in the county in which such  
22 unit, other than a county, is located] and with the [secretary of state or other appropriate state re-  
23 cords or archival agency].



### **In this issue:**

**Tennessee Municipal League  
New Texas Municipal League  
Liability Pool  
Colorado Cities Form Pool  
Highway Safety Publication  
Risk Control: Playground Safety  
Good Reading  
GRMR Calendar  
Opportunity**

**March 1982, Vol. III, No. 12**

## **Governmental Risk Management Reports**

### **Tennessee Municipal League Insurance Pool 1980-1981 Annual Report**

The Tennessee Municipal League (TML) Insurance Pool, which is a non-profit entity created by Tennessee legislation and enacted in 1979, has published its 1980 - 1981 annual report for the year ending June 30, 1981. The insurance pool had 65 participating cities contributing premiums of \$832,750 in the fiscal year. The total incurred claims (including IBNR) were \$325,744 for a loss ratio of only 39.1%. The pool was able to generate investment income of \$49,700 and had other expenses which totalled \$339,555. The June 30, 1981 fund balance (i.e., surplus) was \$247,366.

The liability insurance pool purchases excess insurance on an aggregate basis to reinsure losses for the greater of \$500,000 or 75% of written liability premiums. The workers' compensation pool is reinsured on an individual occurrence basis for losses in excess of \$100,000 and in the aggregate for 80% of premiums written. The excess insurance limit in both cases is \$1 million. Insurance agents' commissions represented over \$70,000.

Contractual services included administration fees of \$82,158 and claims administration costs of almost \$32,000. Legal and professional fees were \$20,912 and loss prevention services were about \$6,000.

The TML Insurance Pool was authorized by its board of trustees to form a separate workers' compensation pool in February 1981. With this addition, the insurance pool now provides broad coverage for workers' compensation, comprehensive general liability, comprehensive auto liability, law enforcement liability and public officials' personal errors and omissions. Automobile physical damage insurance is an optional coverage and is provided in excess of \$30,000 and reinsured through private insurance companies. The pool participants are subject to an assessment policy if pool assets are insufficient at any time to discharge its legal liabilities and other obligations. However, based on the favorable loss experience and excess insurance purchased by the pool, no assessment is anticipated. Excess earnings of the pool will be returned to participants based upon loss experience for the cities involved. The insurance pool provides loss prevention services through a full-time loss prevention director who was hired in April 1981. The loss prevention program is designed to identify insurance loss causes and to assist cities to develop management procedures to reduce losses. Each city will be surveyed at least annually with larger cities receiving surveys semiannually or quarterly. As part

*(continued on page 3)*

### **New Texas Municipal League Liability Pool**

On January 1, 1982, the Texas Municipal League (TML), began offering general liability insurance coverage through the Municipal Liability Joint Self-Insurance Fund, (JSIF). Liability coverage is available only to municipalities that are members in good standing of the TML Workers' Compensation Fund.

Coverage is provided to eligible municipalities in two parts. Part I provides general and automobile liability protection. Coverage is provided for bodily injury property damage and advertising injury liability. Automobile physical damage coverage is not provided by the new pool. Part II coverage includes personal injury liability, errors and omissions, owned or leased aircraft liability and hangar keeper liability (both in-flight and not-in-flight coverage). Part II must be purchased jointly with Part I, as it is not available separately.

JSIF offers participants limits of \$1 million per occurrence, or \$5 million per occurrence for Part I coverages. Five deductible options are available, ranging from first dollar coverage to a retention of \$5,000 per occurrence. Participants who choose to purchase Part II coverage receive a limit of \$1 million for any one occurrence subject to a \$1,000 deductible.

*(continued on page 4)*



## State briefs

### MAINE

Two hundred thirteen Maine municipalities and special districts that have participated in the Maine Municipal Association (MMA) Workers' Compensation Fund will be receiving refund checks totalling \$423,826. This is the second refund for municipalities participating in the Workers' Compensation Fund. In the first refund last year, MMA refunded \$80,872 to participants. Of this year's refund, which is awaiting approval by the state insurance department, \$94,336 would be an additional refund for first year participants. Roger Foster, town manager of Bucksport and chairman of the MMA Insurance Advisory Committee, stated in the December 1981 issue of the *Maine Townsman* that "the best part of it is that we can confidently expect more refunds in the future. Our good claims experience with workers' compensation has, in effect, reduced the premiums by about 20%."

In addition to the workers' compensation refund, the MMA's unemployment compensation fund is issuing refund checks to 168 municipalities for \$300,666. This is the first refund for participants in this program which was initiated by MMA in 1978. ■

### MICHIGAN

The Michigan Municipal League is strongly urging its state legislators and the government to authorize the establishment of municipal liability pools in Michigan as an alternative to commercial insurance. In its summary of legal policies for 1981-1982 published in the November, 1981 issue of *Michigan Municipal Review*, the MML States in Res-

olution No. 24 that it would like the legislature to enact and the governor to approve Senate Bill 348, which will enable local units of government to join in a self-insured pool if they are unable to provide the funding necessary to be self-insured individually.

The Michigan Municipal League currently operates the country's second largest municipal workers' compensation self-insurance fund. The fund, which has been operating since May 1977, insures over 250 municipalities and receives premiums in excess of \$13 million. The fund provides a 30% upfront discount to all participating municipalities. ■

### Colorado Cities Form Pool

On January 1, 1982, eighteen Colorado cities formed the Colorado Intergovernmental Risk Sharing Agency (CIRSA), a self-insurance pool developed after over two years of study by the Colorado Municipal League and its members. First year premiums already total more than \$1 million and represent an average savings of 30% compared to the municipalities' 1981 premiums. On an individual basis, the savings range from 10% to 60%, with individual savings totalling as much as \$90,000.

The coverage under the CIRSA program is much broader than the municipalities had been able to purchase individually. The pool covers comprehensive general liability, automobile liability and physical damage, police profes-

sional liability, public officials' liability and broad coverage for property losses. Included in the coverage is personal injury coverage for libel, slander, defamation of character, false arrest, false imprisonment, invasion of property, discrimination and violation of civil rights. In addition, the pool will cover antitrust liability lawsuits such as cable television, zoning and utility-related activities. Previously, no city in Colorado had been able to purchase antitrust liability coverage.

Under the CIRSA program, cities will be required to pay the first \$1,000 of each and every loss, and the pool will self-insure the next \$150,000 per occurrence and \$625,000 aggregate for the first policy year. The excess insurance is being provided by Lloyd's of London, Midland Insurance Company and International Insurance Company. The broker selected is Arthur J. Gallagher, whose subsidiary Gallagher Bassett, will be providing loss control and claims management assistance. Crawford & Company, which has thirteen offices statewide, was selected as the claims adjuster.

As part of the risk management program of CIRSA, every city in the pool will be provided with a monthly report detailing every claim, which will assist the pool and the municipalities in determining if safety problems exist and in designing and implementing an improved loss prevention program.

CIRSA's governing body is a five-member board of directors which consists of representatives from Glendale, Arvada, Westminster, Englewood and Delta. ■

### Governmental Risk Management Reports



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Reproduction of part or all the contents of this report is granted with permission of the publisher provided attribution to *Governmental Risk Management Reports* and the date are given.

## Risk Control: Playground Safety

The U.S. Consumer Product Safety Commission has released a guide for playground safety entitled "A Handbook for Public Playground Safety," Volume I, which is available free of charge. It provides guidelines for planning and designing new playgrounds, and describes procedures for reducing accidents in existing playgrounds. Volume II, which addresses playground equipment manufacturers, designers and installers, includes the results of studies on playground surfacing materials and equipment specifications. The cities and special districts that have participated in the Maine Municipal Association (MMA) Workers' Compensation Fund will be receiving refund checks totalling \$423,826. This is the second refund for municipalities participating in the Workers' Compensation Fund. In the first refund last year, MMA refunded \$80,872 to participants. Of this year's refund, which is awaiting approval by the state insurance department, \$94,336 would be an additional refund for first year participants. Roger Foster, town manager of Bucksport and chairman of the MMA Insurance Advisory Committee, stated in the December 1981 issue of the *Maine Townsman* that "the best part of it is that we can confidently expect more refunds in the future. Our good claims experience with workers' compensation has, in effect, reduced the premiums by about 20%."

In addition to the workers' compensation refund, the MMA's unemployment compensation fund is issuing refund checks to 168 municipalities for \$300,666. This is the first refund for participants in this program which was initiated by MMA in 1978. ■

### MICHIGAN

The Michigan Municipal League is strongly urging its state legislators and the government to authorize the establishment of municipal liability pools in Michigan as an alternative to commercial insurance. In its summary of legal policies for 1981-1982 published in the November, 1981 issue of *Michigan Municipal Review*, the MML States in Res-

## Good Reading

**PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION**, by the MFOA Committee on Public Employee Retirement Administration, Municipal Finance Officers Association, 180 North Michigan Avenue, Chicago, IL, 1977, 134 pp. Hardbound. Illustrated and indexed. Bibliography. Provides in-depth coverage of all aspects of a well-managed public retirement system from administrative and management viewpoints. ■

**THE PHOENIX STUDY: A COMMUNITY RESPONSE TO DISASTER**, by the town of Windsor. A case study of how three Connecticut towns recovered from a 1979 tornado that killed three persons, injured over one hundred others and caused an estimated \$250 million in property damage. The study can be a useful guide for public entities in developing emergency procedures. Available for \$3.00 from: Town of Windsor, Town Hall, Windsor, CT 06095. ■

## Opportunity:

**SAFETY AND CLAIMS COORDINATOR**, County of San Luis Obispo, CA. Responsibility for administering county's safety and self-insured workers' compensation program. Requires degree in safety engineering, industrial engineering, business administration, or related field; and two years of experience in safety, workers' compensation, personnel administration, or casualty insurance programs. Salary to \$28,000. March 19 deadline for application. For county application form, contact: Personnel Department, County of San Luis Obispo, 1510 Monterey Street, San Luis Obispo, CA 93408. 805/549-5959. ■

## New Texas Municipal . . .

(continued from page 1)

Claims administration and loss control services will be provided to JSIF members by the Employers' Casualty Company. Employers' Casualty was selected on a competitive bid basis, and tied with three other firms to get the TML contract. In addition, Employers' Casualty also provides the pool with both specific and aggregate excess insurance coverage. The pool retains \$300,000 per occurrence with \$5 million of excess insurance maintained over that amount. Aggregate stop-loss protection begins if pool losses for any one fiscal year exceed 105% of total pool contributions for that year. The cost of the excess insurance package is 3% of standard premium.

Pool premiums are computed using a relatively complex formula with over 40 variables (such as payrolls, numbers of vehicles by types, etc.) involved in arriving at a prospective member's premium. Members receive a 25% up-front discount from standard rates with additional savings possible through a subsequent dividend.

Bill Martin, assistant director of TML, estimates that 150 cities will join the new liability pool in its first year. Premium contributions by the end of the first year are expected to be \$5-10 million, which will make JSIF one of the largest municipal risk-sharing pools in the nation. Martin also expects that pool membership will reach a plateau in its third year of operation with contributions totaling \$20 million annually and a membership of 400.

For additional information, contact: William J. Martin, Jr., assistant director, Texas Municipal League, 1020 Southwest Tower, Austin, TX 78701; 512/478-6601. ■



Governmental Risk  
Management Reports



## State briefs

### Tennessee

A tort liability statute of limitations clause preventing municipalities from being sued is not applicable when a city is a third party. Because the Tennessee Supreme Court had held in an earlier case that a suit for contribution is not a tort action, the Security Fire Protection Company, Inc. can institute a suit against the City of Ripley if the suit is brought within one year after the ratification of judgment against Security Fire. The case (*Security Fire Protection v. City of Ripley*, 609 S.W. 2d 874 Tenn. App. 1980) arose when Security Fire ruptured a city water line as it was installing a sprinkler system on the premises of Master Trouser Company. Master Trouser sued Security Fire, who then filed a third party complaint against the City, alleging negligence by city employees as the proximate cause of the damage. The Court of Appeals stated that the one year statute of limitations did not apply and that even though Master Trouser had lost its claim against the City by settling with Security Fire, Security Fire could still sue the city.

### Minnesota

The League of Minnesota Cities has provided support to the state's municipal government Tort Liability Act in appropriate court cases. This response is a direct result of the Minnesota Supreme Court's sentiments in recent court cases to consider cities the same as individuals and corporations with respect to liability actions by third parties. The League has had legislation introduced (H.F. 803 and S.F. 932) which adjusts the limits of liability for inflation. The legislation also assures that the Tort Liability Act does not unreasonably deny recovery to those injured

by city actions. The desired changes were not accomplished during the 1981 session, in large part, because of the opposition of the Minnesota Trial Lawyers Association. The League will continue its effort during the 1982 session.

### Michigan

The Michigan Municipal Workers' Compensation Fund recently announced that effective May 1, 1981 the advance discount was being increased from 20% to 30%. In addition, the Fund distributed \$1,354,772 of an appropriated surplus and interest income from the first three fund years. Together with previous distributions, first-year dividends have been 20.57%, second-year dividends 18.9% and third-year dividends 16.35%. These dividends are in addition to the upfront discounts of 10%, 15%, 15%, 20% and 30% in fund years one through five, respectively. The Fund has also been able to reduce its excess insurance premium rate from about 3% to 1%. Similar reductions in past years have allowed the fund to decrease its expense ratio from 26% in the first year to 11%. ■

### Risk Alert: Light Liability

Public entities that own, operate or maintain lighting systems should be cognizant of the potential liability that may arise if the system does not provide the necessary safety and security. Municipalities have been liable for improperly placed and glaring street lights as well as turning off lights prematurely. ■



Public Employees Conference in Williamsburg, VA., Nov. 11-14, for people involved in the operation of benefit plans for public employees; sponsored by the International Foundation of Employee Benefit Plans; members, \$360; non-members, \$435. Contact: IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005; 414/786-6700.

Risk Management Techniques for Municipalities: Oct. 1-2, Atlanta, GA; Oct. 28-29, Merrimack, NH; \$250; sponsored by Society of Chartered Property and Casualty Underwriters. Contact: CPCU, Kahler Hall, Providence Rd., Malvern, PA 19355. 215/648-0440.

Conference on Captives & Pools: Self-Insurance and Risk-Sharing Alternatives in the U.S. September 24 and 25, Warren, Vermont. Sponsored by Risk Planning Group, Inc. \$550 (\$475 for 2nd or more). Contact: Director of Conferences, Risk Planning Group, Inc., 722 Post Rd., Darien, CT 06820. 203/655-9791. ■

### Governmental Risk Management Reports



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# State briefs

## Texas

The Texas Municipal League Workers' Compensation Joint Insurance Fund (Fund) has published its 1980 Annual Report and states that the Fund has saved member cities \$33.9 million in fund earnings and advance discounts since its inception in 1974. During the 1979-80 fiscal year the Fund grew from 491 to 514 cities representing 2,000 employees, and premiums increased from \$26.6 million to \$31.8 million. Incurred losses totalled \$15.63 million in 1979-80, with \$2.73 million as loss reserves. The Report states that the Fund loss ratio of 60.8% compares favorably with the state industry average of 65%. Expenses for the period totalled \$2.17 million, and were allocated to contract service fees, reinsurance premiums, general administration and state taxes. The Fund claim administrator and safety engineering specialist is Texas Employers' Insurance Association (TEIA) which has 20 full service offices and 2 claim service offices located throughout the state. TEIA handled 18,926 claims in 1979-80 of which 4,091 (21.6%) were lost time cases. During the 1979-80 Fund year TEIA safety personnel made over 3,400 engineering contacts and 2,400 surveys of municipal operations.

Because TML has recognized the long-term savings ability of loss control, the Fund has developed a series of specialized seminars, workshops and publications for use at the local and regional levels. Such programs allow cities to educate their managers, department heads, supervisors and foremen in claim reporting procedures and loss control techniques.

The Fund's Board of Trustees has declared a refund distribution for 1979-80 of \$1,945,897 which will be allocated

based on a formula which recognizes loss experience and contribution level. Refunds are based on a review by the Board within 9 months of the close of the fiscal year and completion of the annual independent audit.

For more information contact Bill Martin, Fund Secretary, 1020 Southwest Tower, Austin, TX 78701 512/478-6601.

## Colorado

The Colorado Municipal League (CML) has selected its service providers to assist in implementing and managing the proposed property and liability insurance pool. After a review of written proposals and oral presentations, the cities participating in the project selected Arthur J. Gallagher as broker, Gallagher Bassett as loss control advisor and Crawford & Company as claims administrator. CML also has retained Tillinghast, Nelson and Warren to provide actuarial assistance. Risk Planning Group, Inc. has served as consultant to CML during the feasibility study and the implementation phase. The pool has a targeted start-up date of January 1, 1982.

## Minnesota

The League of Minnesota Cities Insurance Trust (LMCIT) is offering "Combined Physical Damage" coverage as part of its property/liability insurance program. City vehicles that normally are covered separately for collision and comprehensive coverage are insured together and have a common deductible. A deductible level may be selected

by the individual city. LMCIT believes this approach will result in some premium savings since the city will be retaining more risk, especially for comprehensive coverage, which usually has no or a very small deductible. The new program also eliminates possible disputes as to whether the claim falls under collision or comprehensive coverage. The traditional separate forms for collision and comprehensive will still be available. ■



Government Risk Management Seminars, August 3-4: Salt Lake City, Utah, August 6-7: Portland, Oregon, August 10-11: Anaheim, California. Sponsored by the Public Risk and Insurance Management Association; \$160 for PRIMA members, \$200 for non-members. Contact: PRIMA, 1140 Connecticut Ave., NW, Suite 210, Washington, D.C. 20036, 202/828-1614.

Conference on Captives & Pools: Self-Insurance and Risk-Sharing Alternatives in the U.S. September 24 and 25, Warren, Vermont. Sponsored by Risk Planning Group, Inc. \$550 (\$475 for 2nd or more). Contact: Director of Conferences, Risk Planning Group, Inc., 722 Post Rd., Darien, CT 06820, 203/655-9791. ■

## Governmental Risk Management Reports



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# newsletter

CONNECTICUT  
INTERLOCAL  
RISK  
MANAGEMENT  
AGENCY

March/April 1982

 a service program of the  
Connecticut Conference of Municipalities 996 CHAPEL STREET, NEW HAVEN, CONNECTICUT 06510 (203) 773-3168

## \$500,000 Returned To First-Year CIRMA Members

CIRMA will distribute \$500,000 to 22 eligible member municipalities and local public agencies as a result of favorable operating and investment experience in the pool's first year (1980-81).

The following first-year members will share in the distribution:

- |                 |                              |              |
|-----------------|------------------------------|--------------|
| * Ansonia       | Harwinton                    | * Plymouth   |
| * Bristol       | Middletown Housing Authority | Southington  |
| Durham          | Middletown Transit District  | * Trumbull   |
| * East Haven    | * Middletown                 | * West Haven |
| * Enfield       | * Milford                    | * Westport   |
| * Granby        | Milford Housing Authority    | Willimantic  |
| Groton (City)   | * Monroe                     |              |
| * Groton (Town) | Oxford                       |              |

For municipalities, the amounts range from about \$2,500 to nearly \$100,000.

At a time when municipalities are continually pressed to find new ways to save tax dollars, the CCM-sponsored pool is pleased to provide relief to local taxpayers through municipal insurance savings.

CIRMA was established as a service program of CCM in 1960, through legislation patterned after other states' programs. CIRMA provides municipalities and local public agencies (transit districts, health districts, housing authorities, etc.) with a comprehensive program of workers' compensation coverage, claims administration, loss control and risk management services.

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\* Includes Board of Education

- more -

CIRMA completed its first year of operation on June 30, 1981. Its financial statements, audited by Price Waterhouse, reflected a \$1,019,968 excess of income over expenses, of which \$919,968 is unrestricted.

The CIRMA Board of Directors decided to distribute \$500,000 to the pool's first-year members, and to retain the remainder as a reserve which may be distributed at a later date.

For the pool's first-year members, this results in a saving of \$1,218,909 (including the up-front CIRMA discount of 15%) from the amount they ordinarily would have paid (based on net industry premium) to commercial carriers for workers' compensation insurance coverage.

The distribution of \$500,000 in "members' equity" will be made to CIRMA's first-year members according to a formula based on each member's contributions paid into the CIRMA pool and the member's losses for the year.

CIRMA's distribution to participating local governments and public agencies comes at a time when local officials and local budgets are under great strain to finance public services. Through the distribution of \$500,000 in members' equity to its members, CIRMA is returning valuable tax dollars at a time when they are critically needed.

CIRMA has become one of Connecticut's largest providers of municipal workers' compensation coverage with 39 members (30 municipalities including 21 boards of education, and 9 local public agencies) throughout the state.

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•  
• For further information •  
•  
• please contact •  
•  
• CIRMA at •  
•  
• 772-2168 •  
•  
.....

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

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FROM: MARY/MATSU TO: JNU INFO  
TARGET: LJH2 SUBJ: P.O.M. PAGE 0006

TO SENATORS: KERTTULA, GILMAN, STURGULEWSKI  
REP. CARNEY

FR ELSIE O'BRYAN  
CITY CLERK, CITY OF HOUSTON  
SR BOX 2727  
WASTILLA 99637

SB 180

RE: CSSD180, ART. III, SEC. 29.26.270, ART. II, SEC. 29.26.120  
AS A MUNICIPAL CLERK, I AM CONCERNED ABOUT THE REQUIREMENT BOTH THESE  
SECTIONS PLACES ON CLERKS IN PREPARATION OF PETITIONS. CLERKS WOULD BE  
INTERPRETING THE INTENT OF PERSON/S FILING INITIATIVE, REFERENDUM OR  
RECALL PETITIONS AND I SEE THIS AS THE RESPONSIBILITY OF THE INDIVIDUALS  
AND THEIR ATTORNEY. SUB SECTION 2 OF 29.26.270 SHOULD BE CLARIFIED TO  
SPECIFY THE CLERK SHOULD NOT ALTER WORDING PROVIDED BY APPLICANT OR HIS  
ATTORNEY. PLEASE AMEND TO RECTIFY.

Date: March 5, 1982

# MEMORANDUM

From: Bettye Fahrenkam

From the Office of

Phone: 465-3763

**Senator Bettye Fahrenkamp**

To: Senator Gilman

## MESSAGE:

The areas of interest that came out of

my phone conversation this morning

with Wolfgang are: AS 29.35.490 A(2) and C

and Tax penalties **20%**

Tenth Open Letter to All  
Legislators of the State of Alaska

March 4, 1982

Re.: CSHB 170 and CSSB 180 - (An Unconstitutional Act)  
Elimination of maximum local self-government

Dear Legislator:

In past years this administration repeatedly attempted to eliminate the borough-city system of maximum local self-government and CSHB 170 and CSSB 180 are nothing but a last ditch effort to con this Legislature into approving that very unconstitutional scheme. Chapter 4 of the proposed new municipal code does no longer allow second class boroughs to reclassify to third class borough status; Chapters 5 and 6 just simply make incorporation of a new third class borough impossible. To a like attempt 2 years ago I responded with my forth open letter, dated 2-12-80, copy of which is attached hereto. Please read it, it explains not only a few deliberate maneuvers against implementation of the prescribed law (page 4 and 5) but also enumerates the powers and functions of the third class borough and its importance as a first step to local self-government organization in the unorganized borough as mandated by the Alaska Constitution and as evidenced in the Minutes of the Constitutional Convention, which state at page 1767:

"Mr. McNealy: I still can't get away from the thought here and I don't think that it should be overlooked, that is, if the legislature passes a bill and authorizes, say sanitation districts and the State agrees that they will pay half of the cost if the community will pay the other half - let's leave out boroughs of the first class, but we get over into a borough of the third class, there, or one that is not organized - ... I think these people in the village who are going to have to pay the other half should have the right to vote wether or not they want to pay the other half. ... I don't think that the State should be able to come out and say: 'You must form a district and you must pay for it here.' If the people are going to have to pay for something within a district, they should have the right to vote on it, because it affects the taxpayer in that local area."

The vote on this: 43 in favor, 5 nays, six absent; it is reflected in Article II, Section 19 of the Alaska Constitution.

In order to deny formation of new third class boroughs, a constitutional amendment is required which legally would allow the Legislature to no longer prescribe law for maximum local self-government as mandated by the Alaska Constitution, Article X, sections 1, 2 and 3 in particular, namely to provide for maximum local voter approval, to vest

all local government powers in cities and boroughs only, and to prescribe the powers for different classes of boroughs, and methods by which they may be incorporated and reclassified.

2) The proposed new municipal code essentially eliminates the character of the second class borough by adding under AS 29.35.210 without local voter approval the exercise of additional areawide and non-areawide municipal powers, such as the exercise of areawide power to provide for transportation systems and the non-areawide power to provide for unrestricted economic development. Years ago the people of Fairbanks allowed by majority vote the operation of public bus transportation, now, should CSHB 170 or CSSB 180 become law, a second class borough, without a vote of the people, may own and operate pipelines, rail-roads and truck-transportation, which could mean that they may even provide for the transportation of firewood and to forbid one to haul his own, inside as well as outside cities! Outside cities they may provide for unrestricted industrial development, something the Voters turned down 75.4% at the last election.

3) Please also note the definitions at page 173 of CSSB 180:

"borough" means a general law first or second class borough or a home rule borough;

"municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

and at page 180 of CSSB 180:

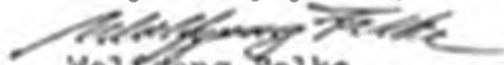
"local government" means an organized borough of any class, a unified municipality, a home rule city, or a first class city;

"political subdivision" means a home rule or general law borough or city, including a unified municipality, an unincorporated village, or other unit of local government;

Accordingly, a third class borough will be no longer considered a borough and a second class city will be no longer considered local government nor recognized as a political subdivision. Presently incorporated under the laws of this state is one third class borough and 107 second class cities, 93 of which are located in the "Unorganized Borough". The Alaska Supreme Court has ruled that pursuant to the Alaska Constitution, Article X, Sec.2, all local government powers shall be vested in boroughs and cities, not in villages, towns, or the State. Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978).

Please, think about this before you cast your vote for or against enactment of CSSB 180 or CSHB 170.

Very truly yours,

  
Wolfgang Falke

CONFIRMATION COPY

P. O. Box 1166  
Fairbanks, Ak. 99707

Fourth open letter to all  
Legislators of the State of Alaska

February 12, 1980

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

Dear Legislator:

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

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

Under AS 14.08.41 regional educational attendance areas were established to provide for education in the unorganized borough and to "establish and maintain a system of public schools open to all children of the State" as set forth in the Alaska Constitution, article 7. Each regional educational attendance area is operated on an areawide basis under the management and control of an elected regional school board. If a higher or different level of education than that provided by the State is desired in any part of a regional educational attendance area, or if a municipal service is desired by the people in any part thereof outside first or second class cities, the legislature

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

A Third Class Borough is an organized borough and a municipal corporation; it provides for the most local control under State law. A third class borough has an elected assembly which also serves as school board. The presiding officer of a third class borough assembly is both president of the school board and borough executive (AS 29.41.020). The presiding officer is elected from among and by the assembly and has no veto power. A third class borough is a general law municipality (AS 29.08.030) and is granted the powers applicable to all municipalities under chapter 48 of title 29. It must exercise the mandatory areawide powers of education and tax assessment and collection and may assume any municipal powers granted under chapter 48, title 29, by voter approval and may exercise the same on a service area basis only (AS 29.41.010). Planning, platting and zoning powers may be assumed after approval by a majority of the voters of the entire borough and may be exercised on a service area basis. First class cities shall and second class cities may provide for planning, platting and zoning. The State has no zoning authority within a third class borough (AS 38.05.037) except within any portion covered by the Alaska Coastal Management Program, if the municipality has not done so. The State Division of Lands may provide for platting:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Very truly yours,



Wolfgang Falke



Official Business

# Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

465-4934  
465-4935

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

Poueh V  
State Capitol  
Juneau, Alaska 99811

TO: All Senators

March 2, 1982

FROM: Don Gilman 

RE: SB 180

Senate Bill 180, a revision of Title 29, is scheduled for floor action Thursday. This bill is the product of almost two years of work and public hearings, first by a special blue ribbon committee and then by the Senate and House Community and Regional Affairs Committees. The Senate Community and Regional Affairs Committee passed this bill out with a unanimous "Do Pass" recommendation and the Judiciary and Finance Committees have waived it.

I have attached a copy of an analysis of the bill by Tam Cook of Legal Services. In the analysis, she discusses the major changes from the existing statute and provides a table of contents. If you have any questions on SB 180, please contact me or McKie Campbell of my staff.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 5, 1982

SUBJECT: Chapter summary of Municipal Code  
Revision [CSSB 180] (Work Order  
No. 12-2437)

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

FROM: Tamara Brandt Cook  
Legislative Counsel *TBC*

You have requested a chapter summary of the municipal code revision (CSSB 180) highlighting significant changes to existing law. For your convenience, I have attached a table of contents by chapter and article to the revision. Corresponding chapter numbers in the existing Title 29 are included in parentheses.

Chapter 03. The Unorganized Borough. No significant change.

Chapter 04. Classification of Municipalities. A second class city may re classify as a first class city if the population has reached 600 permanent residents.

Chapter 05. Incorporation. A community may incorporate as a first class city only if it has at least 600 permanent residents. Does not authorize incorporation of a third class borough.

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

Chapter 10. Home Rule Municipalities. Authorizes a second class city to adopt a home rule charter if the city has at least 600 permanent residents. Requires home rule municipalities to provide land use regulation.

Chapter 14. Capital City. When the capital city attains a population of 600 permanent residents, five council members and a mayor shall be elected.

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

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

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