

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1273 SCRA SB 180/HB 170 - SB 180 (FILE # 1) 1273

new

old

29.20.070
 20.080
 20.090
 20.100
 20.110
 20.120
 20.130
 20.140(a)
 (b)
 (c)
 (d)
 (e)
 20.150(a)
 (b)
 (c)
 (d)
 20.160(a)
 (b)
 (c)
 (d)
 (e)
 (f)
 (g)
 20.170
 20.180(a)
 (b)
 20.220(a)
 (b)
 (c)
 20.230(a)
 (b)
 (c)

29.23.023
 23.025
 23.027
 23.029
 23.031
 23.033
 23.200
 23.050, 23.200(b)
 23.050, 23.200(b)
 23.050, 23.200(a)
 new
 24.140
 23.040(a), 23.200(c)
 23.040(b), 23.200(c)
 23.040(b), 23.200(c)
 23.040(c)
 23.060(a), 23.210
 23.060(b), 23.210(a)
 23.060(c), 23.210(c)
 23.060(d), 23.210(c)
 23.060(e), 23.210(c)
 23.060(f), 23.210(b)
 23.100(46), (47)
 23.060(a), 23.020,
 23.220, 23.570
 23.080, 23.220
 new
 23.200(a), (b), 23.240
 23.240
 new
 23.170(a), 23.250(b), (d)
 23.250(a), (d)
 new

new

old

29.20.240(a)

(b)

20.250(a)

(b)

(c)

20.260

20.270(a)

(b)

(c)

(d)

20.280(a)

(b)

(c)

20.300

20.310

20.320

20.360

20.370

20.380

20.410

20.410

20.450

~~20.410~~

20.460

20.470

20.480

20.490

20.500

20.510

20.520

20.530

20.600

20.610

20.620

20.630

29.23.130(b), 29.23.250(a), (c)

23.130(b), 23.250(a)

23.130(a), 23.290

23.160

23.160, 23.260

23.150

23.270(a)

23.170(a), 23.270(a)

23.170(a), 23.270

23.270(b)

23.130(f), 23.255, 23.570

23.180, 23.270(a)

23.280(b)

23.310

23.340

48.010(1)

23.360

23.370

23.380

23.390

23.400

23.555

23.410

~~23.410~~

23.420

23.430

23.440

23.450

23.460

23.480

23.140, 23.270

23.130(c)

23.500

23.520

23.530

23.540

29.20.640
25.010
25.020
25.030
25.040
25.050
26.060
26.070
26.080
26.090
26.100(a)
26.100(b)
26.110
26.120
26.130
26.140
26.150
26.160
26.170
26.180
26.190
26.200
26.240
26.250
26.260
26.270
26.280
26.290
26.300
26.310
26.320

new

29.23.560
48.130
48.140, 48.150
48.160
48.170
48.180
48.185
48.200
28.010
28.015
28.020(b)
28.020(a)
28.030
28.040
25.050
28.060
new
new
28.162
23.065
28.070
28.173
28.075
28.180
28.190
28.195
28.200
28.210
28.130
28.140
new
28.150
28.150, 28.160
25.160, 25.170
28.200

old

new

old

29.26.330

29.28.210

26.340

28.230, 28.240

26.350

28.250

26.360

13.100 (9)

35.010 (1)

48.010 (2)

(2)

23.510

(3)

48.010 (1)

(4)

48.010 (5)

(5)

48.010 (3)

(6)

35.010 (7)

(7)

48.010 (8)

(8)

48.010 (9)

(9)

48.010 (11)

(10)

38.010, 48.035

(11)

48.010 (12)

(12)

48.010 (10)

(13)

48.010 (4)

(14)

48.010 (6)

35.020

48.037

35.030

113.020

35.040

48.270

35.050

48.033

35.060

48.050

35.070

48.060

35.080

48.260

35.090

48.190

35.100

48.210

35.110

48.220

35.150

33.010

35.160

33.050

35.170

33.030

35.180

new

35.190

new

new

old

29.35.200 (a)

29.38.010

(b)(1)

48.030

(b)(2)

48.035 (b)

(b)(3)

48.035 (b)

(b)(4)

48.035 (b)

(b)(5)

48.035 (b)

35.210 (a)(1)

48.030

(a)(2)

48.020

(a)(3)

48.020, 035 (b)

(a)(4)

48.020

(a)(5)

48.035 (b)

(a)(6)

48.020

(a)(7)

48.020 (7)

(a)(8)

new

(b)(1)

48.030

(b)(2)

40.035 (b)

(b)(3)

40.035 (b)

(b)(4)

40.035 (b)

(b)(5)

40.035 (b)

(c)

38.030, 38.040, 38.050

(d)

33.250

new

old

29. 35.250
 35.260(a)
 (b)
 (c)
 (d)
 35.300
 35.310
 35.320
 35.330
 35.400
 35.410
 35.420
 35.450
 35.460
 35.470
 35.480
 35.490(a)(1)
 (a)(2)
 (b)

29. 33.010(b)
 43.010
 43.030
 43.040
 new
 33.250
 33.260
 33.270 , 38.030
 33.290 , 38.050
 48.310
 48.320
 48.330
 63.090
 63.090(c)
 63.090(b)
 63.090
 63.090(e)
 new
 63.090(f)

40.010
 40.020
 40.030
 40.040
 40.050
 40.060
 40.070
 40.080
 40.090
 40.100
 40.110
 40.120
 40.130

33.070
 33.080
 33.085
 33.090
 33.110
 33.130
 33.150
 33.160
 33.180
 new
 33.200
 33.210
 33.220

new

old

29. 40.140

29. 33.230

. 40.150

33.240

40.160

33.245

40.170

new

40.180

33.150(b)

new

old

29.45.010

29.53.010

45.020

53.020

45.030

53.025

45.040

53.030

45.050

53.035

45.060

53.040

45.070

53.045

45.080

53.050

45.090

53.055

45.100

53.060

45.110

53.065

45.120

53.070

45.130

53.075

45.140

53.080

45.150

53.085

45.160

53.090

45.170

53.095

45.180

53.100

45.190

53.105

45.200

53.110

45.210

53.115

45.220

53.120

45.230

53.125

45.240

53.130

45.250

53.135

45.290

53.140

45.300

53.145

45.310

53.150

45.320

53.155

45.330

53.160

45.340

53.165

45.350

53.170

45.360

53.175

45.370

53.180

new

old

29. 45. 380

29. 53. 290

45. 390

53. 300

45. 400

53. 310

45. 410

53. 320

45. 420

53. 330

45. 430

53. 340

45. 440

53. 350

45. 450

53. 360

45. 460

53. 370

45. 470

53. 375

?

~~53. 380~~

45. 490

53. 385

45. 500

53. 390

45. 550

43. 220

45. 560

53. 400

45. 570

new

45. 580

53. 405

45. 590

53. 410

45. 600

new

45. 650

53. 415

45. 660

new

45. 670

53. 420

45. 700

53. 440, 53. 450

45. 710

53. 460

<u>new</u>	<u>old</u>
29.46.010	29.63.010
46.020	63.015
46.030	63.020
46.040	63.025
46.050	63.030
46.060	63.040
46.070	63.050
46.080	63.060
46.090	63.065
46.100	63.070
46.110	new
46.120	63.080
46.130	new
46.140	63.085
47.010	58.010
47.020	58.020
47.030	58.040
47.040	58.050
47.080	58.070
47.090	58.080
47.100	58.090
47.110	58.100
47.120	58.110
47.130	58.120
47.140	58.130
47.180	58.150
47.190	58.160
47.200	58.180
47.240	58.200
47.250	58.205
47.260	new

new

old

29.47.300
 47.310
 47.320
 47.330
 47.340
 47.350
 47.400
 47.410
 47.420
 47.430
 47.440
 47.450

29.58.240
 58.250
 58.260
 58.270
 58.280
 new
 58.300
 58.210
 58.310
 58.320
 58.340
 new

55.010
 55.020

48.108
 48.110

60.010
 60.020
 60.030
 60.040
 60.050
 60.060
 60.070
 60.080
 60.100
 60.110
 60.120
 60.130
 60.140
 60.150
 60.160
 60.170
 60.180
 60.190

83.010
 88.015
 88.020
 88.025
 88.030
 88.035
 88.040
 88.045
 89.010
 89.020
 89.030
 89.040
 89.050
 89.060
 89.070
 89.080
 89.090
 89.100

new

old

29.60.230
 60.240
 60.250
 60.260
 60.280
 60.290
 60.300

29.90.010
 90.020
 90.030
 new
 95.010
 95.020
 95.030

65.010
 65.020
 65.030
 65.040
 65.050
 65.060
 65.070
 65.080
 65.090
 65.100
 65.110
 65.120
 65.130

18.201
 18.203
 18.204
 18.205
 18.206
 18.207
 18.208
 18.209
 18.210
 18.211
 18.212
 18.213
 new

71.010
 .020
 .030
 .040

73.030
 new
 73.040
 78.010

TITLE 29 - MUNICIPAL CODE REVISIONS
SUGGESTIONS FOR ADDITIONS OR CHANGES TO

- Ch. 45 - MUNICIPAL TAXATION
- Ch. 46 - SPECIAL ASSESSMENTS
- Ch. 55 - MUNICIPAL PROGRAMS
- Ch. 60 - STATE PROGRAMS

29.45.050 (Richard Hallgren, Sitka)

29.45.050 (Peter Hallgren, Sitka)

Figure of \$10,000 refer to taxes or value?

29.45.050 (Department of Community & Regional Affairs)

As a tax on personal property is relatively difficult to administer and collect, and because many municipalities have the option to exclude personal property from taxation under the provisions of AS 29.53.025(c), why not extend the option to all municipalities.

29.45.160 (Joe Burch, Div. of Technical Services, Dept. of Natural Resources)

Page 107 - lines 22-26 - This reads as if the record owner should provide a copy to the Assessor. See AS 29.53.100 (b) as now written.

29.45.320 (Joyce Rasler, Wrangell City Manager)

Real Property Tax Collections (a) and Sec. 29.45.330 Foreclosure List (a) (1) are in conflict. Wrangell's ordinance provides for enforcement of delinquent real property tax liens, however, not annually. The number of delinquent accounts would not justify annual foreclosure in many municipalities. It is recommended that Sec. 29.45.330 (a) (1) be amended by adding "unless otherwise provided by ordinance" to be consistent and save unnecessary foreclosure proceedings.

29.45.460 (Joyce Rasler)

Disposition and Sale of Foreclosed Property (c): A home rule municipality is not required to hold hearings on an ordinance. This section should be amended to provide for notice to the former record owner prior to introduction of an ordinance.

(12)

29.45.470 (Joyce Rasler)

Repurchase by Record Owner (a): 29.45.250 provides for fifteen percent interest on delinquent taxes. It is inconsistent to charge eight percent following judgement and fifteen percent prior to judgement. In addition, AS 09.30.070 provides for interest on judgements. This subsection also provides for delinquent taxes assessed and levied as though it continued in private ownership. This should include delinquent taxes assessed and levied, plus penalty and interest.

29.45.470 (Peter Hallgren, Sitka)

Page 119 - Relating to foreclosing on property for taxes. Should be a date where the right of the original property owner to repurchase ceases.

29.45.480 (Tam Cook, Legislative Counsel)

Sec. 29.45.480 was omitted from this bill. Under existing law, that provision is AS 29.53.380 (proceeds of tax sale).

29.45.560 (Dept. of Community & Regional Affairs)

P. 120, 1 27 - It would seem that the provisions should include 29.45.080, 29.45.240(b) and 29.45.450.

29.45.650(a) (Lee Sharp, Juneau City Attorney)

While discussing the applicability of AS 29.53.415(a) to home rule municipalities with an attorney for the gas line, he pointed out that in the proposed municipal code (HB 170) the counterpart of that section now includes reference to home rule municipalities. See proposed AS 29.45.650(a).

As I read this proposed section, home rule municipalities would not be able to levy more than a six percent sales tax. The limitation on rate does not currently apply to home rule municipalities but would under the proposed section. Quite frankly, I do not recall the discussion which led to the inclusion of home rule municipalities under this limitation. Advancing years I guess. There is no reference to this subsection in the home rule laundry list in HB 170.

I also note that your commentary on the changes does not mention the addition of this limitation to home rule municipalities. I wonder if you could set me straight on what was intended for this subsection. The same question would apply to the sales tax section on cities.

2
22

29.45.650(a) and 29.45.700 (Tam Cook, Legislative Counsel)

Two errors in SB 180 have been brought to my attention by Mr. Gerald L. Sharp, Attorney for the City and Borough of Juneau. During the editing process the phrase "home rule or" was inadvertently added to Sec. 29.45.650(a) (existing AS 29.53.415) and to Sec. 29.45.700 (existing AS 29.53.440, 450), making these sections apparently applicable to home rule as well as general law municipalities. There was no intention on the part of the Title 2⁰ Revision Committee to limit the amount of sales tax which a home rule municipality may levy to 6 percent, and there was no intention to limit the power of a home rule city to levy sales and use taxes. While the list of home rule limitations contained in Sec. 29.10.110 does not include either Sec. 29.45.650 or Sec. 29.53.415 (with the exception of subsection (d), limiting the amount of interest which may be charged on sales taxes), the inclusion of the language "home rule or" in Sec. 29.45.650(a) and Sec. 29.45.700 ought to be deleted so that it is clear that home rule power is not limited by these sections.

29.46.160 (Joyce Rasler, Wrangell)

Assessment Roll: (b) there is apparently language missing from this subsection. Real property is assessed to the record owner as shown in the records of the district recorder, who shall at least monthly provide a copy of each recorded change of ownership. The record owner does not provide the information.

29.60.010 (Dept. of Community and Regional Affairs)

P. 143, l 8 - Substitute "(0.001)" for "(0.1)" or "(0.1%)." .

P. 143, l 9 - Add "per capita" between "the" and "property."

29.60.020 (Dept. of Community and Regional Affairs)

P. 144, l 11 - Substitute "Census" for "Censis."

OTHER TITLES

TITLE 44

44.07.110(11) (Joe Burch, DNR)

Page 186 - line 1 - should be record.

TITLE 14 (Joyce Rasler, Wrangell)

Those sections in Title 14, Education, which pertain to home rule municipalities should be enumerated in home rule limitations under Sec. 29.10.110, or a chapter dealing with those sections in Title 14 should be added to Title 29.

ADDITIONAL SUGGESTION FOR CHAPTER 35 (Tam Cook)

In addition, I have discovered a potential area of confusion which was never considered during the revision of Title 29. Currently, AS 29.48.035 (10) provides for regulation of "alcoholic beverages as provided by AS 04.15.070." AS 04.15.070 was repealed in 1980 and replaced with AS 04.21.010 providing for only limited forms of regulation of the use and sale of alcoholic beverages, but, because the reference to the new section was not included in Title 29 it is unclear whether AS 29.48.035(10) grants powers of regulation in addition to those granted under Title 4. Also, AS 29.48.010(7) grants municipalities the general power to tax, but AS 04.21.010(c) specifically limits the power to tax alcoholic beverages.

A Senate letter of intent indicates that it was the purpose of AS 04.21.010 to limit municipal powers otherwise apparently granted in Title 29:

The purpose of this section is to describe with particularity the regulatory and taxing powers granted municipalities in regard to alcoholic beverages by Title 29 (see AS 29.48.010(7) and AS 29.48.035). Authorization is provided for municipalities to adopt ordinances "necessary to the orderly conduct of the business of selling alcoholic beverages" but the ordinances must be consistent with this title and regulations. Moreover, subsection (b) (sic) limits the circumstances in which taxes may be levied on alcoholic beverages inventories and sales. (1980 Senate Journal Supplement No. 23 adopted as a letter of intent by the

Senate in 1980

beverages inventories and sales. (1980 Senate Journal Supplement No. 23 adopted as a letter of intent by the Senate in 1980.

Supplement No. 23 adopted as a letter of intent by the Senate in 1980.

While SB 180 no longer contains a specific grant of power to regulate the use and sale of alcoholic beverages, that power may be implied to exist as a power "not otherwise prohibited by Alaska statute" because AS 04.21.010 is a grant rather than a limitation of regulatory power. If it is the intention of the committee that municipalities regulate in this area only pursuant to AS 04.21.010, a cross-reference to that section would be appropriate to include in Sec. 29.35.200, Sec. 29.35.210, Sec. 29.35.250 and Sec. 29.35.260. A cross-reference should also be included in Sec. 29.35.170 so that it is clear that the power to tax is subject to the limitation imposed under AS 04.21.010(c). I also note that AS 04.21.010 specifically applies to unified municipalities, and, presumably, to other home rule municipalities as a limitation on the power to regulate and to tax in this area.

SUGGESTIONS FOR ADDITIONS OR CHANGES TO
CHAPTERS 03 through 26

29.04.030 (R.E. Henderson, Haines Borough Mayor)

"No provisions have been made for a third class borough. We have operated a successful third class borough for many years and have had no serious problems. The main objection to the third class borough seems to be its lack of planning and zoning powers, which in fact can be done via service areas. However, in the last election, the residents of the Borough voted down setting up powers of zoning and planning within proposed service areas. This question may appear on the ballot again this year. Several other areas in the state have recently contacted us for our bylaws and seem interested in this form of government. I do not believe with the support that has been shown the third class borough it should be abolished."

29.04.050 (R.E. Henderson)

"While the language allows for us to continue to be a third class borough, the overall effect of this section will be to force us into another classification of borough status, even if that is not what we wish to do. We would be forced to govern ourselves by the laws enacted prior to this act, preventing any future revisions that might be necessary to meet changing needs. I suspect that appropriations would also be held up because we were not a recognized borough. I see nothing but problems in the future."

29.06.040 (R.E. Henderson)

"I do not believe that any municipality should annex any outlying area without the expressed approval of the public. Provisions are made where voters must approve a proposed annexation or exclusion, but there also seems the avenue whereby a municipality can recommend an annexation to a Boundary Commission that if presented to and not disapproved by the legislature is effected without any input of public opinion. Such a procedure would violate the democratic process."

29.06.210 (Okey Chandler, Kodiak)

This section "requires that petition to put unification of municipal governments before the voters be signed by 25% of the voters in the most recent election. That number is excessively high. Other provisions of law limits question to once a year. Urge you amend above section to require 100 signatures."

29.10.110 (Joyce Rasler, Wrangell City Manager)

"Those sections in Title 14, Education, which pertain to home-rule municipalities should be enumerated in home-rule limitations under Sec. 29.10.110, or a chapter dealing with those sections in Title 14 should be added to Title 29."

29.20.010 (Joyce Rasler)

"Provides that a home-rule municipality shall adopt a Conflict of Interest ordinance. HB 170 and SB 180 prescribe the manner to rule on the question of a conflict of interest. This is imposing a further restriction on home-rule municipalities. The manner of ruling on the question should be determined on the local level by ordinance. Wrangell currently has a Conflict of Interest ordinance which provides the manner of ruling on the question."

29.20.140 (Joyce Rasler)

"Imposes further restrictions on home-rule municipalities. The qualified voters in a home-rule municipality should continue to determine the qualifications of members of the City Council, including age. The analysis of SB 180 states no substantive change was made to (a). It is clear that imposing an age of 18 for qualifications is a substantive change when some home-rule municipalities have provided for age in their Charter."

29.20.160 (R.E. Henderson)

"It seems inappropriate to disallow the mayor of a borough to be the presiding officer, unless a manager form of government is used. And, then at the same time to continue the mayor of a city as the presiding officer. I believe the Borough Mayor should also be the presiding officer. The mayor has no vote (except in the case of a tie in some cases) and the only way he can keep some control over the Assembly is by being its presiding officer. The mayor is often placed in the position of bearing the brunt of the public's criticism for Assembly decisions and should be able in the capacity of the presiding officer to exert some influence."

29.20.160(b) (JoAnne Shanley, Seward City Clerk)

"This is proposed to be a Home Rule Limitation in the new rewrite. In previous Title 29 this issue was addressed at Sec. 29.23.210 and was not a Home Rule Limitation.

"My specific objection is at the second sentence which reads 'A special meeting may be held at the call of the presiding officer or at least one-third of the members...'

"I know of no compelling reason why the State Statutes should specify these requirements for Home Rule municipalities at this time. The City of Seward, for example, has instituted other notice requirements and these requirements have been working well for years."

29.20.170 (JoAnne Shanley)

"Regarding the declaration by the governing body of a vacancy--

"(8) states a position may be declared vacant if the person 'no longer physically resides in the city or borough and the governing body by two-thirds vote declares the seat vacant.'

"I'm of the opinion that if the person in fact no longer resides in the area (and, therefore, he would be ineligible to run for office) he should be ineligible to hold office without consideration of the governing body. What would happen if the governing body, even knowing he lived outside the legal area, wished the individual to remain in service?

"Is there some way to more specifically determine 'residency' and, after a specified period of non-residency, that the position automatically be declared vacant?

"A similar argument can be made concerning (7) under the same section.

"Another consideration is that Sec. 29.20.280 addresses the mayorial position and different provisions for declaring a vacancy for non-residency are established. Is there a reason for this?"

29.29.220 (JoAnne Shanley)

"Article J heading preceding this section is entitled 'Borough Executive and Administrator'

"This title is a misnomer since this article also deals with the cities."

29.20.230(c) (JoAnne Shanley)

"Addresses the term of mayor and states 'The governing body may not limit the number of terms a mayor may serve.'

"I think an addition should be made to clarify this statement, taking it one step further by:

"'The governing body may not limit the number of terms a mayor may serve but such limitation may be established by ordinance upon ratification by two-thirds vote of the electors.' (The suggested language is just to indicate my intent.)"

29.20.220-230 (Ivan Widom, Nome City Manager)

"Section 29.20.220(a) seems to refer to Boroughs. However, there are also references to 'other municipalities.' Then, on the next page, (46), under Sec. 29.20.230 there's a reference to 'first class city.' Since Article 3 only refers to 'Borough Executive & Administrator' then why does it include references to first and second class cities?"

29.20.220(b) (Peter Hallgren, Sitka Borough Attorney)

The last clause of this subsection may imply that certain other powers, such as the mayoral veto (Sec. 29.20.270) or the prohibition on the mayor voting on matters before the governing body (Sec. 29.20.250(c)) are limitations on home rule municipalities. Is this the intention of the drafters?

29.20.64 (Joyce Rasler)

"(a) (5) A summary of the optional property tax exemptions should be submitted to the department. Requiring each municipality to estimate the revenues lost by operation of the exemptions would tend to have inequitable information submitted to the department. The State Assessor's office is better qualified to determine a fair and impartial estimate of lost revenues, which would be consistent throughout the state. Although this is not a new requirement, this section is difficult to operate in municipalities without full-time staff assessors."

29.25.060 (JoAnne Shanley)

"Relates to resolutions and states the section is applicable to Home Rule municipalities. However, this section is not cited under Sec. 29.10.110, 'Limitation of Home Rule Powers.'"

29.26.050 (JoAnne Shanley)

"This section has been amended by the addition of a requirement that a person be registered to vote in the precinct (or service area?!) in which he seeks to vote. However, the section still does not address residency in a district, precinct or service area. The AAMC in November drafted language which was forwarded to the Policy Advisory Committee which would have required an elector to be registered and a resident of the State, district, municipality, service area and/or precinct in which he seeks to vote.

"Without more specific language, clerks feel that there is a legal conflict with not counting questioned ballots of persons who are registered but who have moved to another area and not filed a change of address card.

"In small communities where voter turn-out is small, elections close, and everyone knows where everyone else lives, this is an important issue."

29.26.060 (JoAnne Shanley)

"I found the language in this section regarding majority election extremely cumbersome."

29.26.100 (Peter Hallgren)

This section reserves the powers of referendum and initiative to the residents of a municipality and is a limitation on home rule municipalities. Immediately following are a number of sections (Sec. 29.26.110 et seq.) which give the statutory procedures for referenda and initiatives. It is unclear whether these procedures are also limitations on home rule power to act otherwise.

29.26.120 (Tam Cook, Legislative Counsel)

This section "was inadvertently included in this bill. It is a section currently in Title 29 which conflicts with the changes made in the initiative and referendum process by this bill."

29.26.130 (JoAnne Shanley)

"Relates to the contents of an initiative or referendum petition. The AAMC is concerned with this section and urges clarifying language to establish that the petitioners are responsible for drafting the issues and the clerk only is responsible for supplying the petition format.

"Suggested language:

"(1) 'a summary of the bill to be initiated or the act to be referred, a. submitted by the sponsor/s and reviewed and approved by the city attorney if applicable (to insure that the summa. as submitted is not unclear or misleading)

"(2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsor/s."

29.26.140 (JoAnne Shanley)

"Regarding signature requirements on petitions (b) states 'The clerk shall determine the number of signatures required on a petition and inform each sponsor.'

"The AAMC discussed this section and some concern was voiced that in larger municipalities there might be an overwhelming number of 'sponsors' which might pose a problem when trying to contact all of them and coordinate the petition process. A suggestion was made that a maximum of 3-5 people be designated 'spokesmen' or 'coordinators' and the clerk, by contacting these individuals, would meet the requirements of law."

29.26.150 (JoAnne Shanley)

"Addresses the sufficiency of a petition. It states that 'Within 10 days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.'

"This section neglects to establish the time frame and means by which the clerk shall notify the sponsors of the sufficiency or insufficiency of the petition.

"Should also be clarified regarding the 'date on which the petition is rejected.' Is this the date the petitioners are notified by certified mail?"

29.26.200 (JoAnne Shanley)

"Provides that an ordinance/resolution which was subject of a successful initiative election may not be repealed within one year BUT MAY BE AMENDED. Is there some way to place some controls on the amendment procedure whereby those amendments could not have the effect of creating 'lame duck,' ineffectual legislation?"

29.26.280 (JoAnne Shanley)

"See comments under 29.26.140 regarding number of sponsors.

"(b), last sentence

"I would support the addition of the word 'registered' because it takes the burden of proof off the clerk to prove that someone is residing in an area although the voter registration list indicates that he is registered in another area.

" " If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters registered and residing within the district (or service area) equal to 35 percent of the number of votes cast in the district (or service area) for that office at the last regular election held before the issuance of the petition."

29.26.290 (JoAnne Shanley)

"See comments under 29.26.150 regarding a method whereby the clerk notifies the petitioners of the sufficiency or insufficiency of a petition."

29.26.310 (JoAnne Shanley)

"The word 'immediate' poses some problems. Does this mean the calling of a special meeting? What about substituting wording such as 'at the next regularly-scheduled meeting.'?"

29.20.640 (Joyce Rasler)

"(a) (5) A summary of the optional property tax exemptions should be submitted to the department. Requiring each municipality to estimate the revenues lost by operation of the exemptions would tend to have inequitable information submitted to the department. The State Assessor's office is better qualified to determine a fair and impartial estimate of lost revenues, which would be consistent throughout the state. Although this is not a new requirement, this section is difficult to operate in municipalities without full-time staff assessors."

29.20.640 (Department of Community & Regional Affairs)

P55, L16 - Substitute "programs" for "chapters."

29.25.010(a)(4) (Department of Community & Regional Affairs)

Why should supplemental or transfer appropriations be excluded?

29.25.060 (JoAnne Shanley)

"Relates to resolutions and states the section is applicable to Home Rule municipalities. However, this section is not cited under Sec. 29.10.110, 'Limitation of Home Rule Powers.'"

29.26.050 (JoAnne Shanley)

"This section has been amended by the addition of a requirement that a person be registered to vote in the precinct (or service area?!) in which he seeks to vote. However, the section still does not address residency in a district, precinct or service area. The AAMC in November drafted language which was forwarded to the Policy Advisory Committee which would have required an elector to be registered and a resident of the State, district, municipality, service area and/or precinct in which he seeks to vote.

"Without more specific language, clerks feel that there is a legal conflict with not counting questioned ballots of persons who are registered but who have moved to another area and not filed a change of address card.

"In small communities where voter turn-out is small, elections close, and everyone knows where everyone else lives, this is an important issue."

29.26.060 (JoAnne Shanley)

"I found the language in this section regarding minority election extremely cumbersome."

29.26.100 (Peter Hallgren)

This section reserves the powers of referendum and initiative to the residents of a municipality and is a limitation on home rule municipalities. Immediately following are a number of sections (Sec. 29.26.110 et seq.) which give the statutory procedures for referenda and initiatives. It is unclear whether these procedures are also limitations on home rule power to act otherwise.

29.26.120 (Tam Cook, Legislative Counsel)

This section "was inadvertently included in this bill. It is a section currently in Title 29 which conflicts with the changes made in the initiative and referendum process by this bill."

29.26.130 (JoAnne Shanley)

"Relates to the contents of an initiative or referendum petition. The AAMC is concerned with this section and urges clarifying language to establish that the petitioners are responsible for drafting the issues and the clerk only is responsible for supplying the petition format.

"Suggested language:

"(1) 'a summary of the bill to be initiated or the act to be referred, as submitted by the sponsor/s and reviewed and approved by the city attorney if applicable (to insure that the summary as submitted is not unclear or misleading)

"(2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsor/s."

29.26.140 (JoAnne Shanley)

"Regarding signature requirements on petitions (b) states 'The clerk shall determine the number of signatures required on a petition and inform each sponsor.'

"The AAMC discussed this section and some concern was voiced that in larger municipalities there might be an overwhelming number of 'sponsors' which might pose a

problem when trying to contact all of them and coordinate the petition process. A suggestion was made that a maximum of 3-5 people be designated 'spokesmen' or 'coordinators' and the clerk, by contacting these individuals, would meet the requirements of law."

29.26.150 (JoAnne Shanley)

"Addresses the sufficiency of a petition. It states that 'Within 10 days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.'

"This section neglects to establish the time frame and means by which the clerk shall notify the sponsors of the sufficiency or insufficiency of the petition.

"Should also be clarified regarding the 'date on which the petition is rejected.' Is this the date the petitions are notified by certified mail?"

29.26.200 (JoAnne Shanley)

"Provides that an ordinance/resolution which was subject of a successful initiative election may not be repealed within one year BUT MAY BE AMENDED. Is there some way to place some controls on the amendment procedure whereby those amendments could not have the effect of creating 'lame duck,' ineffectual legislation?"

29.26.280 (JoAnne Shanley)

"See comments under 29.26.140 regarding number of sponsors.

"(b), last sentence

"I would support the addition of the word 'registered' because it takes the burden of proof off the clerk to prove that someone is residing in an area although the voter registration list indicates that he is registered in another area.

"If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters registered and residing within the district (or service area) equal to 35 percent of the number of votes cast in the district (or service area) for that office at the last regular election held before the issuance of the petition."

29.26.290 (JoAnne Shanley)

"See comments under 29.26.150 regarding a method whereby the clerk notifies the petitioners of the sufficiency or insufficiency of a petition."

29.26.310 (JoAnne Shanley)

"The word 'immediate' poses some problems. Does this mean the calling of a special meeting? What about substituting wording such as 'at the next regularly-scheduled meeting.'??"

29.26.350(c) (Department of Community & Regional Affairs)

Add "Appointments to fill vacancies are for the unexpired term."

29.35.200, .210, .250, .260, .170 (Tam Cook)

While SB 180 no longer contains a specific grant of power to regulate the use and sale of alcoholic beverages, that power may be implied to exist as a power "not otherwise prohibited by Alaska statute" because AS 04.21.010 is a grant rather than a limitation of regulatory power. If it is the intention of the committee that municipalities regulate in this area only pursuant to AS 04.21.010, a cross-reference to that section would be appropriate to include in Sec. 29.35.200, Sec. 29.35.210, Sec. 29.35.250 and Sec. 29.35.260. A cross-reference should also be included in Sec. 29.35.170 so that it is clear that the power to tax is subject to the limitation imposed under AS 04.21.010(c). I also note that AS 04.21.010 specifically applies to unified municipalities, and, presumably, to other home rule municipalities as a limitation on the power to regulate and to tax in this area. (AS 04.21.080(11)) It might be helpful to users of Title 29 if reference to this limitation were to appear there as well as in Title 4.

29.35.210(a) (Tam Cook)

A paragraph was omitted from Sec. 29.35.210(a): "(9) tax, spend and regulate for the purpose of promoting economic development." A second class borough would be authorized to exercise this power on a nonareawide basis. No similar provision currently exists in Title 29.

29.35.250, .260 (Dept. of Community and Regional Affairs)

This provision seems to give general law cities a power which is equivalent to the authority to adopt and modify a home rule charter by ordinance. As the State Constitution provides that the adoption and modification of a charter shall be by referendum, the propriety of these sections is questioned. Additionally, the subject provisions would allow a second class city in the unorganized borough to exercise the power of education.

29.35.260(c) (Tam Cook)

Incorrectly refers to AS 29.35.180, when it should refer to AS 29.35.190.

29.40.010 (Leo Rhode, Mayor of Homer)

(HB 170 or SB 180) has language which greatly improves the latitude in which this exchange may transpire i.e., "the City must first consent by ordinance to the delegation." Currently Title 29 allows no prerequisite affirmation by the City.

29.40.140 (Joe Burch, Div. of Technical Services, Dept. of Natural Resources)

Line 16: "recorded" should be changed to "filed."

29.40.150 (Richard Hallgren)

Vacating a street - returning the property to the original owner. If the property has been sold in the interim, they charge fair market value rather than giving property away free. Refers back to Sec. 29.10.110 - paragraph (34).

29.40.170 (Joe Burch)

Line 6: "recorded" should be changed to "filed."

Line 8: "record" should be changed to "file."

29.40.180 (Jim Kohler, City Manager of Yakutat)

State compliance with local subdivision regulations. Item that is going to be more than a sleeper, as well as elimination of third class boroughs.

29.35.020 (JoAnne Shanley, Seward City Clerk)

Regarding the control of watersheds outside a municipality's boundaries:

"Before this power may be exercised within the boundaries of another municipality, the approval of the other municipality must be given by ordinance."

A request had been made that some wording should be added similar to "such approval cannot be unreasonably withheld"; or, better still, "such approval cannot be withheld unless the other municipality is attempting to control the watershed."

A case in point is Homer. The city is trying to protect its watersheds located outside the city limits but within the boundaries of the Kenai Peninsula Borough. The Borough has refused to allow Homer to proceed with their plans but also refuses to take any action to protect the watershed.

29.35.170 (Richard Hallgren, Sitka Borough Mayor)

Page 77 - 29.35.170 - wishing to tie in all of this as mandatory in home rule municipalities. As it relates to 29.45.

29.35.190 and 29.10.110 (Dept. of Community & Regional Affairs)

It would seem an oversight that unified municipalities, home rule boroughs and home rule cities in the unorganized borough are not subject to such provisions. If the apparent oversight is remedied, 29.40.150(c) should be stricken and a new section 29.40.190 should be added stating that AS 29.40.010 - 29.40.190 apply to home rule and general law municipalities.

CS
/ 8 0 B
/



Alaska State Legislature

Senate Committee on Community & Regional Affairs

Official Business

465-4934
465-4935

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

Touch
State Capitol
Juneau, Alaska 99811

January 21, 1982

MEMORANDUM

TO: House and Senate Community and Regional Affairs Committees

FROM: Staff, House and Senate Community and Regional Affairs Committees

SUBJECT: Committee Substitute for House Bill 170/
Senate Bill 180

Attached is the draft of the Committee Substitute for House Bill 170/Senate Bill 180. Along with reviewing the Committee Substitute, there are three issues which the committees need to consider at today's joint meeting (3 p.m., Behrend's Conference Room). These issues are summarized below:

- 29.04.030 (1) With its current language, HB 170/SB 180 eliminates the third class borough as a form of local government with the specific exception of the Haines Borough, which it grandfathered. The Haines Borough would be required to abide by those sections of the existing Title 29 which pertain to it. It is not mentioned or included in the proposed Title 29. This could lead to the very awkward situation of having two Title 29's, one for the Haines Borough and one for the rest of the State. Legal Services has drafted proposed language that would eliminate this difficulty while maintaining the committees' intent.
- 29.45.060 (2) According to an Attorney General's opinion, current language in Section 29.45.060 does not include greenhouses used for commercial agricultural purposes in the definition

Continued on next page

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907.465-3600

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

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 reclassify as a first class city if the population has reached 600 permanent resident.

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

body or school board. There is no super majority requirement for other elected offices, and a municipality may change the requirement for mayor, member of the governing body, or member of the council by ordinance. The initiative and referendum process and the recall process have been substantially altered. An application must be filed with the clerk for a petition. The clerk prepares the petition and provides it to the voters who will sponsor the petition. When a petition is returned, the clerk certifies whether it is sufficient and notifies the sponsors. The petition may be supplemented with additional signatures obtained and filed within 10 days after the petition is first rejected, except that a recall petition may only be supplemented if it contains an adequate number of signatures, counting both valid and invalid. A person may not be recalled until after he has served 120 days and may not be recalled if there are only 180 days left in his term.

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

voters or transferred by the cities in the borough, unless prohibited by law. A city may exercise any power not prohibited by law.

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

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

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

Chapter 47. Municipal Debt. The issuance of revenue bonds and use of proceeds from revenue bonds are not subject to the prohibition against a political subdivision making a subscription to the capital stock of a corporation, lending its credit for the use of a corporation, or borrowing money for the use of a corporation. Refunding bonds may be exchanged at the discretion of the governing body and need not be exchanged at par for bonds being refunded. Revenue bonds may be issued to finance any project and to be secured solely from the revenue and property of that project. Bonds and notes may be sold in the manner and at the price determined by the municipality regardless of the par value. Allows the interest rate payable on bonds or notes to exceed the contract usury rate. Indebtedness of a service area remains a debt even though a court subsequently determines that the service area was not validly formed under law.

Chapter 55. Municipal Programs. No significant change.

Chapter 60. State Programs. No significant change.

Chapter 65. General Grant Land. No significant change.

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

TBC:ljb

Attachment

TABLE OF CONTENTS

<u>Chapter</u>	<u>Title</u>	<u>Page</u>
Chapter 03	The Unorganized Borough (AS 29.03)	001
Chapter 04	Classification of Municipalities (AS 29.08)	001
Chapter 05	Incorporation (AS 29.18)	003
Article 1	Requirements	003
Article 2	Procedure	005
Article 3	Transitional assistance	010
Chapter 06	Alteration of Municipalities (AS 29.68)	010
Article 1	Change of Name	011
Article 2	Annexation and Detachment	011
Article 3	Merger and Consolidation	013
Article 4	Unification of Municipalities	015
Article 5	Dissolution	023
Chapter 10	Home Rule Municipalities (AS 29.13)	026
Article 1	Charters	026
Article 2	Home Rule Limitations	029
Chapter 14	Capital City (AS 29.18)	031
Chapter 20	Municipal Officers and Employees (AS 29.23)	035
Article 1	Conflict of Interest, Public Meetings	035
Article 2	Governing Bodies	035
Article 3	Municipal Executive and Administrator	045
Article 4	Boards and Commissions	049
Article 5	Other Officials and Employees	050
Article 6	Manager Plan	051
Article 7	Miscellaneous Provisions	054
Chapter 25	Municipal Enactments (AS 29.48)	055
Chapter 26	Elections (AS 29.28)	059
Article 1	Regular and Special Elections	059
Article 2	Initiative and Referendum	062
Article 3	Recall	067

<u>Chapter</u>	<u>Title</u>	<u>Page</u>
Chapter 35	Municipal Powers and Duties (AS 29.33, 29.38, 29.41, 29.43, 29.48, 29.63)	071
Article 1	General Powers	071
Article 2	Mandatory Areawide Powers	077
Article 3	Additional Powers	078
Article 4	City Powers	080
Article 5	Acquisition of Additional Powers	081
Article 6	Construction of Powers	084
Article 7	Service Areas	084
Chapter 40	Planning, Platting, and Land Use Regulation (AS 29.33)	086
Chapter 45	Municipal Taxation (AS 29.53)	096
Article 1	Municipal Property Tax	096
Article 2	Enforcement of Tax Liens	115
Article 3	City Property Tax	124
Article 4	Borough Sales and Use Tax	125
Article 5	City Sales and Use Tax	127
Chapter 46	Special Assessments (AS 29.63)	128
Chapter 47	Municipal Debt (AS 29.58)	137
Article 1	Revenue Anticipation Notes	137
Article 2	Bond Anticipation Notes	138
Article 3	General Obligation Bonds	140
Article 4	Revenue Bonds	141
Article 5	Refunding Bonds	141
Article 6	Miscellaneous Provisions	142
Chapter 55	Municipal Programs (AS 29.48)	145
Chapter 60	State Programs (AS 29.88, 29.89, 29.90, 29.95)	146
Article 1	Municipal Tax Resource Equalization	146
Article 2	State Aid for Miscellaneous Purposes	151
Article 3	State Aid for Hospital and Health Facility Construction	156
Article 4	General Provisions	158

<u>Chapter</u>	<u>Title</u>	<u>Page</u>
Chapter 65	General Grant Land (AS 29.18)	160
Chapter 71	General Provisions (AS 29.73, 29.78)	172

SB 180

DELANEY, WILES, HAYES, REITMAN & BRUBAKER, INC.

JAMES J. DELANEY
EUGENE F. WILES
GEORGE N. HAYES
STANLEY H. REITMAN
JOHN K. BRUBAKER
RAYMOND E. PLUMMER, JR.
DANIEL A. GERETY
ROBERT L. EASTAUGH
STEPHEN M. ELLIS

ATTORNEYS AT LAW
SUITE 400
1007 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501-1990
TELEPHONE 270-3581
TELECOPIER 279-3587
AREA CODE 907

CLAY A. YOUNG
KAREN L. HUNT
FRANK B. KOZIOL, JR.
WILLIAM E. MOSELEY
MARC D. BOND
JACQUELINE CARR-AGNI
J. MICHAEL MOXNESS
J. D. CELLARS
GREGORY J. MOTYKA

March 11, 1982

Ms. W. J. Elam
Chevron U.S.A Inc.
595 Market Street, Room 2366
San Francisco, CA 94120

RE: HB 170; SB 180

Dear Willa:

In accordance with your request, we have reviewed CSHB 170 (C&RA) and CSSB 180 (C&RA).

The bills appear to be identical and embody a re-writing of Title 29 of the Alaska Statutes, pertaining to municipal governments. We have focused on those portions of the bill dealing with municipal zoning and taxing authority.

With regard to the taxing authority, we find that the proposed bill does not differ significantly from existing law.

With regard to the zoning provisions, it is our opinion that the proposed bill greatly expands the authority of municipal governments to provide for planning, platting and zoning in the following respects: (1) the proposed bill contains no restrictions on the zoning power of home rule municipalities; (2) the proposed bill permits municipalities to exercise land use regulation by adopting a permitting system; and (3) the bill grants planning, platting and zoning authority to more local governments than does the current law. We are particularly concerned

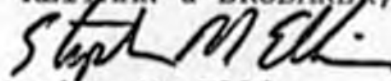
Ms. W. J. Elam
March 11, 1982
Page Two

with this section of the bill because, if adopted, it would most likely validate the proposed zoning scheme of the North Slope Borough. We have enclosed herewith a more detailed analysis of the planning and zoning aspects of the proposed legislation.

If we can be of additional assistance in this matter, please let me know.

Very truly yours,

DELANEY, WILES, HAYES,
REITMAN & BRUBAKER, INC.



Stephen M. Ellis

SME:gk

cc: Ms. S. R. Roff
Mr. E. F. Wiles

DETAILED ANALYSIS OF LAND USE REGULATION BY
MUNICIPALITIES UNDER CSSB 180 (C & RA) AND CSHB 170 (C & RA)

A. Current law.

Land use regulation by municipal governments is currently governed by A.S. 29.33.070-.245. A.S. 29.33.070 requires all boroughs to provide for planning, platting and zoning on a "area-wide basis." A.S. 29.43.040 grants the same power to home rule and first and second class cities located outside organized boroughs.

A.S. 29.33.080 and .085 require the assembly to adopt a "comprehensive plan" containing policy statements, goals, standards and maps. A.S. 29.33.090 requires the municipal assembly to regulate land use "by districts or contract zoning." It requires land use regulations to be uniform for each class of use in each district. Contract zoning is defined as allowing a "zoning reclassification" to a less restricted use where the owner agrees to place restrictions on the use of the land beyond the zoning requirements generally attaching to the new classification. This section also states the purposes for which zoning ordinances may be adopted. The stated purposes clearly envision zoning in an urban environment.

The current law applies to all local governments, and therefore limits the power of home rule boroughs. The current

law has no provision authorizing the regulation of land use by the adoption of a permit system. Additionally, the current law does not allow cities located in third class boroughs to provide for planning, platting and zoning.

B. Land use regulation under CSSB 180 and CSHB 170.

Under CSSB 180 and CSHB 170, land use regulation by local governments would be governed by A.S. 29.40.010-.200.

A.S. 29.35.180(b) requires a home rule borough to provide for planning, platting and zoning. No limitations are imposed upon that power, nor are any guidelines set forth limiting the exercise of that power.

A.S. 29.35.180(a) requires first and second class boroughs to provide for planning platting and zoning pursuant to A.S. 29.40. A.S. 29.40.010 also requires first and second class boroughs to provide for planning, platting and zoning.

A.S. 29.35.220 and .300(b) would allow a third class borough to acquire the power to provide for planning, platting and zoning within a service area by the adoption of a referendum to that effect.

A.S. 29.35.250(b) requires a home rule or first class city within a third class borough to provide for planning, platting and zoning under A.S. 29.40, and allows a second class city located within a third class borough to so provide.

A.S. 29.35.260(c) requires home rule and first class cities outside a borough and permits a second class city outside a borough to provide for planning, platting and zoning under A.S. 29.40.

These provisions apparently impose no limitation on the planning, platting and zoning authorities of home rule boroughs. It appears that A.S. 29.40 does not apply to the exercise of those powers by home rule boroughs. A.S. 29.35.180(b); compare A.S. 29.35.180(a).

Article X, Section 11 of the Alaska Constitution provides: "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter."

Given this provision and the apparent lack of any explicit limitations on the zoning authorities of home rule boroughs, home rule boroughs would have greatly expanded zoning authority under the bill. As the Supreme Court has stated:

A municipal ordinance is not necessarily invalid in Alaska because it is inconsistent or in conflict with a state statute. The question rests on whether the exercise of authority has been prohibited to municipalities. The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is accorded the weight of law.

Jefferson v. State, 527 P.2d 37, 43 (footnotes omitted, emphasis added).

This position was reiterated by the Supreme Court in

Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978).

Merely because the State has enacted legislation concerning a particular subject does not mean that all municipal power to act on the same subject is lost. We have consistently rejected application of any such concept in our cases dealing with home rule municipalities. We do so now with respect to general law municipalities because our constitution requires that their powers be liberally construed as well. We believe that an appropriate accommodation can be made between the State and general law municipalities by a rule which determines pre-emption to exist, in the absence of an express legislative direction or a direct conflict with a statute, only where an ordinance substantially interferes with the effective functioning of a state statute or regulation or its underlying purpose.

584 P.2d at 1121-1122 (footnotes omitted, emphasis added).

It appears that the Alaska Supreme Court is applying the same test for state pre-emption to both home rule and general law municipalities. In summary, in order for a local ordinance to be determined invalid pursuant to Article X, Section 11 of the Alaska Constitution, there must be a prohibition by state statute, express or implied, or the ordinance must substantially interfere with the effective functioning of the state statute or regulation or its underlying purpose.

Under CSSB 180 and CSIB 170, there would be no explicit prohibition of any zoning ordinance adopted by a home rule municipality.

Federal lands may be unaffected by the zoning ordinances adopted by home rule boroughs in any event. See Ventura County v. Gulf Oil Corp., 601 F.2d 1080 (9th Cir. 1979), affirmed per curiam 100 S. Ct. 1593 (1980).

Private land may be totally at the mercy of local zoning ordinances except insofar as inverse condemnation can be claimed and proved. It could be argued that, as applied to land granted to the natives by the Alaska Native Land Claims Settlement Act, zoning ordinances which prohibit development are inconsistent with the purposes of that act and therefore invalid. There is no precedent for such an argument and the success of such a position is questionable.

Any argument opposing the restriction of energy development on state lands by a local zoning ordinance adopted by a home rule borough would have to rely on the claimed inconsistency of the ordinance with the state's right to develop its natural resources. In that regard, determination of whether there is a limit to the home rule borough's authority to adopt ordinances prohibiting or restricting the development of energy sources requires a two-fold inquiry:

1. Are there Alaskan constitutional and statutory provisions which seek to implement a statewide policy with reference to the subject matter of the ordinances?

2. Do the proposed borough ordinances impede implementation of that policy?

While control of natural resources of the State of Alaska is specifically retained by state government pursuant to Article VIII of the Alaska Constitution, it is by no means certain that a court would rule that a local zoning ordinance which impedes or prohibits development of oil and gas in certain specific locations would be struck down as unconstitutional or unauthorized. In any event, the adoption of the current provisions concerning home rule regulation of land use as stated in CSSB 180 and CSMB 170 would insure extensive constitutional litigation to resolve these questions.

The question is further complicated by the fact that A.S. 29.40.040(a)(2) in the two bills would specifically authorize the use of a permitting system to regulate land use. This section places far greater authority in local government than the current law does. It is conceivable that an ordinance could be adopted which would prohibit all uses unless a land use permit is obtained from the local government involved. This would allow local governments to assess energy development projects on a case by case basis thus adding another layer to the regulation of energy development in general.

It should be noted that this permit procedure would be available to any local government that possesses or obtains planning, platting or zoning authority under A.S. 29.35 and A.S. 29.40 as proposed in CSSB 180 and CSHB 170.

SB180

EXXON COMPANY, U.S.A.
POUCH 6601 • ANCHORAGE, ALASKA 99502 (907) 276-4552

ALASKA OPERATIONS
WESTERN DIVISION

R.H. WEAVER
OPERATIONS MANAGER

October 9, 1981

Re: Twelfth Alaska Legislature
Joint House-Senate Committee
& Regional Affairs Committee
SB-180/HB-170 - Alaska
Municipal Code Review

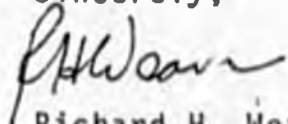
Senator Don Gilman, Co-Chairman
Representative Pat O'Connell, Co-Chairman
Joint House-Senate Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V (MS3100)
Juneau, Alaska 99811

Gentlemen:

Exxon has followed with interest your committee deliberations on the captioned bills since they were introduced the middle part of last February. We would like to offer for your consideration the attached comments and suggestions to those chapters and sections of these bills which you propose to discuss at your October 9 and 10 meeting. Additional comments and suggestions on the chapters you will be considering at later meetings will be submitted at the appropriate time.

We sincerely appreciate your consideration of the attached material. If you should have any questions, please let us know.

Sincerely,



Richard H. Weaver

RHW:raw
Attachments

Sec. 29.25.020. ORDINANCE PROCEDURE.

Presently, the Assembly of a municipality is only required to give five day's notice before enacting an ordinance. The proposed revisions to Title 29 would not change this five-day requirement. Therefore, we would suggest that Section 29.25.020 of the revised Title 29 be amended to require that the hearing follow publication by at least 30 days. This time period would give interested persons an opportunity to review the ordinance and appear at the public hearing. The amendment would be as follows:

Leave alone

(b) (4) The hearing follows publication by at least 30 days;

Sec. 29.25.070 PENALTIES.

The following language should be deleted from subsection (b):

Leave alone

"An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction."

These provisions are new to the statute and constitute a radical change in the established use of injunctive relief. The violation of a municipal ordinance does not require this extraordinary remedy and the provisions for the imposition of a fine or possible imprisonment should be adequate to insure compliance. Injunctive relief should be granted only after these other remedies have proven to be inadequate.

Sec. 29.35.010 GENERAL POWERS

Subsection (1) of this provision has been amended by the deletion of the following underlined language:

Seemed to pass over excess verbiage

"to acquire, manage, control, use and dispose of real and personal property for a purpose authorized under this title, federal law, or other law, or in accordance with such law..."

This deleted language clearly recognized that federal and state law was to be considered in the management, control and use of this property by the city or borough. The language should be retained so that deletion may not in any way be viewed by a city or borough as a dispensation from the doctrine of pre-emption by federal or state entities.

Sec. 29.35.050. GARBAGE AND SOLID WASTE SERVICES.

Sec. 29.35.050 of the proposed revisions states that a municipality may provide for a system of garbage and solid waste collection and may require all persons within the municipality to use the system and to dispose of their garbage and solid waste as provided in the ordinance. Because of the remoteness of our locations, which may require sanitary waste facilities, we would propose that the following language be added to subsection (2) to allow for exceptions to a municipality's exclusive service right, provided certain conditions are met:

(2) Require all persons within the municipality or district to use the system and to dispose of their garbage and solid waste as provided in the ordinance. An exception to this requirement will be allowed if a person can demonstrate that he has adequate facilities for disposal of garbage and solid wastes and that such facilities are in compliance with all lawful laws and regulations.

Sec. 29.35.090 BUDGET AND CAPITAL PROGRAM.

Adequate public notice should be given of the hearing required by this section. The language in subsection (a) should specifically state what the notice shall contain and how the notice is to be published.

In addition, provision should be made for a period for public comment or a public hearing to be held prior to any non-emergency appropriation by the governing body.

Sec. 29.35.250. CITIES INSIDE BOROUGHS.

Clarification is needed in this section on the question of whether a city's power absolutely ceases once the borough exercises a similar power. A conflict currently exists between the literal interpretation of this statute and the provisions of AS 29.48.035(b) which provides that a city and borough may concurrently exercise a power if the borough agrees to the exercise.

Sec. 29.35.320. INITIATION OF ACQUISITION OF POWER.

This section proposes to delete from existing law the provision that a public hearing be held on the question of the ability of the borough to exercise the power to be acquired.

We recommend that this provision be retained in the revised Title 29 in that it serves a useful public service in apprising concerned parties of any changes in borough authority.

*Simon
prop. modification
This
281 -
Make a new
(c)*

*Maintain public hearing
29.35.050 - 291 ✓*

Sec.29.40.010. PLANNING, PLATTING AND LAND USE REGULATION.

We suggest the following addition to subsection (b) to provide:

"The Assembly may, by ordinance, without first obtaining the consent of the city, revoke any power or responsibility delegated under this section."

(c) It sounds like add this

Any revocation by the Assembly of a power previously delegated to a city should be by ordinance to insure that the public will have an opportunity to comment at the required public hearing.

Sec. 29.40.020. PLANNING COMMISSION.

The proposed revisions to this chapter greatly enlarge the authority of the Planning Commission. Existing law calls only for the commission to prepare a Zoning Ordinance to implement the Comprehensive Plan, but this section would empower the Planning Commission to administer measures necessary to implement the Plan. This broad delegation of authority is unnecessary.

The powers of the Planning Commission should be firmly set by statute and enumerated in this section.

Sec. 29.40.030. COMPREHENSIVE PLAN.

This section provides for a "periodic" review of the Comprehensive Plan by the Assembly, based on recommendations from the Planning Commission. We believe that each Assembly should establish a definite time for these mandatory reviews. Existing law requires they be held every two years, however, each Assembly should have the discretion to determine a schedule in accordance with the particular needs or requirements of the municipality. In addition, a public hearing or a period for public comment should be provided so that the Assembly may consider the views of the public as well as that of the Planning Commission.

Sec. 29.40.040. LAND USE REGULATION.

Insofar as this section vests in the Assembly much greater authority over land use than currently exists, we suggest that the statute be revised by the addition of the following subsection:

(c) An ordinance adopted or amended under (a) of this section may not preclude or otherwise impede an activity authorized under a permit issued by a state regulatory agency or department having jurisdiction over the activity.

Permitting Authority

Decided to drop for the time being

4

Sec.29.40.050. APPEALS FROM ADMINISTRATIVE DECISIONS.

This section should be amended to provide for a right of appeal of all decisions on a request for a variance.

Sec. 29.40.060. JUDICIAL REVIEW.

We support the proposed provision in subsection (a) providing for the right of appeal on all decisions dealing with land use regulation.

But we also urge that a provision in the existing law be retained and expanded.

We suggest the addition of the following:

- (c) An appeal under (a) and (b) of this section shall stay enforcement proceedings unless the court issues an enforcement order based on a sworn certificate of imminent peril to human life or property made by an administrative body.

Sec. 29.40.120. NOTICE OF HEARING.

This section should be amended to state with specificity as to what information the notice shall contain, when it is to be published, and the earliest date after publication on which the hearing may be held. Publication by notice in a newspaper should require that the notice appear at least on two occasions not more than one week apart.

Sec.29.40.170. REMEDIES.

The following language should be deleted from subsection (b):

"An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction."

These provisions are new to the statute and constitute a radical change in the established use of injunctive relief. Injunctive relief should be available only where no other remedy is available and its issuance should be within the sound discretion of the court.

RS/TRH/009a
10/5/81

KW
for SB 180
Free Conference
Committee

ALASKA ASSOCIATION OF MUNICIPAL CLERKS

March 31, 1982

Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senate President Kerttula and Senate Members;

Committee Substitute for Senate Bill 180 (CRA) is currently under consideration by the House Community and Regional Affairs Committee. It is the desire of the Alaska Association of Municipal Clerks to re-iterate that, in the event that this bill, rather than CSHB 170 (CRA) is the final document considered for adoption; certain basic amendments should be incorporated into the Senate version.

The Clerk's Association has actively presented strong recommendations for development of Chapter 26, proposed Title 29, regarding elections and the administration thereof. The current version of CSHB 170 (CRA) contains the language provided by the Clerks. We support the procedures provided in that bill and request appropriate amendments be made, at committee level or on the floor to bring CSSB 180 (CRA) concurrent with the companion House legislation.

W

For ready reference, herein provided is prior correspondence of January 15, 1982 which summarizes more specifically our concerns.

Sincerely,

Kathleen Herold

Kathleen Herold
Vice President
Alaska Assoc. of Municipal Clerks
C/O Box 335
Homer, Alaska 99603

CC: Senator Don Gilman ✓
Senator Arliss Sturgulawski

Alaska Association of Municipal Clerks

January 15, 1982

Honorable Senators and Representatives
Senate/House Committee on Community
and Regional Affairs
Pouch V
Juneau, Alaska 99801

Dear Senators and Representatives;

The Alaska Association of Municipal Clerks has closely followed the work of your committees and wish to begin this message with a note of appreciation for the consideration you have given the issues we have raised. The changes brought about through careful consideration of our testimony and comment are commendable.

A joint session of the House and Senate Committee on Community and Regional Affairs scheduled for January 21st is of interest to us. It seems appropriate to review generally a few very important areas that may still require your consideration, and perhaps could be taken up at that time.

Petition procedures remain a concern. In the existing bill, Municipal Clerks are charged with language composition duties which more appropriately are responsibilities best placed with a municipality's legal counsel. In the absence of municipal legal counsel we suggest the State Department of Community and Regional Affairs provide assistance to communities without formal legal counsel channels.
(29.26.130)

Sponsors of a petition may be numerous; currently, provisions require notification of these sponsor(s). Clarification of petition sponsor (s) and a definition of what constitutes notification, i.e. method, etc., are important to the proper execution of these acts. If a petition is multi-sponsored, then a spokesperson to act as group representative should be required. The petition format could provide for this instance. (29.26.130, 140, 150).

Finally, we believe local ordinance should determine priority elections. Of prime importance to the code of ethics established by clerk's state and nationwide is the proper execution of the voting franchise. Time provisions allowed for run-off elections disenfranchise voters from balloting absentee. Determining the outcome of a candidate race by an election which draws historically yet fewer voters than the regular municipal election, should be left to the discretion of each community.

Borough Powers

Dear Editor:

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

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

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

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

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

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

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

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

7. it will allow in the area outside cities to provide without voter approval unrestricted borough owned and/or operated economic development (at the last election the Fairbanks voters outside cities turn down unrestricted in-

dustrial development (advertised as to authorize issuance of industrial revenue bonds), 73.9% voted NO!;

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

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

Very truly yours,
Wolfgang Falke
Box 1166
Fairbanks, AK



Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

465-4934
465-4935

Official Business

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

Pouch V
State Capitol
Juneau, Alaska 99811

March 3, 1982

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

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

RE: CSSB 180

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

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

1. Mr. Falke is correct that SB 180 would prevent the formation of any new third class boroughs.
2. This item objects to the voting conditions surrounding adoption of home rule status. There is no change in the requirements listed in SB 180 from existing statute.
3. & 4. It is contended that the use of the word "municipality" in the relevant sections would allow the mayor or department heads to set penalties by regulation. This is a misreading of the bill. Legal Services states that the use of the term "municipality" allows for more precise drafting and eliminates confusion. All penalties would continue to have to be set by ordinance.

5. The letter states that petitions will be restricted to legislative matters only and would not be an available remedy to removal for offending regulations. Municipal regulations may only be drafted to implement specific ordinances and the petitionable remedy to offending regulations is to change the ordinances.
6. He is correct in stating that the time permitted for the obtaining of signatures for petitions is reduced from the present 90 days to 60 days.
7. Item number 7, appearing in the letter to the Juneau Empire, is the central point in Mr. Falke's letter to legislators, received this morning. Mr. Falke is concerned about AS 29.35.210(a)(8). This section permits a second class borough by ordinance to provide for economic development on a non-area wide basis. The borough would not be permitted to pay for this non-area wide service from the collection of area wide taxes or by general obligation bonding without voter approval. Second class boroughs would be able to pay for the economic development by the use of revenue bonds without voter approval, however, voter approval is not required under current statute for the use of revenue bonds.
8. Mr. Falke objects to AS 29.35.210(a)(1), which says that a second class borough may, by ordinance, provide transportation systems on a non-area wide basis. Existing statute, 29.48.030(a)(12), currently allows a municipality to exercise the powers necessary to provide for transportation systems. There is no significant change here from existing statute.

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

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

MEMORANDUM

TO:

Glen Svendsen
Special Assistant to
Senator Arliss Sturgulewski

DATE : May 27, 1982

FROM: *Bill*

Bill Jacobi, Fiscal Supervisor
Administrative Services Division
Department of Revenue

SUBJECT: Municipal Assistance

Per your telephone request this morning, attached is a distribution of municipal assistance including the adjusted population count for the North Slope Borough and the cities of Selawik, Emmonak, and Barrow. These adjusted population counts were received after February 1, 1982.

This is what the municipal assistance payments would have been to each city and borough if we had received the latest reported population count by January 31, 1982. The first payments were sent out February 1, 1982 to Anchorage, Aleknagik, Clark's Point, Fairbanks, Hoonah, Ketchikan, Kobuk, Newhalen, Palmer, Tanana, and Valdez in compliance with AS43.20.016.

Attachment

T. H. ...

	Population	Base Amount	Excess Amount	Total Share	Voucher No.
UA 635 Anchorage Munic.	180740	4918924 -	34990779 -	57909803 -	
BJ 496 Juneau	21080	272357 -	4081044 -	4453401 -	
IS 599 Sitka	7927	121640 -	1534650 -	1666290 -	
BB 699 Bristol Bay Borough	1182	13976 -	227733 -	242719 -	
NS 462 North Star Borough	25163	566727 -	4771594 -	5437321 -	
AB 944 Haines Borough	695	7075 -	154551 -	161626 -	
PB 465 Kenai Penin. Boro.	14056	247211 -	2721212 -	3068423 -	
GB 456 Ketchikan Gateway	2997	32610 -	754451 -	787061 -	
IB 128 Kodiak Island Boro.	2695	20215 -	521746 -	542561 -	
KB 586 Matanuska Susitna	14337	90218 -	2775613 -	2865831 -	
ISB 460 North Slope Boro.	7065	1220920 -	1367769 -	2588689 -	
TOTAL BOROUGHHS	278237	7725285 -	53992252 -	61705735 -	
IA 323 Akhiok	103	437 -	19941 -	20378 -	
IA 322 Akiachak	435	447 -	84215 -	84662 -	
IA 321 Akiak	197	137 -	32139 -	32276 -	
IA 112 Akolmiut	695	313 -	134551 -	134864 -	
IA 072 Akutan	189	238 -	36590 -	36828 -	
IA 693 Alakanuk	534	5277 -	103381 -	108658 -	
AL 596 Aleknagik	152	460 -	29427 -	29887 -	
AL 597 Allakaket	158	137 -	30588 -	30725 -	
IA 143 Ambler	198	635 -	38332 -	38967 -	
AP 063 Anaktuvok Pass	235	105 -	45496 -	45601 -	
IA 275 Anderson	500	1356 -	96799 -	98155 -	
IA 461 Angoon	445	2700 -	76151 -	78851 -	
IA 062 Aniak	338	2247 -	65436 -	67683 -	
IA 057 Anvik	110	104 -	21276 -	21380 -	
IA 565 Atmautluak	226	79 -	43752 -	43831 -	
IB 781 Barrow	2539	24021 -	491545 -	515566 -	
IB 819 Bethel	3549	66012 -	687079 -	753091 -	
CBM 320 Brevig Mission	149	174 -	28846 -	29020 -	
CBU 595 Buckland	211	404 -	40249 -	40653 -	
CIC 319 Cheforak	330	557 -	44528 -	45085 -	
CIC 202 Chevak	491	242 -	95052 -	95294 -	
CIC 132 Chauthbaluk	104	327 -	20134 -	20461 -	
CCP 269 Clark's Point	78	30 -	15101 -	15131 -	
CIC 801 Cordova	2223	45256 -	430362 -	475618 -	
CIC 492 Craig	560	5005 -	108415 -	113420 -	
CID 312 Deering	152	467 -	30002 -	30469 -	
CDJ 475 Delta Junction	745	29277 -	182950 -	212227 -	
CID 836 Dillingham	1670	27175 -	323302 -	350477 -	
CID 072 Diomedes	147	90 -	28246 -	28336 -	
CEA 594 Eagle	123	834 -	36007 -	36841 -	
CIE 061 Eek	22	274 -	43752 -	44026 -	
TOTAL	17920	216135 -	2420891 -	2697016 -	

	Population	Base Amount	Excess Amount	Total Share	Voucher No.
IE 316 Ekwok	76	78 -	14713 -	14791 -	
IE 593 Elim	228	361 -	44140 -	44501 -	
IE 322 Emmonak	575	3092 -	111319 -	114411 -	
IF 635 Fairbanks	25568	1047774 -	4949911 -	5997705 -	
IF 463 Fort Yukon	599	6714 -	115965 -	122679 -	
IF 201 Fortuna Ledge	243	523 -	47044 -	47567 -	
IG 271 Galena	805	6946 -	155246 -	162192 -	
IG 231 Gambell	480	1432 -	92927 -	94359 -	
IG 315 Golovin	94	1644 -	18198 -	18842 -	
IGB 110 Goodnews Bay	167	65 -	32331 -	32396 -	
IG 200 Grayling	202	404 -	39107 -	39511 -	
IH 871 Haines	1017	20064 -	196889 -	216953 -	
CHC 590 Holy Cross	233	884 -	45108 -	45992 -	
CIH 724 Homer	2588	62044 -	501031 -	563075 -	
CIH 254 Hoonah	799	7006 -	154625 -	161631 -	
CHB 589 Hooper Bay	624	2463 -	120805 -	123268 -	
CIH 520 Houston	583	1653 -	112268 -	114521 -	
CIH 314 Hughes	71	81 -	13745 -	13826 -	
CIH 852 Hyslia	230	652 -	44528 -	45180 -	
CIH 230 Hydaburg	356	1904 -	68921 -	70825 -	
CIK 111 Kachemak	425	491 -	82279 -	82770 -	
CIK 464 Kake	583	2457 -	112868 -	115325 -	
CIK 313 Kaktovik	201	1085 -	32913 -	33998 -	
CIK 197 Kaltog	239	0 -	46270 -	46270 -	
CIK 927 Kasaan	164	30 -	12590 -	12420 -	
CIK 891 Kenai	4557	145762 -	882419 -	1028181 -	
CIK 709 Ketchikan	7200	208919 -	1293705 -	1602624 -	
CIK 060 Kiana	356	1355 -	68921 -	70276 -	
CKC 059 King Cove	513	1844 -	91312 -	101160 -	
CIK 196 Kivalina	249	160 -	48203 -	48366 -	
CIK 229 Klawock	389	1540 -	75310 -	76850 -	
CIK 312 Kobuk	64	36 -	12390 -	12426 -	
CIK 916 Kodiak	4678	162514 -	905651 -	1068165 -	
CIK 313 Kotlik	339	1096 -	65632 -	66728 -	
CIK 679 Kotzebue	2250	33945 -	435595 -	469540 -	
CIK 195 Koyuk	205	255 -	39360 -	39555 -	
CIK 228 Koyukuk	95	445 -	18392 -	18837 -	
CII 088 Kupreanof	49	0 -	9486 -	9486 -	
CIK 133 Kwetluk	451	1416 -	87313 -	88729 -	
CIR 218 Larsen Bay	167	0 -	32331 -	32331 -	
CIL 199 Lower Kalskag	244	208 -	47222 -	47430 -	
CIM 310 Makokotak	290	319 -	56143 -	56462 -	
CMC 599 McGrath	343	3350 -	66464 -	69754 -	
CIM 109 Mekoryuk	176	235 -	34073 -	34308 -	

50661 115 2161 115 2161 12 22 202

	Population	Base Amount	Excess Amount	Total Share	Voucher No.
MV 111 Mountain Village	580	2313 -	112,207 -	114,600 -	
IN 309 Napakiak	283	1547 -	54,720 -	56,267 -	
IN 308 Napaskiak	242	15 -	46,251 -	46,266 -	
IN 291 Nenana	592	12,555 -	114,610 -	127,145 -	
NS 225 New Stuyahok	327	379 -	63,307 -	63,686 -	
IN 521 Newhalen	135	211 -	26,136 -	26,347 -	
IN 194 Newtok	175	97 -	33,280 -	33,377 -	
IN 853 Nightmute	155	21 -	26,136 -	26,156 -	
IN 085 Nikolai	88	15 -	17,037 -	17,052 -	
IN 936 Nome	3039	53,064 -	588,344 -	641,408 -	
IN 174 Nondalton	171	477 -	33,105 -	33,582 -	
IN 227 Noorvik	501	1,404 -	98,348 -	99,752 -	
CNP 676 North Pole	928	31,542 -	179,659 -	211,001 -	
CNU 598 Nuiqsut	271	30 -	52,465 -	52,495 -	
VCC 026 Nulato	337	1,649 -	125,436 -	127,085 -	
COH 108 Old Harbor	334	353 -	64,662 -	65,015 -	
CIO 469 Ouzinkie	170	331 -	32,202 -	32,533 -	
CIP 644 Palmer	2275	54,039 -	440,435 -	494,474 -	
CIP 470 Pelican	172	2,905 -	33,299 -	36,204 -	
CIP 181 Petersburg	3001	43,649 -	580,987 -	624,636 -	
CIP 194 Pilot Station	323	276 -	62,532 -	62,807 -	
CIP 307 Platinum	55	516 -	10,648 -	11,164 -	
CPH 224 Point Hope	531	3,456 -	102,801 -	106,257 -	
CPA 471 Port Alexander	90	293 -	17,424 -	17,717 -	
CPH 306 Port Heiden	91	258 -	17,617 -	17,875 -	
CPL 107 Port Lions	211	333 -	40,849 -	41,182 -	
CIQ 193 Quinhagak	409	1,673 -	79,182 -	80,855 -	
CIR 225 Ruby	190	767 -	36,784 -	37,551 -	
CRM 305 Russian Mission	168	45 -	32,524 -	32,569 -	
CSM S&O Saint Marys	432	1,617 -	83,634 -	85,251 -	
CIS 192 Saint Michael	258	4,107 -	49,948 -	54,055 -	
CSP 331 Saint Paul	591	500 -	114,416 -	114,920 -	
CSP 978 Sand Point	697	4,445 -	134,938 -	139,383 -	
CIS 106 Savoonga	530	2,341 -	102,607 -	104,948 -	
CIS 583 Saxman	276	1,127 -	53,433 -	54,560 -	
CIS 191 Scammon Bay	249	552 -	49,206 -	49,758 -	
CIS 058 Selawik	549	105 -	106,285 -	107,337 -	
CIS 624 Seldovia	505	5,157 -	97,767 -	102,924 -	
CIS 366 Seward	1943	45,634 -	376,161 -	421,795 -	
CIS 190 Shaceluk	127	1,697 -	24,527 -	26,224 -	
CIS 189 Shaktoolik	177	108 -	34,267 -	34,375 -	
CSP 522 Sheldon Point	103	114 -	19,941 -	20,055 -	
CIS 105 Shishmaref	425	970 -	82,279 -	83,249 -	
CIS 188 Shungnak	308	1,237 -	40,268 -	41,505 -	
	22,105	280,375 -	4,433,771 -	4,714,156 -	

	Population	Base Amount	Excess Amount	Total Share	Voucher No.
IS 396 Skagway	819	21580 -	158557 -	180137 -	
IS 564 Soldotna	2445	103024 -	473347 -	576371 -	
IS 187 St bbins	357	317 -	67114 -	67431 -	
IT 855 Tanana	463	2249 -	89636 -	91885 -	
IT 473 Teller	227	172 -	44334 -	44506 -	
TS 272 Tenakee Springs	132	1394 -	25555 -	26949 -	
IT 854 Togiak	511	3098 -	92727 -	95825 -	
TB 223 Toksook Bay	331	903 -	64081 -	64984 -	
IT 305 Tuluksak	234	150 -	45302 -	45452 -	
IT 186 Tununak	301	196 -	58273 -	58469 -	
IU 258 Unalakleet	672	4097 -	130018 -	134115 -	
IU 215 Unalaska	1944	7496 -	376354 -	383850 -	
IU 198 Upper Kalskag	128	1278 -	24781 -	26059 -	
IV 401 Valdez	3279	368217 -	634807 -	1003024 -	
IW 222 Wainwright	410	297 -	79375 -	79672 -	
IW 185 Wales	143	1 -	27684 -	27827 -	
IW 159 Wasilla	1928	5155 -	373257 -	378412 -	
IWM 304 White Mountain	135	30 -	26136 -	26166 -	
IW 474 Whittier	211	124 -	46849 -	46973 -	
IW 559 Wrangell	2345	38836 -	453987 -	492823 -	
IY 479 Yakutat	430	12691 -	13247 -	25938 -	
CITIES SUBTOTALS -PAGE 4					
	17447	622597 -	3377703 -	4000000 -	
PAGE 1	17920	216125 -	3475841 -	3691966 -	
PAGE 2	57664	1722467 -	1152824 -	13215393 -	
PAGE 3	22702	280375 -	4433721 -	4714156 -	
TOTAL CITIES	117793	2851266 -	22243197 -	25674422 -	
TOTAL BOROUGHES	278837	7725285 -	53982252 -	61705537 -	
GRAND TOTAL	396830	10574549 -	76825451 -	87400000 -	

Variable
193.597891

		Population	Base Amount	Excess Amount	Total Share	Voucher No.
IA 635	Anchorage Munic.	OK 180740	4918924 -	35612986 -	40531910	H61872105
BJ 496	Juneau	OK 21080	372357 -	4153601 -	4525958	
IS 599	Sitka	OK 7927	131640 -	1561935 -	1693575	
3B 699	Bristol Bay Borough	OK 1122	13986 -	232901 -	246887	
IS 462	North Star Borough	OK 25113	566727 -	4958114 -	5524841	
99 944	Haines Borough	OK 695	7275 -	136943 -	144218	
9B 465	Kenai Penin. Boro.	OK 14056	347211 -	2769593 -	3116804	
3B 466	Ketchikan Gateway	OK 3277	32610 -	767864 -	800474	
IB 128	Kodiak Island Boro.	OK 2675	20815 -	531022 -	551837	
AB 586	Matanuska Susitna	OK 14337	90818 -	2824961 -	2915779	
SB 460	North Slope Boro.	2912- 503	1220920 -	99111 -	1320031	
	TOTAL BOROUGHES	272275	7723283 -	53649031	61372314	
IA 323	Akhiok	OK 103	437 -	20295 -	20732	
IA 322	Akiachak	OK 435	417 -	85712	86159	
IA 321	Akiak	OK 197	137 -	38817	38954	
IA 112	Akolmiut	OK 695	313 -	136943	137256	
IA 072	Akutan	OK 189	239 -	37241	37479	
IA 693	Alakanuk	OK 534	5277 -	105219	110496	
AL 596	Aleknagik	OK 152	460 -	29950	30410	-6144127
AL 597	Allakaket	OK 158	137 -	31132	31269	
IA 143	Ambler	OK 198	635 -	39014	39649	
AP 063	Anaktuvok Pass	OK 235	105 -	46304	46409	
IA 275	Anderson	OK 500	1356 -	98520	99876	
IA 461	Anqoon	OK 445	2960 -	87662	90643	
IA 062	Aniak	OK 338	3247 -	66599	69846	
IA 057	Anvik	OK 110	104 -	21674	21778	
IA 565	Atmautluak	OK 226	79 -	44531	44610	
IB 781	Barrow	2539- 2353	24039 -	463635	487674	
IB 819	Bethel	OK 3549	66012 -	699295	765307	
IBM 320	Brevig Mission	OK 149	174 -	29359	29533	
BU 595	Buckland	OK 211	404 -	41574	41979	
CIC 319	Chefornak	OK 230	557 -	45319	45876	
CIC 202	Chevak	OK 491	242 -	96747	96989	
CIC 132	Chauthbaluk	OK 104	329 -	20492	20821	
CCP 269	Clark's Point	OK 18	30 -	15369	15399	-1644127
CIC 801	Cordova	OK 2223	45256 -	438020	483276	
CIC 492	Craig	OK 560	5005 -	110342	115347	
CID 317	Deering	OK 155	467 -	30541	31008	
CDJ 475	Delta Junction	OK 945	29287 -	186203	215490	
CID 836	Dillingham	OK 1670	27183 -	329057	356240	
CID 072	Diomedes	OK 149	90 -	29359	29449	
CEA 594	Eagle	OK 186	834 -	36449	37483	
CIE 061	Eek	OK 226	284 -	44531	44815	
		17794	216125 -	3506127	3722252	

		Population	Base Amount	Excess Amount	Total Share	Voucher No.
IE 316	Ekwok	76	78 -	14975	15053	V0443667
IE 593	Elim	228	361 -	44925	45286	V0443668
IE 322	Emmonak	568	3092 -	111919	115011	
IF 635	Fairbanks	25568	1047794 -	5037915	6085705	V0443667
FY 463	Fort Yukon	599	6714 -	118027	124741	V0443669
IF 201	Fortuna Ledge	243	523 -	47881	49404	V0443670
IG 271	Galera	805	6946 -	158617	165563	V0443671
IG 231	Gambell	480	1432 -	94579	96011	V0443672
IG 315	Golovin	94	1644 -	18522	19166	V0443673
GB 110	Goodnews Bay	167	65 -	32906	32971	V0443674
IG 200	Grayling	262	404 -	39802	40206	V0443675
IH 871	Haines	1017	20064 -	200389	220453	V0443676
HC 590	Holy Cross	233	884 -	45910	46794	V0443677
IH 724	Homer	2588	62044 -	509939	571993	V0443678
IH 254	Hoonah	799	7006 -	157435	164441	V0443679
HB 589	Hooper Bay	624	2463 -	122953	125416	V0443679
IH 520	Houston	583	1653 -	114874	116527	V0443680
IH 314	Hughes	71	81 -	13990	14071	
IH 852	Hyslia	230	652 -	45319	45971	V0443681
IH 230	Hydaburg	356	1904 -	70146	72050	V0443682
IK 111	Kachemak	425	491 -	83742	84233	V0443683
IK 464	Kake	583	2457 -	114874	117331	V0443684
IK 313	Kaktovik	201	1085 -	39605	40690	V0443685
IK 197	Kaltag	239	-0-	47092	47092	V0443686
IK 927	Kasaan	14	30 -	12611	12641	V0443687
IK 891	Kenai	4558	14596 -	998108	1044073	V0443688
IK 709	Ketchikan	7200	208919 -	1418687	1627606	V0443689
IK 060	Kiana	356	1355 -	70146	71501	V0443689
IK 055	King Cove	513	1844 -	101081	102925	V0443690
IK 196	Kivalina	249	160 -	49063	49223	V0443691
IK 229	Klawock	389	1540 -	76648	78188	V0443692
IK 312	Kobuk	64	36 -	12611	12647	V0443693
IK 916	Kodiak	4678	162514 -	921752	1024266	V0443693
IK 311	Kotlik	339	1096 -	66796	67892	V0443694
IK 679	Kotzebue	2250	33945 -	443340	477285	V0443695
IK 194	Koyuk	203	255 -	39999	40294	V0443694
IK 228	Koyukuk	95	445 -	19719	19164	V0443697
IK 088	Kupreanof	49	-0-	9655	9655	V0443698
IK 133	Kwethluk	451	1416 -	88865	90281	V0443699
CIB 218	Larsen Bay	167	-0-	32906	32906	V0443700
CIL 199	Lower Kalskag	244	208 -	48078	48286	V0443701
CIM 310	Makokotak	290	319 -	57142	57461	V0443702
CMC 599	McGrath	343	3350 -	67585	70935	V0443703
CIM 109	Mekoryuk	176	235 -	34679	34914	V0443704

	Population	Base Amount	Excess Amount	Total Share	Voucher No.
IV 111 Mountain Village	580	2313-	114283	116596	
IN 309 Napakiak	283	1547-	55762	57309	
IN 308 Napaskiak	242	15-	47684	47699	
IN 291 Nenana	596	12535	116618	128153	
IS 225 New Stuyahok	227	379-	64432	64811	
IN 521 Newhalen	135	211-	26600	26811	
IN 194 Newtok	175	97-	34092	35069	
IN 853 Nightmute	135	20-	26600	26827	
IN 085 Nikolai	88	15-	17340	17428	
IN 935 Nome	3034	53064-	599904	652968	
IN 174 Nondalton	171	427-	32694	33121	
IN 227 Noorvik	508	1404-	100076	101480	
NP 676 North Pole	728	31342-	182853	214195	
VU 598 Nuiqsut	271	30-	53395	53428	
OC 026 Nulato	232	649-	66599	67248	
OH 108 Old Harbor	234	353-	65811	66164	
IO 469 Ouzinkie	170	331-	33497	33828	
IP 644 Palmer	2225	54039-	448266	502305	
IP 470 Pelican	172	2905-	22771	23061	
IP 181 Petersburg	3001	43649-	571317	614966	
IP 194 Pilot Station	223	276-	62441	62717	
IP 302 Platinum	55	516-	10827	11343	
PH 224 Point Hope	531	3456-	104628	108084	
PA 471 Port Alexander	90	293-	17724	18017	
PH 306 Port Heiden	91	238-	17721	18016	
PL 102 Port Lions	211	333-	41575	41908	
IQ 193 Quinhagak	409	693-	50589	51282	
IR 225 Ruby	120	767-	37429	38196	
RM 305 Russian Mission	166	45-	32102	32268	
SM S&O Saint Marys	432	617-	85121	85738	
IS 192 Saint Michael	252	4107-	50236	54343	
SP 331 Saint Paul	591	504-	116451	116955	
SP 978 Sand Point	227	4445-	137337	141882	
IS 106 Savoonga	550	2341-	104451	106792	
IS 583 Saxman	276	121-	54285	54461	
IS 191 Scammon Bay	249	552-	49063	49615	
IS 058 Selawik	272	1052-	73299	74351	
IS 624 Seldovia	505	5457-	99505	104962	
IS 366 Seward	1713	45634-	382545	428179	
IS 190 Shageluk	127	169-	25021	25190	
IS 189 Shaktoolik	177	108-	24576	24684	
CSP 522 Sheldon Point	103	114-	21295	21409	
CIS 105 Shishmaref	425	970-	53742	54712	
CIS 188 Shungnak	208	1236-	40984	42220	

	Population	Base Amount	Excess Amount	Total Share	Voucher No.
S 396 Skagway	819	21580 -	161376	182956	
S 564 Soldotna	2445	103024 -	481763	584787	
S 187 Stebbins	357	317 -	70317	70634	
T 855 Tanana	463	2249 -	91230	93479	
T 473 Teller	229	172 -	45123	45295	
S 272 Tenakee Springs	132	1394 -	26009	27403	
T 854 Togiak	511	3098 -	100657	103755	
B 223 Toksook Bay	331	903 -	65220	66123	
T 305 Tuluksak	234	150 -	46107	46257	
T 186 Tununak	301	196 -	59309	61275	
U 258 Unalakleet	672	4099 -	132411	136510	
U 215 Unalaska	OK 1944	7496 -	383046	390542	
U 198 Upper Kalskag	128	1278 -	25221	26500	
V 401 Valdez	OK 3279	368217 -	646094	1014311	✓ 04450183
W 222 Wainwright	OK 410	377 -	87786	88163	
W 185 Wales	143	1 -	28177	28320	
W 159 Wasilla	OK 1928	54535 -	379893	434428	
WM 304 White Mountain	135	30 -	26600	26630	
W 474 Whittier	211	1634 -	41525	43159	
W 559 Wrangell	OK 2345	38836 -	462059	500895	
Y 479 Yakutat	OK 430	12691 -	184727	197418	
CITIES SUBTOTALS -PAGE 4					
	17447	122297 -	342775	4060153	
PAGE 1	17794	216125 -	3506127	3722252	
PAGE 2	59657	1732469 -	11764807	13487316	
PAGE 3	22725	300375 -	4477731	4778106	
TOTAL CITIES	117623	2951266 -	23176420	26007696	
TOTAL BOROUGHES	272275	7723283 -	53249031	61272314	
GRAND TOTAL	389898	10574549 -	76425451	87280010	

Variable 197.039870 / person



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

Pouch V
State Capitol
Juneau, Alaska 99811

June 4, 1982

The Honorable Jay Hammond
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

For the past two legislative sessions I have worked long and hard for the passage of the Municipal Code Revision. I never envisioned that I would spend the waning hours of the Twelfth Legislature writing you to urge your veto of this piece of legislation.

Unfortunately urging your veto of HCS CSSB 180 (Jud) as it is exactly what I must do, and I urge it most strongly.

The manner in which the amending and changing of SB 180 was carried out embodies all of the worst that the legislative process has to offer. After innumerable hearings before standing committees, these amendments were inserted on the floor of the House. An intense lobbying effort on behalf of the municipality and industry most favorably affected was then undertaken to convince the Senate to concur with the amendments without the benefit of a conference committee. It is absolutely the worst example of power politics I have ever witnessed. I am asking you as Governor of this state to rise above these tactics and veto this legislation, because if you don't, you will be condoning such action.

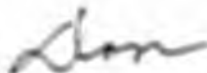
We have already discussed these amending amendments together, and I have enclosed backup information on them. Therefore I will be brief and simply mention the most objectionable portions of the bill.

Governor Jay Hammond
June 4, 1982
Page 2

- 1) As a result of the 1980 Census, the population estimates of every municipality in Alaska over 500 were adjusted downward. The population amendments would benefit one municipality at the expense of the treasuries of the state and other Alaskan municipalities. The amendments would also hamper the ability of the state to collect accurate population data, either resulting in double counting or forcing the state to keep a double set of books. Specific information of the effect of this amendment is enclosed.
- 2) I believe the forest lands amendment is potentially the most harmful addition to the bill though it certainly was not the maker's intention; sloppy drafting produced an amendment that would exempt virtually all undeveloped land with trees on it from municipal taxation. This has the potential for wrecking the finances of municipalities throughout the state. Specific information is attached.
- 3) The APUC has expressed strong concern over the portion of the revision dealing with utilities, and it is my understanding that Carolyn Guess is detailing their objections and will send them directly to you.

It is very unfortunate when a good piece of legislation is damaged so badly that a veto is necessary. Unfortunately, this is what has happened with SB 180, and an examination of the public policy issues connected with the bill will clearly show a veto is called for.

Sincerely,



Don Gilman
State Senator

Enclosures



Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

465-4934
465-4935

Official Business

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

Pouch V
State Capitol
Juneau, Alaska 99811

June 4, 1982

PRESS RELEASE

FROM: SENATOR DON GILMAN'S OFFICE

Senator Don Gilman sent a letter to Governor Jay Hammond today strongly urging the veto of SB 180, the Municipal Code Revision. In the letter Senator Gilman said:

"The manner in which the amending and changing of SB 180 was carried out embodies all of the worst that the legislative process has to offer. After innumerable hearings before standing committees, these amendments were inserted on the floor of the House. An intense lobbying effort on behalf of the municipality and industry most favorably affected was then undertaken to convince the Senate to concur with the amendments without the benefit of a conference committee. It is absolutely the worst example of power politics I have ever witnessed. I am asking you as Governor of this state to rise above these tactics and veto this legislation, because if you don't, you will be condoning such action."

As a result of the changes in the population definitions affecting the municipal assistance and revenue sharing programs, it is Senator Gilman's intent to work on a complete revision and combination of these programs. The Municipal League has announced its willingness to cooperate with Senator Gilman in this effort, and it is expected the Alaska Finance Officers Association and the Association of Mayors will also participate in the effort. Senator Gilman expects to prefile legislation on this matter for the start of the Thirteenth Legislature. If the Municipal Code Revision is vetoed as Senator Gilman is urging, he expects to prefile a revised version of that bill also for next session.

1979

1980

1981

1982

1983

JANUARY FEBRUARY MARCH APRIL MAY JUNE JULY AUGUST SEPTEMBER OCTOBER NOVEMBER DECEMBER

FY '80

FY '81

FY '82

FY '83

Pop. as of July 1 - 8787

Pop. as of July 1 - 9234

Pop. Actually Counted 2/82 but certified for July 1 - 7098

Hypothetical Pop. as of July 1 - 7098* 1152*

Pop. as of July 1 - ?

basis for

basis for

basis for

basis for

FY'80 Rev. Shar. 308,173

FY'81 Rev. Shar. 669,882

FY'82 Rev. Shar. 687,499

FY'83 Rev. Shar. 687,499* 933,392*

and
FY'80 Mun. Asst. \$1,228,447

and
FY'81 Mun. Asst. \$1,742,853

and
FY'82 Mun. Asst. \$1,794,700

and
FY'83 Mun. Asst. \$1,794,700* \$2,598,507*

and
FY'81 Prop. Tax for Op. 627,634,528

and
FY'82 Prop. Tax for Op. 634,447,963

and
FY'81 Prop. Tax for Op. 632,207,512*

and
FY'84 Prop. Tax for Op. 632,207,512* \$1,036,407*

and
FY'81 Prop. Tax for Debt 28,670,142

and
FY'82 Prop. Tax for Debt 70,702,687

and
FY'83 Prop. Tax for Debt Unknown*

and
FY'84 Prop. Tax for Debt Unknown*

*Population is counted on July 1 and serves as the basis for Revenue Sharing and Municipal Assistance for that fiscal year and the cap on property tax for operating revenue for the following fiscal year.

There is no statutory limit on the amount of tax a municipality can collect to pay bonded indebtedness.

The figures after June 1982 are estimates. The double set of figures in the column starting in July 1982 are based on hypothetical population of 7098 on 11,252.

STATE OF ALASKA
THE LEGISLATURE

STATE OF ALASKA
STATE CAPITOL
ALASKA 99511
907-465-3000

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 1, 1982

SUBJECT: Amendment to municipal code revision
(HCS CSSB 180 (Judiciary) am H)

TO: Senator Donald E. Gilman

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked for an interpretation of Amendment No. 17 to HCS CSSB 180 (Judiciary) am H adopted by the House. In particular, you have asked whether the reference to AS 41.17.950(6) can be construed to incorporate other provisions of AS 41.17.

Sec. 29.45.030(a) of the bill lists the types of property that are exempt from municipal taxation. Amendment No. 17 adds to that list "(7) forest land as defined in AS 41.17.950(6)". AS 41.17.950(6) provides the following definition:

"forest land" means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes, and includes any such land under state, municipal, or private ownership;

Under the terms of Amendment No. 17, a municipality would not be able to tax any property that meets this broad definition of forest land. Note that the definition is not limited to tracts of a certain size or to tracts with commercial potential. Any land stocked with forest trees that is not developed for a nonforest use qualifies for the tax exemption.

None of the other provisions of AS 41.17 are applicable to the determination of whether land is "forest land" for the purpose of municipal taxation. In particular, AS 41.17.010(c)

authorizes the commissioner of natural resources to exempt certain forest lands "from the provisions of AS 41.17.010 - 41.17.950". The commissioner is not authorized to exempt any land from provisions contained in AS 29. Nor under Amendment No. 17 would he have the authority to provide that certain forest lands are subject to municipal taxation.

TBC:ljb

A poll of local assessors around the state resulted in the following estimates of value and revenue losses that would result from proposed AS 29.45.030(7).

Municipality	Value Loss	Revenue Loss	% of tax base loss
Anchorage	\$458,415,224	\$4,056,975	7%
Fairbanks	303,825,000	2,278,688	22%
Juneau	69,176,160	342,422	10%
Kenai	474,041,744	1,597,561	27%
Mat-Su	469,397,469	3,670,688	53%
Ketchikan	55,798,245	97,647	13%
Sitka	45,168,945	135,506	14%
Haines	20,995,620	88,811	36%
Total	<u>\$1,896,818,407</u>	<u>\$12,268,298</u>	

These figures are based on a strict interpretation of what appears to be very liberal language. Therefore, the total local revenue loss could be substantially higher.

Prepared at the request of Senator Gilman by the State Assessor's office, Department of Community and Regional Affairs. Poll of Assessors conducted by telephone.

TE/jl/09480

Reference Population definitions AS 29.45.020(e), AS 29.45.090(b), AS 29.60.020, AS 29.60.130(a):

Issue: These population definitions it is claimed cause losses in revenue.

Fact: Since 1974 industrial workers have been included in the North Slope Borough for taxation purposes and subsequently revenue sharing. (See Table reflecting figures certified by Commissioner of Community and Regional Affairs. However, some lower level bureaucrats attempted to redefine the basic law and legislative intent.

See Memorandum from Lee McAnerney, Commissioner of Community and Regional Affairs, to Attorney General, November 14, 1980.

See Memorandum from Attorney General to Community and Regional Affairs, December 31, 1980.

This Memorandum indicates that the heretofore practice was correct and that the lower level bureaucracy was not correct. FALSE

The definition arrived at was drafted by a former Attorney General (Avrum Gross) who conferred with the Commissioner and participated to ensure that the heretofore practice would be exactly defined in the law and subsequently preclude lower level bureaucrats from inserting their own definition.

Issue: While temporary employees at "remote job sites could be counted by some communities, the same type of temporary or seasonal employee located in or near other communities could not be counted."

Fact: Not true. Nothing prevents the Commissioner from applying the same standards for those temporary or seasonal employees from being counted -- equity would demand it. Just in case some bureaucrat may

Following 1980 Censuses, almost every municipality's population figures were adjusted downward

suggest a change NSB to prior practice, but they leave at other communities inadvertently

working for the N. Slope Borough

According to State Demographer

not quite understand the initial direction of Governor Hammond, the Commissioner's initial effort in submitting the definitions to House Finance, a letter of intent should accompany the legislation setting the record straight.

Issue: Definition of population could affect future state and local revenue from federal revenue sharing program.

Fact: Procedures to identify the impact people are available to distinguish between federal census people and seasonal or temporary personnel.

The results of an \$88,000 census conducted under the direction of the State Demographer (paid by the North Slope Borough) clearly illustrates this point. The letter indicates there was a gross total of 6,610 oil related worksite employees of which 2,466 met U. S. Census definition and the remainder temporary or seasonal. (See letter from David A. Swanson, State Demographer, to Mayor Eugene Brower, North Slope Borough, February 17, 1981.)

Based upon the Census and the Attorney General's letter, the Commissioner of Community and Regional Affairs certified the 11,252 population in accordance with prior practices and the existing law.

Information supplied by employers on these types of workers would be adequate for the demographer to make his calculations for the U. S. Census Bureau reports.

*This is not
If you need to
of key two sets
is an admission
that ~~one set~~
is some thing
is wrong
w/ one
set*

Conclusions

The facts are:

1. The definition was to ensure maintaining the status quo in relation to prior practices in regards to property tax levies and revenue sharing.
2. Lower level bureaucrats attempted to make said changes not directed by the Governor or the Commissioner of Community and Regional Affairs.
3. Scare tactics have been used to mount an opposition, urban communities against rural resource communities, using a false assumption that these "new" definitions were taking funds from them when in fact it reflects attempts to take "again" from the North Slope Borough and other resource development areas.
4. The effort tracks the same philosophy the eastern states have in regards to taking the oil and other resource taxes from Alaska to redistribute same to them.

DEPARTMENT OF LABOR

BOX 1149
JUNEAU, ALASKA 99811
465-2784

February 17, 1982

Honorable Eugene Brower, Mayor
North Slope Borough
P. O. Box 69
Barrow, AK 99723

Dear Mayor Brower:

The special population count conducted over the unincorporated communities and oil-related work sites within the North Slope Borough has resulted in a final 1981 population determination for the entire Borough of 7,098. The determinations for each of the distinct areas within the Borough are provided in the attachment.

One important result of the special count is that it provides an empirical basis for estimating what the 1980 census figure for both the Borough and State would have been had the U.S. Bureau of the Census not "allocated out" all of the oil workers. This project will be finished so that an unduplicated estimate of the state's 1980 population is available that uses the same definition of "census resident" statewide. This revised 1980 baseline will be used as part of the data in developing 1982 determinations.

In addition to building a set of revised 1980 figures, we will provide certified 1981 census results for the unincorporated communities and the oil-related work sites to the U.S. Bureau of the Census, which will accept them for inclusion in its determinations for federal revenue-sharing.

Sincerely,

*David A. Swanson*David A. Swanson
State Demographer

Enclosure

cc: Lee McAnerney, Commissioner, Community and Regional Affairs
Brandon Wilson, North Slope Borough
Gillian Smythe, Alaska Consultants
Jim Baldwin, Department of Law

DS:bb

1981 POPULATION - NORTH SLOPE BOROUGH

Incorporated Places

Anaktuvuk Pass*	235
Barrow	2539
Kaktovik*	201
Nuiqsut*	270
Point Hope*	531
Wainwright*	410
Sub-Total Incorporated	<u>4186</u>

Unincorporated Places

Pt. Lay Community**	105	4186
Atkasuk Community**	195	2780
Colville Village**	14	6966
Oil Related Worksites**	2466	193
	(net)	<u>7159</u>
	2720	6,620
		(gross)

Military Installations

POW Main	20	actual Jan 82
Liz-2	14	
Liz-3	15	
POW-1	12	
POW-2	19	
BAR-M	58	
Cape Lisburne	55	
Sub-Total Unincorporated	2922	
	2922	

DOL fig. 142

193

TOTAL	7098	11,252
	(net)	(gross)
		11,313

* A census conducted in accordance with state guidelines.
 ** A census certified by the state demographer.

DOL used NSB's July 1981 figures for military installations (totalled ~~193~~ 142) vs. figures supplied by NSB because they must have been delayed in the mail. 1982 figures total 193 - difference of 51 people. Should be able to have them included.

TO Ronald W. Lorensen
Deputy State Attorney General

DATE: November 14, 1980

FILE NO.

TELEPHONE NO.

FROM Lee McAnerney, Commissioner
Community and Regional Affairs

SUBJECT:

SUBJECT: REQUEST FOR LEGAL OPINION ON THE USE OF THE TERM "RESIDENT" AS
IT APPLIES TO POPULATION DETERMINATION UNDER THE STATE REVENUE
SHARING PROGRAM

INTRODUCTION:

The Division of Local Government Assistance administers the State Revenue sharing program pursuant to AS 29, Chapter 88 and the emergency administrative regulations contained in Title 19, Chapter 30, of the AAC. Population is a major factor in the amounts of state aid received by communities under Chapter 88 of this program.

STATEMENT OF THE PROBLEM:

The Division of Local Government Assistance has approved a population estimate of 4,610 for the North Slope Borough as of July 1, 1980. The Borough had requested an adjustment to 9,234 which was subsequently denied by the Division. This denial was based on the Division's position that the higher figure included nearly 4,000 industrial and drilling workers who for the most part are stationed in "self-contained residential/industrial compounds" that are largely removed from the Borough's established centers of population. In previous years, however, the Division has certified population estimates for the North Slope Borough which included these workers whose residency is now being questioned. In 1979, the Division approved an estimate of 8,055 for revenue sharing purposes.

Because the Division believes there is sufficient reason to believe that many of the approximately 4,000 industrial and drilling workers on the North Slope are not "permanent" residents of the Borough as required by 19 AAC, Chapter 30, it acted accordingly in revising its 1980 population downward. While this is a departure from the previous policy of counting these persons as part of the North Slope Borough's population, the Division believes that its reversal is warranted so that previous mistakes will not be compounded and perpetuated under the "new" State revenue sharing law passed by the Alaska State Legislature earlier this year. The Division further believes that it is both proper and timely to act as it did in the case of the North Slope Borough since a "new law for State Revenue Sharing has taken effect.

TABLE A-B
POPULATION COUNTS - SUMMARY
NORTH SLOPE BOROUGH

CENSUS DIVISION (Community)	July 1981 ^a <i>Special Census</i>	July 1980 ^a	July 1979 ^a	July 1978 ^a	July 1977 ^a	July 1976 ^a	July 1975 ^a	Jan. 1975 ^a	Jan. 1974 ^a	Census 1970	Census 1960
BARROW											
Barrow	2,765	3,401	3,228	2,471	2,306	2,309	2,141	2,163	2,163	2,104	1,314
Valmyr Light	410	425	425	429	398	357	341	354	354	315	753
Anaktuvuk Pass	235	235	185	173	151	150	129	134	134	99	35
Cape Lisburne	68	92	92	92	92	112	112	112	112	83	N.A.
Athasook	112	112	99	93							
Mulqut	271	257	206	182	157	152	149	145	145		
Point Lay	126	94	72	57	54	51	48	27	27		
Census Division Remainder	19	19	16	16	16	16		91	91	62	N.A.
Nat. Petroleum Reserve	138	119	353	155	33	55					
UPPER YUKON											
Kaktovik	201	195	193	192	134	123	119	141	141	123	N.A.
Prudhoe Bay/Deadhorse/ DEW Line ^b	6,620 ^c 205,064	3,758	2,659	3,863	5,410	8,801	5,022	3,158	927	279	
KOBUK											
Point Hope	511	5 ^d	527	464	412	408	384	404	404	386	324
TOTALS	14,257	9,290	9,234	8,055	8,187	9,161	12,614	8,445	6,729	7,498	7,451

N.A. Not Available

^aBorough Planning staff count plus actual count by oil industry.

^bAs Deadhorse and Prudhoe Bay are petroleum development related camp settlements resulting from oil exploration and discovery activities on the North Slope that commenced subsequent to the 1960 Census, there were, for all practical purposes no people residing in these areas prior to that time.

^cBased upon births and deaths reported; however, the figure to be used for budget and Capital Improvements Program (CIP) is 9,139 based upon the certification of the Commissioner of Community and Regional Affairs. The July figures are used for the following January for computation of property taxes authorized for operating purposes.

attached for your review is a copy of the formal appeal letter filed with my office by the North Slope Borough setting forth the various reasons why they have objected to the Division's determination of population for 1980.

SUMMARY OF APPLICABLE LAWS AND REGULATIONS:

With regard to the determination of population, AS 29.88.015 states that "the population of a taxing unit shall be determined annually by the latest figures of the United States Bureau of the Census or other population data which, in the judgement of the Department, is reliable."

In keeping with this statutory directive, the Department has adopted regulations which serve as the basis for administering the program in accordance with legislative intent and sound procedures. Specifically, 19 AAC 30.180, Population Determinations, states that the Department may approve adjustments in the population of communities which are derived from (1) the latest available figures of the U.S. Bureau of Census or (2) a locally prepared estimate which is based on three "reliable" indicators of population that show about the same rate of growth.

STATEMENT OF THE ISSUES:

The crux of the matter seems to be whether the North Slope Borough can include in its population estimate for certification by the Division for State revenue sharing purposes some 4,000 persons who, by the Borough's own admission are not "permanent" residents. This is clearly implied in the first few paragraphs of the Borough's appeal letter.

It is the Division's position that a population policy based along these lines would result in significant distortion of estimates since many persons would be counted twice (by place of work and then by place of legal residence) and would also open the door to allowing other communities to include vast numbers of summer tourists and transient workers in their annual July estimates.

The major issues with respect to the North Slope Borough appeal are summarized in the following questions:

1. Is the Department acting properly and in good faith in promulgating and working within the context of regulations that require the counting of "permanent" residents only in making annual adjustments of population?
2. Can people be counted or considered residents of one locality for purposes of the State revenue sharing program while claiming or exercising the right to vote elsewhere?

3. The term "residence" has a meaning dependent on the context and purpose of the particular law in question. What is the intent behind the State revenue sharing law as regards "residence" and determination of population?
4. Military personnel may be counted by localities for purposes of State revenue sharing. Bearing in mind the decision reached in Egan vs Hammond with respect to the counting of military personnel for reapportionment purposes, do you see a similar analogy between them and oil industry workers on the North Slope thus leading one to the conclusion that both groups should be treated in much the same manner for State revenue sharing?
5. Is it the intent of AS 29, Chapter 88, to give U.S. Census figures precedence as regards population determination and does it follow that the Division must employ the same definition of residency used by the U.S. Bureau of the Census in counting residents of a locality?

The questions listed above may be treated separately or, if your desire, combined and treated thusly in your opinion. They are not meant to be restrictive or exhaustive in any sense; feel free to comment on any and all aspects of this issue which you consider to be pertinent.

Attachments

LMCA:rm