

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672
1281 SCRA SB 180 (#9) 1281

PROPERTY TAX LEGISLATION

Part I-B of the Municipal League's 1980 Legislative Policy Statement addresses the local property taxing system and the place of state mandated property tax exemptions and reimbursements.

There were a number of specific property tax exemption bills introduced during this legislative session. A summary of that legislation in a letter to Dave Walsh was included with your agenda for this committee meeting. In some cases, that legislation did not provide for state reimbursement of revenues lost by local governments.

Item I-B-1 and I-B-2 both call for reimbursement of lost tax revenues by the State. This policy could receive more legislative support through the passage of a bill such as SB 352, requiring a fiscal note on the local costs of proposed bills. The clear presentation of the costs of legislative action to local governments would make lawmakers more aware of the effect of property tax exemption on local government.

There are a number of other taxation issues not directly addressed in the League's Legislative Policy Statement that are worthy of consideration. These policy questions include the following:

- 1) The long-term effects on state revenues and expenditures.

As Alaska's population and economy grow, the value of the exempted property will also grow. Senior citizen's homeowner tax exemptions, for example, have increased from \$197,050 in 1973 to \$1.8 million for fiscal year 1979. (Part of this increase was due to lifting the \$10,000 maximum allowable exemption in 1974.)

State analysts project a decrease in state oil and gas revenues starting in 1990, dropping by 5% to 10% annually thereafter. Creating a number of mandatory property tax exemptions, including such exemptions as business inventory, the first \$25,000 assessed residential property values, and so on, will simply add to the future drain on state revenues. This situation will become critical when total revenues decline to present levels and below.

The long-term concern is that communities will be left without reimbursement for property tax exemptions if state revenues decline. Will the Legislature continue to fund exemptions? Will tax laws be revised to eliminate various mandatory exemptions in the future? Or will local governments simply be left with smaller tax bases?

Local property taxes are potentially a major component of state income. As of January 1, 1979, locally assessed property was valued at \$13 billion, while state assessed oil and gas property was valued at another \$12 billion, of which \$7.6 billion was located within local taxing jurisdictions.

2) The equity of mandatory exemptions.

Mandatory exemptions raise a number of equity questions. As the list of mandatory exemptions grows, the local tax burden falls on an increasingly narrow portion of the local population. This is especially critical for exemptions which result in loss of local revenue which is not reimbursed by the state. Even if local revenue losses are made up by the state, the equity question is still pertinent, as some other, non-local source of revenue is paying for local services from which it may not benefit.

3) A Rational Exemption System.

Can there be any rational system developed for deciding which groups of taxpayers should be relieved of a property tax burden. The Department of Community and Regional Affairs suggests that an exemption must result in a clear public benefit, in order to justify an increased burden for other taxpayers.

There is at present no set of guidelines on how this "public benefit" is to be measured or assessed, or no policies of how deserving groups within the population should be identified or treated. A number of "worthy" groups were identified in last session's legislation, including disabled veterans, surviving spouses of senior citizens that had received property tax exemptions, and so on. Is there any way that the desirability of tax exemptions for these groups can be distinguished from disabled persons and veterans, as a whole, or other deserving segments of Alaska's population.

4) Corporate ^{V.S.} Residential Property.

What is the relation of exemptions for business property to exemptions for the real and personal property used for residential purposes. A bill introduced last session would have exempted business inventory from taxation, with state reimbursement to municipalities for lost revenues. Would this type of exemption create sufficient public good to justify shifting this tax burden to the State general fund?

5) Part I-C of the League's 1980 Legislative Policy Statement focuses on local taxing powers. A bill introduced last session (SB 299) would have reduced the maximum rate of taxation from 3% of assessed value (30 mills) to 0.9% of assessed value (9 mills). This limitation would seriously constrain local ability to raise revenue.

6) Renters and Property Owners.

Balancing the property tax exemption benefits of property owners and renters presents another equity question. A property tax equivalency payment is currently made to senior

citizens who rent their homes. Legislation passed this session raised the level of payment that will be made to renters that are senior citizens.

Will the State adopt similar equivalency payments for other types of property tax exemptions in the future? This is especially important in the case of general property tax exemptions. Senate Bill 296 would have mandated that the first \$25,000 of assessed value of owner-occupied homes be exempted from taxation. Should such an exemption be also applied to all renters, and how could it be done equitably?

In summary, there are far-reaching questions on the purpose, nature and benefits of property tax exemptions. These questions need more thought and understanding.

There will undoubtedly be a major effort during the next legislative session to reduce or eliminate the property tax liability of various groups and interests. The Municipal League is the organization that most directly reflects the combined opinions and desires of the state's municipal governments. It would certainly be in the Municipal League's best interests to develop a thorough policy statement on the overall question of property tax exemptions, and on the nature of property tax legislation most acceptable to local governments in Alaska.

Senator Arliss Sturgulewski
Presentation to the
Municipal League Legislative Committee

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 6, 1981

SUBJECT: HB 170 - Municipal Code Revision

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

FROM: Tamara Brandt Cook
Legislative Counsel *TBC*

Two errors in HB 170 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 those sections apparently applicable to home rule as well as general law municipalities. There was no intention on the part of the Title 29 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.

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

Representative Patrick M. O'Connell
Page 2
August 6, 1981

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 Senate Journal, page 747)

While HB 170 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.

TRC:jdn

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 6, 1981

SUBJECT: HB 170 - Municipal Code Revision

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

FROM: Tamara Brandt Cook
Legislative Counsel *TBC*

Two errors in HB 170 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 those sections apparently applicable to home rule as well as general law municipalities. There was no intention on the part of the Title 29 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.

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 Senate Journal, page 747)

While HB 170 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.

TBC:jdn

| <u>STA</u> | <u>UTE</u> | <u>ACTION</u> | <u>NUMBER</u> | <u>ABBREVIATED TITLE</u> | <u>SPONSOR</u> | <u>REQUESTOR</u> | <u>CURRENT STATUS</u> |
|------------|------------|---------------|---------------|---|----------------|------------------|-----------------------|
| 24.20.445 | AMENDED | SB | 5 | RE/ADMINISTRATIVE REGULATIONS; ED | FAHRENKAMP | | VETOED BY GOVERNOR |
| | REFERENCE | SB | 5 | RE/ADMINISTRATIVE REGULATIONS; ED | FAHRENKAMP | | VETOED BY GOVERNOR |
| | REFERENCE | SB | 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | KERTTULA | | VETO SUSTAINED |
| 24.20.450 | REFERENCE | SB | 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | KERTTULA | | VETO SUSTAINED |
| 24.20.460 | ADDED | SB | 5 | RE/ADMINISTRATIVE REGULATIONS; ED | FAHRENKAMP | | VETOED BY GOVERNOR |
| | REFERENCE | SB | 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | KERTTULA | | VETO SUSTAINED |
| 24.30.130 | REFERENCE | EO | 49 | NO HISTORY KEPT AT THIS TIME | | | |
| | REFERENCE | EO | 50 | NO HISTORY KEPT AT THIS TIME | | | |
| | REFERENCE | EO | 51 | NO HISTORY KEPT AT THIS TIME | | | |
| 24.99.001 | ADDED | SB | 5 | RE/ADMINISTRATIVE REGULATIONS; ED | FAHRENKAMP | | VETOED BY GOVERNOR |
| | REFERENCE | SB | 5 | RE/ADMINISTRATIVE REGULATIONS; ED | FAHRENKAMP | | VETOED BY GOVERNOR |
| 25.25.010 | AMENDED | SB | 181 | RE/CHILD SUPPORT/CHANGING RULE 77/C VIL PROCEDURE | RAY | | CHAPTER 0096 SLA 81 |
| 26.05.070 | REFERENCE | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| 26.05.260 | ADDED | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| | AMENDED | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| | REPEALED | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| | REPD&REIN | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| 26.05.265 | AMENDED | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| | REFERENCE | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| 26.05.296 | AMENDED | SB | 54 | RE/AK NAT GUARD/NAVAL MILITIA; ED | RULES | | CHAPTER 0056 SLA 81 |
| 26.10.070 | AMENDED | SB | 72 | RE/VETERANS AND PUBLIC RECORDS | BRADLEY | | CHAPTER 0035 SLA 81 |
| 27.09.010 | REFERENCE | SB | 214 | APPROP/DEPT COM& ECON DEV/MINING LOAN FUND; ED | BENNETT | | CHAPTER 0072 SLA 81 |
| 27.09.020 | REPD&REIN | SB | 226 | RE/MINING LOAN FUND; ED | FAHRENKAMP | | CHAPTER 0097 SLA 81 |
| 27.09.040 | AMENDED | SB | 226 | RE/MINING LOAN FUND; ED | FAHRENKAMP | | CHAPTER 0097 SLA 81 |
| | REFERENCE | SB | 226 | RE/MINING LOAN FUND; ED | FAHRENKAMP | | CHAPTER 0097 SLA 81 |
| 27.09.045 | ADDED | SB | 226 | RE/MINING LOAN FUND; ED | FAHRENKAMP | | CHAPTER 0097 SLA 81 |
| 28.15.241 | AMENDED | HB | 53 | RE/POINT SYSTEM/DRIVING OFFENSES | RULES | GOVERNOR | CHAPTER 0008 SLA 81 |
| 29.18.000 | REFERENCE | HB | 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | | CHAPTER 0113 SLA 81 |
| 29.18.201 | REFERENCE | HB | 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | | CHAPTER 0113 SLA 81 |
| 29.18.202 | REFERENCE | HB | 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | | CHAPTER 0113 SLA 81 |

1981 Session Laws to date: Re Title 29

09/02/81

STATUTE REFERENCES-CURRENT SESSION ONLY

R01-LBH-3081

PAGE 0041

| <u>STATUTE</u> | <u>ACTION</u> | <u>NUMBER</u> | <u>ABBREVIATED TITLE</u> | <u>SPONSOR</u> | <u>REQUESTOR</u> | <u>CURRENT STATUS</u> |
|----------------|--|------------------------------------|---|--|--|--------------------------------------|
| 29.18.203 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.204 | AMENDED REFERENCE | HB 31 HB 31 | RE/STATE/MUNICIPAL LAND; ED RE/STATE/MUNICIPAL LAND; ED | FREEMAN FREEMAN | CHAPTER 0113 CHAPTER 0113 | SLA 81 SLA 81 |
| 29.18.205 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.206 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.207 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.208 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.209 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.210 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.211 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.212 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.18.213 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.33.150 | ADDED AMENDED REFERENCE | HB 31 HB 31 HB 31 | RE/STATE/MUNICIPAL LAND; ED RE/STATE/MUNICIPAL LAND; ED RE/STATE/MUNICIPAL LAND; ED | FREEMAN FREEMAN FREEMAN | CHAPTER 0113 CHAPTER 0113 CHAPTER 0113 | SLA 81 SLA 81 SLA 81 |
| 29.48.020 | ADDED ADDED | HB 317 SB 368 | RE/EMERGENCY SVCS COMMUNICATIONS RE/LOCAL SERVICE ROADS/TRAILS; ED | MALONE GILMAN | CHAPTER 0107 CHAPTER 0038 | SLA 81 SLA 81 |
| 29.53.000 | REFERENCE | SB 524 | RE/TAXES; ED | FINANCE | CHAPTER 0116 | SLA 81 |
| 29.63.000 | REFERENCE | HB 297 | APPROPS; ED | RULES | GOVERNOR | CHAPTER 0092 SLA 81 |
| 29.68.000 | REFERENCE | HB 434 | RE/MERGE/AK P-LINE CM3N/AK PUB UTIL CM3N; ED | RULES | GOVERNOR | CHAPTER 0110 SLA 81 |
| 29.68.220 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.68.230 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 29.68.240 | REFERENCE REFERENCE REFERENCE REFERENCE | HB 31 HB 460 SB 86 SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE RE/LOCAL SERVICE ROADS/TRAILS; ED | FREEMAN RESOURCES KERTTULA GILMAN | CHAPTER 0113 CHAPTER 0117 VETO SUSTAINED CHAPTER 0038 | SLA 81 SLA 81 SLA 81 SLA 81 |
| 29.68.250 | REFERENCE REFERENCE | HB 31 HB 460 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED | FREEMAN RESOURCES | CHAPTER 0113 CHAPTER 0117 | SLA 81 SLA 81 |

| <u>STATUTE</u> | <u>ACTION</u> | <u>NUMBER</u> | <u>ABBREVIATED TITLE</u> | <u>SPONSOR</u> | <u>REQUESTOR</u> | <u>CURRENT STATUS</u> |
|----------------|--|--|--------------------------|--|------------------|---|
| 29.68.250 | REFERENCE SB 86 REFERENCE SB 368 | RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | KERTTULA GILMAN | | VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.260 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.270 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.280 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.290 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.300 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.310 | REFERENCE HB 31 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN KERTTULA GILMAN | | CHAPTER 0113 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.320 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.330 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.340 | REFERENCE HB 31 REFERENCE HB 460 REFERENCE SB 86 REFERENCE SB 368 | RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & RE/LOCAL SERVICE ROADS/TRAILS; ED | REENACT FRANK INITIATIVE | FREEMAN RESOURCES KERTTULA GILMAN | | CHAPTER 0113 SLA 81 CHAPTER 0117 SLA 81 VETO SUSTAINED CHAPTER 0038 SLA 81 |
| 29.68.350 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | | CHAPTER 0113 SLA 81 |

| <u>STATUTE</u> | <u>ACTION</u> | <u>NUMBER</u> | <u>ABBREVIATED TITLE</u> | <u>SPONSOR</u> | <u>REQUESTOR</u> | <u>CURRENT STATUS</u> |
|----------------|------------------|---|--------------------------|----------------|---------------------|-----------------------|
| 29.68.350 | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.360 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.370 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.380 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.390 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.400 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.410 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.420 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.430 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |
| 29.68.440 | REFERENCE HB 31 | RE/STATE/MUNICIPAL LAND; ED | | FREEMAN | CHAPTER 0113 SLA 81 | |
| | REFERENCE HB 460 | RE/TAXES; ED | | RESOURCES | CHAPTER 0117 SLA 81 | |
| | REFERENCE SB 86 | RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE | | KERTTULA | VETO SUSTAINED | |
| | REFERENCE SB 368 | RE/LOCAL SERVICE ROADS/TRAILS; ED | | GILMAN | CHAPTER 0038 SLA 81 | |

1991 Session laws to date : Re Title 29

| <u>STATUTE</u> | <u>ACTION</u> | <u>NUMBER</u> | <u>ABBREVIATED TITLE</u> | <u>SPONSOR</u> | <u>REQUESTOR</u> | <u>CURRENT STATUS</u> |
|----------------|----------------------|------------------|--|---------------------|------------------------------|-----------------------|
| 29.73.080 | AMENDED REFERENCE | HB 317 HB 317 | RE/EMERGENCY SVCS COMMUNICATIONS RE/EMERGENCY SVCS COMMUNICATIONS | MALONE MALONE | CHAPTER 0107 CHAPTER 0107 | SLA 81 SLA 81 |
| 29.88.015 | REFERENCE | SB 25 | RE/ENERGY PROJECTS/PRGMS OF AK POWER AUTH; ED | KERTTULA | CHAPTER 0118 | SLA 81 |
| 29.88.035 | REFERENCE | SB 125 | SUPPL APPROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED | DANKWORTH | CHAPTER 0006 | SLA 81 |
| 29.89.030 | AMENDED | HB 131 | INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED | HAUGEN | CHAPTER 0103 | SLA 81 |
| 29.89.050 | REFERENCE | SB 125 | SUPPL APPROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED | DANKWORTH | CHAPTER 0006 | SLA 81 |
| 29.89.080 | REFERENCE | SB 125 | SUPPL APPROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED | DANKWORTH | CHAPTER 0006 | SLA 81 |
| 29.90.010 | AMENDED | HB 131 | INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED | HAUGEN | CHAPTER 0103 | SLA 81 |
| 29.90.020 | AMENDED REFERENCE | HB 131 SB 125 | INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED SUPPL APPROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED | HAUGEN DANKWORTH | CHAPTER 0103 CHAPTER 0006 | SLA 81 SLA 81 |
| 29.90.030 | ADDED | HB 131 | INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED | HAUGEN | CHAPTER 0103 | SLA 81 |
| 29.95.010 | REFERENCE | HB 131 | INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED | HAUGEN | CHAPTER 0103 | SLA 81 |
| 31.15.050 | AMENDED | HB 434 | RE/MERGE/AK P-LINE CMSN/AK PUB UTIL CMSN; ED | RULES | GOVERNOR | CHAPTER 0110 SLA 81 |
| 33.15.010 | REFERENCE | HB 510 | CONTINUE EXISTENCE/STATE BOARD OF PAROLE; ED | CLOCKSIN | CHAPTER 0022 | SLA 81 |
| 33.15.060 | ADDED | HB 510 | CONTINUE EXISTENCE/STATE BOARD OF PAROLE; ED | CLOCKSIN | CHAPTER 0022 | SLA 81 |
| 33.35.010 | ADDED REFERENCE | SB 115 SB 115 | RE/AGREEMENT ON DETAINERS; ED RE/AGREEMENT ON DETAINERS; ED | RULES RULES | CHAPTER 0039 CHAPTER 0039 | SLA 81 SLA 81 |
| 33.35.020 | ADDED | SB 115 | RE/AGREEMENT ON DETAINERS; ED | RULES | CHAPTER 0039 | SLA 81 |
| 33.35.030 | ADDED | SB 115 | RE/AGREEMENT ON DETAINERS; ED | RULES | CHAPTER 0039 | SLA 81 |
| 33.35.040 | ADDED | SB 115 | RE/AGREEMENT ON DETAINERS; ED | RULES | CHAPTER 0039 | SLA 81 |
| 34.10.010 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 34.10.020 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 34.10.030 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 34.10.040 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 34.10.050 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |
| 34.10.060 | REFERENCE | HB 31 | RE/STATE/MUNICIPAL LAND; ED | FREEMAN | CHAPTER 0113 | SLA 81 |

Session laws to date - SLA 1981

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 6, 1981

SUBJECT: SB 180 - Municipal Code Revision

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

FROM: Tamara Brandt Cook
Legislative Counsel *ABC*

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 those sections apparently applicable to home rule as well as general law municipalities. There was no intention on the part of the Title 29 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.

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

Senator Donald E. Gilman
Page 2
August 6, 1981

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 Senate Journal, page 747)

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.

TBC:jdn



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT (907) 586-3300

July 22, 1981

Tam Cook, Esquire
Legal Services
Alaska Legislative Services Agency
Pouch Y
Juneau, Alaska 99811

FILE: Projects--Municipal Code Revision

SUBJECT: Applicability of Sales Tax
Limitation to Home Rule Municipalities

Dear Tam:

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.

Thank you.

Sincerely,

Gerald L. Sharp
Attorney

GLS:phl

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

Richard A. Bradley
Legislative Counsel

Kesa

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

MEMORANDUM

July 6, 1981

SUBJECT: A technical problem with HB 31
TO: Representative Terry Gardiner
FROM: Richard A. Bradley *B*
Legislative Counsel

A technical problem has been noted with regard to the final form of HB 31 which should be called to your attention as the requestor of HB 31.

In Sec. 2 of the bill, AS 29.33.150(b) is amended. In Sec. 3 of the bill, new subsections are added expanding on the basic amendment stated in (b).

The problem is that the provisions stated in (b) apply to home rule municipalities because of AS 29.13.100(39), which is existing law.

The newer subsections added in HB 31 appear not to apply to home rule municipalities because of the omission of an amendment in HB 31 to AS 29.13.100(39).

I assume that the result was not intended and that a future land bill should address the question.

RAB:ljb

~~cc~~ Senator Bettye Fahrenkamp

Terry
Need answer
entitlement select.
- allow 10/82 select - defn
repeal - removing lawsuit

Gilman
Stuzgorski

Juneau

MSG 81-00020102 PRTY 1 06/05/81 16:53:35 ORIG: L000 IN= 0008 OUT= 0081
FROM: KODIAK TO: ALASKA STATE LEGISLATURE
TARGET: LJH2 SUBJ: PUBLIC OPINION MESSAGE PAGE 0001

DEAR LEGISLATOR:

AS 29.68.260 (B) (1) AND (B) (2) REQUIRE 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.

SINCERELY,
OKEY CHANDLER
P.O. BOX 1635
KODIAK, AK. 99615
486-5553

file: letter 29

MSG 81-00020112 PRTY 1 06/05/81 17:14:32 ORIG: LF01 IN= 0014 OUT= 0088
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO
TARGET: LJH2 SUBJ: POH PAGE 0001

TO ALL LEGISLATURES

FROM: DEBBIE MILLER, P. O. BOX 1107, FAIRBANKS 99707 452-2866

RE: STATE LOAN PROGRAMS

LET A COMMITTEE OF FARMERS DECIDE VALIDITY OF FARM LOAN APPLICATIONS, NOT BANKERS.

LET A FORESTER OR COMMITTEE DETERMINE TIMBER LOAN APPLICATIONS, NOT BANKERS.

LET A GEOLOGIST OR MINING COMMITTEE DECIDE MINING LOAN APPLICATIONS, NOT BANKERS.

HAVE FISHERMEN EVALUATE FISHING LOANS, NOT BANKERS. ABOVE ALL, ACT NOW.



ADOPTED AUGUST 1972

CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381

June 3, 1981

Senator Don Gilman, Chairman
Senate Community & Regional Affairs
Pouch V
Juneau, AK 99801

Re: Senate Bill No. 180/House Bill No. 170

Dear Sir:

Following review of the referenced bills, the City of Wrangell, a home-rule municipality, has the following concerns:

Sec. 29.20.010 Conflict of Interest: 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.

Sec. 29.20.140 Qualifications: 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.

Sec. 29.20.640 Reports: (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.

CITY OF WRANGELL, ALASKA

Senator Don Gilman, Chairman

Page two

June 3, 1981

Sec. 29.46.160 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.

Sec. 29.45.320 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.

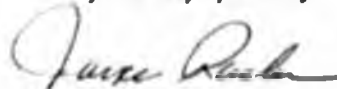
Sec. 29.45.460 Disposition and Sale of Foreclosed Property (c): a home-rule municipality is not required to hold hearings on an ordinance. This section should be amended to provide for notice to the former record owner prior to introduction of an ordinance.

Sec. 29.45.470 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.

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.

The bills as introduced will further erode local autonomy of home-rule municipalities. The City strongly opposes legislation which adds limitations to home-rule government.

Very truly yours,



Joyce Rasler
City Manager

JR:fv

cc: Senator Richard Eliason
Edward A. Stahl

June 3, 1981

Mr. Dick Morehouse
CCC Architects and Planners
431 W. 7th Avenue
Suite 100
Anchorage, Alaska 99501

Dear Mr. Morehouse:

As you requested, we are enclosing a copy of the Section-by-Section Analysis and a cross-reference index for Senate Bill No. 180/House Bill No. 170, relating to Municipal Code Revisions.

If we can be of further assistance, please let us know.

Sincerely,

David Dye
Aide to Senator Don Gilman

Enclosures

Areas of Concern - From Teleconference held May 28, 1981

Hallgren - Sitka.

Page 46, Section 29.20.220, wording "responsible for additional duties and powers prescribed by this chapter" - as it relates to Sec. 29.20.270 - Veto power, and 29.20.240(c) (but I think he meant 29.29.250(c) because there is no 240(c)--relating to the vote of the mayor.. Some question as to whether these sections will overrule a city's charter.

Page 90 - Sec. 29.40.15) - 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).

Page 119 - Sec. 29.45.470 - Relating to foreclosing on property for taxes. Should be a date where the right of the original property owner to repurchase ceases.

Robert Henderson - Haines.

Page 1 - Sec. 29.04.030 and 050. Doing away with the third class borough. Stating Haines' objections.

Jim Kohler, City Manager, City of Yakutat.

Do a thorough digest of all the revisions before considering additional legislation, referring specifically to SB 544, stream'ined boroughs.

Page 92 - 29.40.180- State compliance with local subdivision regulations. Item that is going to be more than a sleeper, as well as elimination of third class boroughs.

Showalter Smith, acting Study Coordinator for the AVCP Regional Government Study.

Impact of Outer Continental Shelf development on the coastal Native regions. Possibility of creating a Planning Service Area for the unorganized areas in lieu of regional governments.

Marilyn Dimmick, Alaska Municipal League representative.

Suggests the bill be passed without significant revision.

Allan Tesche, deputy Municipal Attorney, City of Anchorage.

Municipality supportive of the legislation, simplifies Title 29 for use by a general practitioner.

Louis O. Nelson, Haines, representing himself.

Objects to elimination of the third class borough.

Ivan Widom, City of Nome

Pages 45 and 46, Secs. 29.29.220(a) and 29.20.230 - confusion in references, first one seems to refer only to boroughs, then later references are made to other municipalities. Need to clear up the confusion. Titles are confusing.

Michael Walleri, Tanana Chiefs Council.

More attention should be paid to unorganized boroughs and incorporating Senate Bill 341 (Native Village governments). Referring to land planning powers in the Department of Natural Resources--should this be changed?

Gilman refers to planned interim work on Senate Bills 544, 350 and 240. Try to pick out direction to go in the unorganized borough.

g

Nancy Kraning, City of Bethel. Recommends C&RA Committee hold some workshop in different regions to provide opportunity for people to respond and address issues on unorganized borough.

Louise Homstad, Haines. Against abolition of third class borough. Wants to keep things as they are.

Richard Navin: representing Planning Department of the North Star Borough. Compliments the revision committee, especially referring to Chapter 40 - platting authority.

Barbara Albert, KYOK, Bethel. Wondered if the revision committee was mandated to relate only to existing law, referring to unorganized borough. Reply was that they tried to stick to revision of existing law only.

Richard Hallgren from Sitka again.

Page 62, powers of initiative and referendum. Question regarding applicati to home rule only or whatever.

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

Page 99 - Figure of \$10,000 refer to taxes or value?



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Rep. Ben Grussendorf
Chairman
465-3870

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

Date: 5/28/81

To: Representative Hugh Malone, Chairman
Alaska Legislative Council

From: Representative Ben Grussendorf, Chairman
House Community & Regional Affairs

Re: Request for Interim Committee

As you know, the House Community & Regional Affairs Committee has before it the Title 29 Revision - HB 170. This bill was a product of the Title 29 Policy Advisory Group and the Legislative Title 29 Revision Commission mandated through SCR 66 of the 1980 Legislature; the revision of Title 29 is complex and represents a tremendous volume of work completed within a limited time frame. The work by the Commission was very productive and resulted in a conscientious and responsible advance in the restructuring of Alaska's municipal government system.

It is my intent to request, at this time, that the Council consider funding interim work in regard to local government issues as well as HB 170. Because of the limited time for detailed Committee work concerning the revision bill and allowing for session demands of the regular Committee load, the House C&RA Committee has not had the time for a concentrated effort of understanding the detailed changes offered in the 190 page bill. It is my intent that the interim would be used to look into suggested changes made by the legislation and the effect on local government. This is obviously a time consuming process and would not be able to receive proper attention during a legislative session. (See attached proposed schedule).

In reference to a memo sent to you by Senator Sturgulewski in February, I am in full agreement with the outlined necessity for a concentrated look into a number of major policy issues that could not be addressed within the scope of the revision of Title 29. To outline some of these concerns briefly with regard to a concentrated study, the following issues are re-stated from Senator Sturgulewski's memo:

1. A widespread demand for more local control of local matters as well as state and federal programs affecting communities. Federal cutbacks will also play a major role in community development.

5/28/81

2. How much is the state willing to pay to meet the demands for local control and what are the costs of manpower requirements necessary for decentralization?
3. There is a general need for coordinating and streamlining requirements which result in the multiplication of agencies and organizations formed to respond to state and federal program guidelines.
4. The creation of additional single-purpose service areas should be given serious consideration. The constitutional intent calls for a simplified type of local government. Should the Legislature create a multi-layered type of governmental system in the unorganized borough that is considered undesirable within an organized city or borough?
5. The question of the "sovereign immunity" status of certain governing bodies of communities in regard to state shared revenues and state grants must be addressed as our Legislature continues to increase funding to local governments.

These are just a few public and professional concerns that have been raised by the work of the Title 20 Revision Commission as well as the current House Community & Regional Affairs Committee. I would hope that the Council would see fit to continue interim work on these important local government issues in conjunction with the proposed Revision through HB 170.

The attached information is background material for an estimated amount of funds necessary for continuance of a local government interim committee. As both the House and Senate have not been able to reach a decision as to the funding of interim committees vs. the continuation of standing committees, the difference of the proposals will be in regard to the costs for additional funds necessary for staffing purposes.

Thank you for your consideration of this matter. You may contact me in the event that further details of this request are necessary.

Attachments:
Interim Proposed Schedule
Breakdown of Requested Funds

Schedule of C&RA Committee Interim
Review

Title 29 Revision
HB 170/SB 180

It is the intent of the Committee Chairman to follow this schedule as closely as possible. A request to the Alaska Municipal League to develop a Technical Assistant Group to advise and focus on any specific areas of magnitude for a more expeditious passage of the legislation will follow.

| <u>Dates</u> | <u>Locations</u> | <u>Itinerary</u> |
|---------------------|---|--|
| May 28, 1981 | Juneau Statewide Teleconference | Overview & input regarding HB 170 |
| August 14, 15, 16 | Anchorage | Initial Interim Meeting Problem areas outlined |
| September 11 | Anchorage | Ten day travel plan for local government study re structures & needs of various committees |
| October 9, 10, 11 | Anchorage | Begin mark-up of legislation |
| November 13, 14, 15 | Anchorage | Continued mark-up |
| December 4, 5, 6 | Anchorage | Final mark-up with final draft of offered amendments |
| December, 1981-- | Sectional analysis prepared by Legal Services on proposed amendments prepared by January 15, 1982 | |
| January, 1982-- | Committee Scheduling of HB 170 with joint hearings on SB 180 regarding sectional analysis and interim recommendations | |
| February, 1982-- | Passage of HB 170 and SB 180 out of CRA Committees | |



Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Breakdown of Requested Funds

| | | |
|------------------------|----------|-------------------|
| 100- Personal Services | wages | \$54,270 |
| | benefits | <u>14,652</u> |
| | total | \$68,922 |
| 200- Travel | air-fare | \$20,000 |
| | perdiem | <u>15,200</u> |
| | total | \$35,200 |
| 300- Contractual | phone | \$ 300. |
| | postage | 100. |
| | xerox | <u>100.</u> |
| | total | \$ 500. |
| Total Fiscal Impact | | <u>\$103,970.</u> |

A Concurrent Resolution is being introduced in the House and will be accompanied by a fiscal note with the above figures included. There will be two fiscal notes; one will exclude the amounts shown above for funding of staff positions if it is decided that they are to be included as permanent positions under the Leadership Budgets of both the House and Senate.

II. FISCAL DETAIL

Agency Affected Legislative Affairs Agency
 Program Category Affected Legislative Council
 BRU, Program, or Subprogram(s) Affected _____

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

EXPENDITURES (Thousands of Dollars)

| | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|--------------------------|-------|---------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | 00 | | | | |
| 200 TRAVEL | | 35,200. | | | | |
| 300 CONTRACTUAL | | 500. | | | | |
| 400 COMMODITIES | | 00 | | | | |
| 500 EQUIPMENT | | 00 | | | | |
| 600 LAND & STRUCTURES | | 00 | | | | |
| 700 GRANTS, CLAIMS, ETC. | | 00 | | | | |
| | | 00 | | | | |
| TOTAL | | | | | | |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--------|--|--|--|--|
| GENERAL FUND | | 35,700 | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|---|--|--|--|--|
| FULL TIME | | 3 | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

The above figures take into account the necessary funding, excluding those for 100-Personal Services if they are to be included as positions under the Leadership Budget.

IV. DATE 5/30/81 PREPARED BY Rep. Grussendorf

AGENCY Legislature
 PHONE 465-3875

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

II. FISCAL DETAIL

Agency Affected Legislative Affairs Agency
 Program Category Affected Legislative Council

BRU, Program, or Subprogram(s) Affected _____

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

EXPENDITURES (Thousands of Dollars)

| | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|--------------------------|-------|--------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | 68,270 | | | | |
| 200 TRAVEL | | 35,200 | | | | |
| 300 CONTRACTUAL | | 500 | | | | |
| 400 COMMODITIES | | 00 | | | | |
| 500 EQUIPMENT | | 00 | | | | |
| 600 LAND & STRUCTURES | | 00 | | | | |
| 700 GRANTS, CLAIMS, ETC. | | 00 | | | | |
| TOTAL | | | | | | |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|---------|--|--|--|--|
| GENERAL FUND | | 103,970 | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|---|--|--|--|--|
| FULL TIME | | 3 | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

The above figures include the necessary funding for staff salaries if these funds are not included as positions under the Leadership Budget.

IV. DATE 5/30/81 PREPARED BY Rep. Grussendorf, Chairman H/CRA

Original: Legislative Finance
 cc: Budget and Management
 AGENCY Legislature
 PHONE 465-3875

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

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

April 27, 1981

The Honorable R.E. Henderson
Mayor of Haines Borough
P.O. Box H
Haines, Alaska 99827

Dear Mayor Henderson:

RE: THIRD CLASS BOROUGH

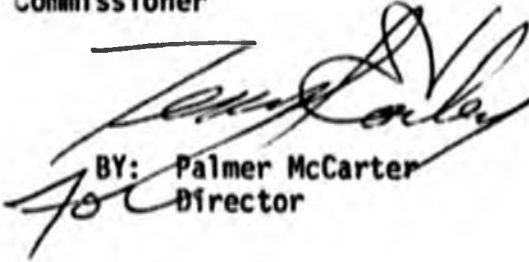
Thank you for your letter regarding the Department's position paper on the third class borough form of government. We feel a number of your comments serve to support our position.

You stress the critical need for the Borough to deal with the proposed federal study and possible land use control of the Chilkat Valley eagle habitat (HR 39, section 308). We understand that the Haines Borough has spent considerable time and financial resources in addressing this issue. There was an extensive written opinion to the Borough from special counsel L.B. Jacobson indicating specifically that the Borough had no authority to involve itself in the issue in the manner proposed without the power to plan, plat and zone. I am aware of no opinion issued subsequent to Mr. Jacobson's opinion of April 9, 1979 which countermands that position.

We do not seek to deny the Haines Borough or any other municipality from addressing the needs of its citizens. Rather we are committed to the notion that all borough governments need planning, platting and zoning to effectively deal with issues at the local level.

Sincerely,

Lee McAnerney
Commissioner



BY: Palmer McCarter
Director

cc: ✓ Senator Don Gilman
Senator Arliss Sturgulewski

37113

The Honorable R.E. Henderson
April 27, 1981
Page -2-

Senator Charles Parr
Representative Ben Grussendorf
Keith Specking-Legislative Assistant, Office of the Governor
Mayor Jon Halliwill, City of Haines
Pat Poland/Dan Bockhorst, LGAD-Anchorage

CITY OF SEWARD



P. O. BOX 337
SEWARD, ALASKA 99664

| | |
|--------------|----------|
| CITY MANAGER | 224-5214 |
| COMPTROLLER | 224-5218 |
| INFORMATION | 224-5215 |
| CITY POLICE | 224-5201 |
| CITY CLERK | 224-5214 |
| HARBOR | 224-3420 |

April 27, 1981

THE HON. ARLISS STURGULEWSKI
ALASKA STATE SENATOR
Pouch V (MS 3100)
JUNEAU, AK 99811

TITLE 29 REVISIONS (HB 170 AND SB 180)

First, I want to thank you for keeping me informed of the status of revisions on Title 29. I thoroughly enjoyed serving on the Technical Review Committee--it was a totally new experience for me. I'm still wondering how a female non-attorney was appointed to serve with all those male legal counselors!

I have reviewed the latest rewrite (HB 170 and SB 180) and have a few comments I would like to forward to you for your review. I had the opportunity to discuss these specific items with Jim Norda during the Alaska Association of Municipal Clerks' annual spring meeting in Fairbanks April 6-10. Mr. Norda reviewed the Title 29 revisions for the clerks and he may have already contacted you regarding some of my remarks.

By copy of this letter I am forwarding the same information to Senator Don Gilman, Chairman of the Community and Regional Affairs Committee.

Thank you for your cooperation and concern.

JOANNE E. SHANLEY, CMC
CITY CLERK/PERSONNEL OFFICER

Enclosure

The Hon. Senator Don Gilman

Seward says "hi" Don!

TITLE 29 REVISIONS (HB 170 & SB 180)

| <u>Section</u> | <u>Comments</u> |
|----------------|---|
| 29.20.160 (b) | <p>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 <u>not</u> a Home Rule Limitation.</p> <p>My specific objection is at the second sentence which reads "A special meeting may be held at the call of <u>the presiding officer or at least one-third of the members</u>"</p> <p>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.</p> |
| 29.20.170 | <p>regarding the declaration by the governing body of a vacancy</p> <p>(8) states a position may be declared vacant if the person "no longer physically resides in the city or borough <u>and the governing body by two-thirds vote declares the seat vacant.</u>"</p> <p>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?</p> <p>Is there some way to more specifically determine "residency" and, after a specified period of non-residency, that the position automatically be declared vacant?</p> <p>A similar argument can be made concerning (7) under the same section.</p> <p>Another consideration is that Sec. 29.20.280 addresses the mayoral position and different provisions for declaring a vacancy for non-residency are established. Is there a reason for this?</p> |

| <u>Section</u> | <u>Comments</u> |
|----------------|--|
| 29.20.220 | <p>Article 3 heading preceding this section is entitled "<u>Borough Executive and Administrator</u>"</p> <p>This title is a misnomer since this article also deals with the cities.</p> |
| 29.20.230 (c) | <p>addresses the term of a mayor and states "The governing body may not limit the number of terms a mayor may serve."</p> <p>I think an addition should be made to clarify this statement, taking it one step further by:</p> <p>"The governing body may not limit the number of terms a mayor may serve but such limitation may be established by <u>ordinance upon ratification by two-thirds vote of the electors.</u>" (The suggested language is just to indicate my intent.)</p> |
| 29.25.060 | <p>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."</p> |
| 29.26.050 | <p>addresses voter qualifications</p> <p>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 AAC 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.</p> <p>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.</p> <p>In small communities where voter turn-out is small, elections close, and everyone knows where everyone else lives, this is an important issue.</p> |

| <u>Section</u> | <u>Comments</u> |
|----------------|--|
| 29.26.060 | I found the language in this section regarding majority election extremely cumbersome. |
| 29.26.130 | <p>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.</p> <p>Suggested language:</p> <p>(1) "a summary of the bill to be initiated or the act to be referred, <u>as submitted by the sponsor/s and reviewed and approved by the city attorney if applicable</u> (to insure that the summary as submitted is not unclear or misleading)</p> <p>(2) "the complete ordinance or resolution sought to be initiated or referred <u>as submitted by the sponsor/s.</u>"</p> |
| 29.26.140 | <p>regarding signature requirements on petitions (b) states "The clerk shall determine the number of signatures required on a petition and inform each sponsor."</p> <p>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.</p> |
| 29.26.150 | <p>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."</p> <p>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.</p> |

TITLE 29 REVISIONS (HB 170 & SB 180)
Page Four

| <u>Section</u> | <u>Comments</u> |
|---------------------------|--|
| 29.26.150 (b) (cont'd) | 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 | 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 | 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 <u>registered and residing within the district (or service area)</u> equal to 35 percent of the number of votes cast in the district (or <u>service area</u>) for that office at the last regular election held before the issuance of the petition." |
| 29.26.290 | 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 | <u>Submission</u> "If a recall petition is sufficient, the clerk shall immediately submit it to the governing body." 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."?? |

| <u>Section</u> | <u>Comments</u> |
|----------------|---|
| 29.35.020 | <p>regarding the control of watersheds outside a municipality's boundaries</p> <p>"Before this power may be exercised within the boundaries of another municipality, the approval of the other municipality must be given by ordinance."</p> <p>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."</p> <p>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.</p> |

Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "John A. ...".

Rural Alaska Community Action Program, Inc.

April 10, 1981

Senator Donald E. Gilman
Chairman, Community & Regional Affairs Committee
Alaska State Senate
Pouch V, M/S 3100
Juneau, AK 99811

REF: HOUSE BILL #170; "An Act Relating to Municipal Government,
and Providing for an Effective Date"

Dear Senator Gilman,

By means of this letter, I would like to inform you that the Board of Directors of the Rural Alaska Community Action Program has formally endorsed the contents and passage of House Bill #170. As you know, this Bill results from the work of the Title 29 Review Commission, established by the Legislature last year. Under the able stewardship of Senator Arliss Sturgulewski, the Commission met several times during the summer and fall to prepare a comprehensive set of recommendations regarding the State's Local Government Statute. HB 170 is the result of that work.

As you may know, Rural CAP was represented on the Commission in an ex officio capacity, assisting to obtain comments and recommendations from rural communities all around the State. Additionally, rural concerns were well represented by the individual citizens appointed to serve on the Commission. In short, we have confidence that the process used to devise the recommendations contained in House Bill 170 was entirely appropriate, balanced, and quiet representative of local government concerns on a State-wide basis.

As Senator Sturgulewski pointed out in her cover letter submitting the Legislation for your consideration, the proposals in HB 170 do not address all of Alaska's unresolved local government concerns; however, addressing substantive policy questions was clearly outside of the purview of the mandate provided to the Commission by the Legislature.

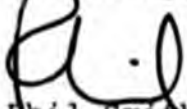
Page 2

TO: Senator Donald Gilman, Chairman

At all events, we are happy to endorse the final product and urge your speedy consideration and passage of House Bill 170.

Thanks very much for your consideration of these remarks.

Sincerely,

A handwritten signature in black ink, appearing to be 'P. Smith', written over the typed name.

Phil Smith
Executive Director

PS:lw

cc: Title 29 Commission Membership
Governor Hammond
Committee Members
President of the Senate Kerttula

CITY OF HAINES

(907) 766-2231 - POST OFFICE BOX 576

April 3, 1981

COPY

The Honorable C. H. Parr
The State Capitol
Pouch "V"
Juneau, Alaska 99811

Dear Senator Parr,

This refers to your letter of March 10, 1981 to Mr. Palmer McCarter, a copy of which you graciously furnished to me. Thank you for your consideration.

In your letter you discuss the Third Class Borough Position Paper published recently by the Department of Community and Regional Affairs. You advance the theory that: "A borough consisting of one city and several villages plus miles and miles of nothing, would certainly have no reason to zone the miles and miles of nothing."

I suggest a more realistic scenario: People will have no reason to zone miles and miles of nothing until such times as they become miles and miles of something nobody ever imagined in that area! And that, Senator Parr, is the crux of the problem with Third Class Boroughs. Turning our backs on appropriate protective planning is not the wise, enlightened local control of development or non-development I champion for the future of Alaska.

Thank you for sending me your point of view.

Very truly yours,
Jon D. Halliwill
JON D. HALLIWILL
Mayor

JDH/vcm

xc: Senators Gilman, Sturgulewski; Representatives Grussendorf, Duncan; Mayor Henderson, Haines Borough; Dan Bockhorst, Pat Poland; K. Specking G. Chitwood

File SB 170
N/A

24

**Municipality
of
Anchorage**



POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 264-4431

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MAYOR

April 2, 1981

The Honorable Don Gilman, Chairman
Senate Community & Regional Affairs Committee
State of Alaska
Pouch V
Juneau, Alaska 99811

The Honorable Ben Grussendorf, Chairman
House Community & Regional Affairs Committee
State of Alaska
Pouch V
Juneau, Alaska 99811

Re: SB 180 and HB 170 Relating to
Municipal Government

Dear Chairmen Gilman and Grussendorf:

The Municipality of Anchorage is pleased to be given the opportunity to comment on SB 180 and HB 170 relating to revision of AS 29 (Municipal Government). Although the Municipality will furnish additional comments and suggestions regarding this legislation as it is considered by your Committees, we wish to take this opportunity to comment on several features of the legislation which represent a significant improvement over present statutes relating to local government in Alaska and to indicate our support for its enactment.

A review of the proposed legislation indicates that the Bills successfully accomplish the Policy Advisory Group's objectives of both simplifying statutes governing municipal affairs in Alaska and furthering the constitutionally mandated policy of maximum local self-government with a minimum of local government units. Moreover, it is clear that the proposed legislation successfully addresses a number of specific problems which have in past years confronted local officials of both home rule and general law municipalities and resolves those problems in a fair and innovative manner.

Several provisions of the bill add new flexibility for local governing bodies and officials. AS 29.40.040, for instance, would replace existing statutes pertaining to zoning and land use regulation with a newer more flexible provision that permits local governments to use a wide range of local enactments, including land use permit systems, zoning regulations and other measures necessary to implement and further the goals and objectives of a comprehensive plan. AS 29.20.410 preserves the important merit system provisions of existing law but also allows municipalities to enact executive classification and pay plans for key municipal executives who would serve at the pleasure of their appointing authorities. AS 29.40.050 would replace existing statutes governing appeals from certain land use decisions to the Board of Adjustment with new provisions allowing municipalities greater flexibility in determining precisely what kind of appellate process they may use for reviewing decisions of their platting board planning commission.

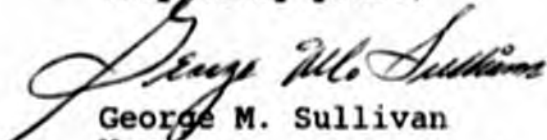
It is also clear that a successful effort has been made to reorganize existing statutes governing municipalities and to eliminate confusing, redundant or unnecessary provisions of law. The proposed AS 29.35 contains, for example, a simple and concise enumeration of the powers all cities and boroughs may exercise. That chapter, lists the general powers which are applicable to all municipalities regardless of their class or status, the mandatory areawide powers which boroughs and unified municipalities must exercise, the additional or optional powers which may be exercised by first class and second class boroughs, and finally the powers of cities. Secondly, the proposed AS 29.20 relating to municipal officers and employees represents a very substantial consolidation and reorganization of presently conflicting and duplicitous statutes governing policies and procedures of local governing bodies of municipalities and of appointed administrative officials. Duplicitous sections providing essentially the same provisions for both city councils and borough assemblies have been eliminated in favor of single sections setting forth uniform requirements for both bodies.

Several substantive changes made in the proposed bill would directly affect the Municipality of Anchorage by clarifying and modernizing existing provisions of law applicable to the Municipality and other home rule municipalities. The proposed AS 29.26.100 - .200 makes important changes in existing law relating to exercise of powers of initiative and referendum. Under the proposed statutes, persons wishing to place an initiative or referendum measure before the voters would first file an application with the clerk describing the matter to be initiated or the act to be referred, together with the signatures of 10 voters and obtained a form containing legally acceptable language stating the initiative or referendum measure from the clerk. The clerk would certify that such a measure may be lawfully initiated or referred before the petition is circulated. This procedure,

while new to municipal government, is presently in effect for statewide initiatives and referenda and will reduce legal controversy surrounding the validity of municipal initiatives or referenda and will eliminate circulation of invalid or improperly drawn measures whose rejection is presently a source of confusion and frustration to voters. The proposed statutes governing initiatives and referendum also contain numerous technical revisions which eliminate present uncertainties or ambiguities in procedures followed by electors and municipal officials in connection with initiatives and referenda. Similarly, the proposed 29.26.240 - .360 relating to recall has also been amended to clarify standards and procedures used by electors and local officials in connection with recall of elected officials.

In summary, the Municipality believes the proposed revisions to AS 29 deserve the support of both general law and home rule municipalities in Alaska for the reason that enactment of the new title will simplify and clarify statutes affecting municipal government and will, at the same time promote the laudible constitutional goal of maximum local self-government in this state.

Very truly yours,



George M. Sullivan
Mayor

GMS:AET:gml

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

April 2, 1981

POUCH B

JUNEAU, ALASKA 99811

The Honorable Charles H. Parr
Senator
Pouch V
Alaska Legislature
Juneau, Alaska 99811

Dear Senator ^{Charlie} Parr:

Thank you for your letter of March 10 regarding the Department's position on third class boroughs. Attached is a copy of the Department's revised report on this issue, which includes a discussion of the Ahtna Region.

You have asked why individuals should be required to have areawide planning and zoning, if they prefer not to. First, we would like to state that the Department strongly supports and recognizes the legitimate practice discussed in your letter, whereby municipalities actively exercise "areawide" planning and zoning only in areas where needed and practical. To answer your question simply, planning is particularly crucial to the proper development of existing and future boroughs in the state. Without a mandate to plan, however, it is likely that third class boroughs will fail to acquire such powers, even where there is a critically demonstrated need. This may be especially true so long as some less appropriate entity is willing to carry out such planning.

Let us turn to the Haines Borough as a case in point. In 1979, the local public officials in Haines and many of the residents of the Borough expressed grave concern that proposed d-2 legislation (section 308 of HR 39) would lock up the natural resources of the area and deal a death blow to the faltering Haines economy. Haines sought assistance in the matter through the Washington D.C. offices of the law firm of Birch, Horton, Bittner and Monroe. However, on the advice of independent counsel the Borough did not become involved in the issue because, in the opinion of counsel, the matter would require the exercise of planning powers which were absent in the Haines Borough. As a result, the City of Haines assumed the responsibility for dealing with an issue involving lands some 20 miles beyond its boundaries.

In October of that year, the residents of the Haines Borough were given the opportunity to provide the Borough with the power necessary to deal with such matters by allowing the creation, with voter approval, of service areas for platting, planning and zoning. We stress here that the proposition did not involve the creation of any service area, but simply the authority to establish such service areas which would necessitate voter approval under AS 29.63.090. Despite the circumstances in the community, the proposition was rejected by the voters. 180 of the 233 individuals who lived outside the City of Haines and who voted on the issue, rejected the need for planning, platting and zoning, representing a margin of 3.4 to 1 against planning. Was it because this 77 percent of such voters recognized that, once again, if the Borough didn't address a need some other entity would?

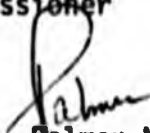
April 2, 1981

It is interesting to note that in 1980 the Haines Borough obtained a second opinion from different counsel on the issue of battling the d-2 legislation. The second opinion was more favorable and the Borough formally joined the fight. As is detailed in the Department's position paper on this issue, the Haines Borough has subsequently become more active in its de facto planning activities. The circumstances developing in the Ahtna Region with regard to the proposed formation of a Borough reinforce this concern. As the attached revised report indicates, despite a very apparent need for planning, the individuals associated with the proposed incorporation appear committed to the third class borough form of government.

Frankly, we fail to understand why the terms "planning" and "zoning" carry with them such negative and formidable connotations. However, to the extent that it is appropriate to mandate areawide planning in first and second class boroughs as well as home rule and first class cities outside of first and second class boroughs, it is certainly appropriate, we believe, to support the Department's position in this matter. No existing or future borough should be without planning and the necessary tools (i.e. platting and zoning) to implement and enforce that planning.

Sincerely,

Lee McAnerney
Commissioner


BY: Palmer McCarter
Director

cc: ~~Senator~~ Donald E. Gilman
Senator Arliss Sturgulewski
Representative Ben F. Grussendorf
Keith Specking, Legislative Assistant, Office of the Governor

POSITION PAPER ON THE
THIRD CLASS BOROUGH
FORM OF GOVERNMENT

ALASKA DEPARTMENT OF COMMUNITY
AND REGIONAL AFFAIRS

MARCH 9, 1981

The Alaska Department of Community and Regional Affairs is a proponent of SB 180 and HB 170, which, in part, would preclude the formation of any additional third class borough government. This paper supports the Department's contention that the third class borough concept has become outmoded.

This obsolescence stems from the two areas in which the powers of a third class borough differ from those of a second class borough. Unlike a second class borough, a third class borough is not required to carry out planning, platting and zoning. The initial segment of this paper deals with this issue in detail. The second major difference is that a third class borough lacks the capacity to provide any service, other than education and tax assessment/collection, on an areawide basis (i.e. throughout the borough). The second half of the paper addresses this matter.

PLANNING, ZONING AND PLATTING

With the exception of the third class borough, Alaska statutes provide each form of municipal government with the capacity to carry out planning, zoning and platting throughout their municipal boundaries. Indeed, recognizing the importance of and the need for such services in areas which typically have attained at least a moderate level of development and activity, State law requires that planning, zoning and platting be undertaken on the municipal level. Comprising such areas are first and second class boroughs and home rule and first class cities located outside first and second class boroughs. Under

the law, municipalities with a population as little as 221 and with a per capita assessed value as low as \$4,454¹ must carry out planning, zoning and platting within their corporate boundaries. While not required to, second class cities may assume the powers of planning, platting and zoning. At least eleven² second class cities, one with a population as little as 42³ residents, have taken on such powers. Other than the Haines Borough, which is the only third class borough in Alaska, no political subdivision of the State with a population of 650 or more⁴ lacks planning, zoning and platting on the municipal level.

Regulations have been adopted which require that an area proposed to be incorporated as any class of borough meet minimum objective standards*. When compared to like components of those existing municipalities which are required to provide local planning, platting and zoning, it becomes clear that any future borough will have a level of development and activity as to warrant such services on a mandatory basis. These standards⁵ include provisions which require that the territory proposed for incorporation as a borough:

* While the regulations were adopted by the Commissioner of the Alaska Department of Community and Regional Affairs on September 2, 1980, the regulations have not yet become effective under the provisions of the Administrative Procedure Act.

- a. Have a per capita assessed value of at least \$19,074. ⁶
- b. Have a population of at least 1,000 residents.
- c. Include at least two separate communities.
- d. Include all of one or more Regional Education Attendance Areas, unless the Local Boundary Commission determines that the territory can otherwise meet the standards for borough incorporation.

Further, SB 180 and HB 170 would provide newly incorporated boroughs with certain resources which, to those who so desire, could represent a trade-off for the mandating of planning, platting and zoning on the municipal level. Consider the proposed incorporation of Regional Education Attendance Area number 17 (which comprises nearly the same area as the AHTNA Region). Certain residents of that area are seriously contemplating the formation of a borough in order to provide greater control over local schools, improved fire protection and lower electrical utility rates. If incorporated under the terms of SB 180 and HB 170, that borough would be entitled to, among other State program benefits, the following:

- a. A \$600,000 organizational grant over a three year period.
- b. Approximately 400,000 acres of land (also available under existing law).
- c. Significant assistance from the Department of Community and Regional Affairs in establishing its initial assessment roll for property taxes.

The borough would also enjoy an estimated assessed value of \$1.2 billion, more than 98 percent of which represents Trans-Alaska oil pipeline property. The need for planning, platting and zoning seems self-evident in a borough having such resources. By itself, the proper development and utilization of the borough's landholdings, equivalent in size to one-half

of the entire Ketchikan Gateway Borough, ██████ would surely be a mammoth planning, platting and zoning effort. If such a development task were improperly executed it would have severe adverse impacts upon the entire region. Surprisingly, however, the individuals involved in considering the formation of the borough appear committed to the third class borough form of government in an effort to avoid such responsibilities. ⁷

An examination of the only third class borough in the State further reinforces the argument that platting, planning and zoning is needed to be carried out on the municipal level. The Haines Borough has a population of 1,924 ⁸ and a per capita assessed value of \$30,831. ⁹ This area has been in the past and continues to be the subject of a series of very intensive planning efforts. Literally hundreds of thousands of dollars have been committed toward the development of a use plan and classification system (i.e. zoning) for vast areas within the borough. Borough residents, recognizing the importance and impact of such planning and zoning, have become involved in surprising numbers in the planning process. ¹⁰

The Haines Borough itself has long been planning in a de facto manner, as is evidenced by the following:

- a. The Borough Assembly routinely reviews and comments upon issues such as State tideland lease applications.
- b. The Haines Borough recently selected some 2,800 acres of land under its municipal land entitlement, a process which involved a considerable planning and classification effort by the Borough staff and an ad hoc Borough committee.

- c. In 1980, the Haines Borough partially financed a lobbying effort in the nation's capital in an effort to influence federal land use legislation.
- d. The Haines Borough is a member of the Haines Coalition, an organization comprised of citizens and entities which was formed for the purpose of participating in the planning process being carried out in the Haines area by the State.
- e. The Haines Borough was a party to a recent lawsuit which attempted to block timber cutting on State lands. 11

Yet despite the recognized need for and importance of planning, as well as the Borough's role in de facto planning, the residents of the Borough have not supported any proposal for their government to assume planning powers, even on a service area basis. The responsibilities for such planning, while having been avoided for the most part by the Haines Borough, have been carried out largely by the State and the City of Haines. 12

Because planning, platting and zoning are necessary within organized boroughs, and in order to properly place the responsibility for such activities, the Department has assumed the position expressed in this paper.

Adding to the Department's concern in this matter is the current interpretation of a third class borough's capacity to provide certain services, other than education and taxing, on an areawide basis. This issue is dealt with in the remainder of this paper.

CAPACITY OF A THIRD CLASS BOROUGH TO PROVIDE AREAWIDE SERVICES

It is over this issue that the Department is joined by the Alaska Municipal League in its desire to bring about the elimination of the third class borough form of government. The Alaska Municipal League's opposition to a third class borough is based on its determination that such a government is not general purpose in nature.¹³ That determination, of course, stems from the view that a third class borough can provide only two services on an areawide basis, education and tax assessment/collection.

The following statutory provisions (cited in part, with parenthetical material added for clarification) deal with a third class borough's capacity to provide services. AS 29.41.010 states, "Areawide exercise of powers (by a third class borough) other than education and tax assessment and collection is not authorized...". AS 29.63.090 states "(a third class borough) may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the qualified voters residing within the service area...". AS 29.48.030 lists the services which may be provided by a first class city which include, "streets, sidewalks, libraries, visual or performing arts centers, museums and recreational facilities."

Current interpretation of the State law, however, views a third class borough as having the capacity to provide a number of services on an areawide basis which include a library, a

museum, tennis courts, a cultural facility center, and swimming pool, all under the guise of "education".¹⁴ In addition, a third class borough is considered to have the power to provide recreational trails, parking lots, sidewalks and roads built with Local Service Roads and Trails funds.¹⁵ These same views hold that the voters of a third class borough need not authorize the exercise of such powers. The thiro class Haines Borough currently provides nearly all of the above services on an areawide basis, and is doing so without voter approval.¹⁶

SUMMARY

In conclusion, the Department feels that no borough government which will incorporate in the future can legitimately exclude planning, platting and zoning from its functions. Further, it is apparent that current laws do not insure the restrictive rein commonly thought to be held upon their government by the citizens of a third class borough. For these reasons the Department supports legislation which would eliminate the thiro class borough form of government.

NOTES

¹ Alaska Department of Community and Regional Affairs, Alaska Taxable 1980, January, 1981, p. 31.

² Alaska Department of Community and Regional Affairs, Alaska Municipal League, Alaska Municipal Officials Directory 1981, pages 14, 22, 24, 31, 36, 59, 60, 65, 105, 114, and 115.

³ Alaska Department of Community and Regional Affairs, Alaska Taxable 1980, map contained in pocket of the publication.

⁴ Ibid.

⁵ Alaska Department of Community and Regional Affairs, Regulations, 19 AAC 10.160, September 2, 1980.

⁶ Terry Earley, State Assessor, Alaska Department of Community and Regional Affairs, February 24, 1981.

⁷ Alaska Department of Community and Regional Affairs, file, "Copper River Basin Borough, proposed, 1980".

⁸ Alaska Department of Community and Regional Affairs, Alaska Taxable, 1980, p. 30.

⁹ Ibid.

¹⁰ Confirmed by the City of Haines, February 24, 1981.

¹¹ Ibid.

¹² Ibid.

¹³ Alaska Municipal League, Policy Statement 1981, November 15, 1980, p. 15.

¹⁴ Alaska Department of Law, Memorandum of Opinion, file no. J-66-481-79, April 24, 1979.

¹⁵ Alaska Department of Law, Memorandum of Opinion, file no. J-66-173-79, July 25, 1979.

¹⁶ Confirmed by the City of Haines, February 24, 1981.

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

HAINES BOROUGH

P.O. BOX H
HAINES ALASKA 99827

March 27, 1981

Mr. Palmer McCarter
Director
Division of Local Government Assistance
Department of Community and Regional Affairs
Pouch B
Juneau, Ak. 99811

RE: DEPARTMENT POSITION ON THIRD
CLASS BOROUGH

Dear Mr. McCarter:

Thank you for sending us a copy of the Department's position on the Third Class Borough. It has been very frustrating these many years to be told we are an illegal form of government but never why we were illegal. Now at least we have some charges that we can address.

I would now like to go through your Position Paper and add our views on the subjects.

First, planning, zoning, and platting: We believe, as a third class borough, that we are the most flexible form of government, a form that is under complete control by its citizens. We have had and we will in the future offer our citizens an opportunity to add planning and zoning to our powers on a service district basis. When the citizens of the Haines Borough see the need for planning and zoning, I believe they will vote for that power. Once the power is accepted by majority vote, then citizens must vote again in favor of this power in each special service district. This meets our needs at the present time and I believe other areas would like to have the same privilege.

The Position Paper further states that the Haines Borough has long been planning in a de facto manner as:

- (a) The Assembly reviews and comments on State tideland lease applications.

We do receive letters from various agencies including the U.S. Corps of Army Engineers requesting input on various proposals. It is my belief that these requests are asking for public input.

Mr. Palmer McCarter
Division of Local Government Assistance
Department of Community and Regional Affairs

page two

We simply say that our public either does or does not approve, but, I always make it plain that the Borough has no authority over such an application and this is only public opinion. I feel we do have a right to our opinion, but we have no authority.

(b) Haines Borough Land Selection

Yes, we have selected some land, some of which the State has rejected, because it is not in line with their planning. After all, the State has the ability to plan and zone for the third class borough as well as the unorganized borough.

(c) Haines Borough lobbying in the nation's capitol

The federal government was about to place our entire valley in a National Eagle Preserve. This would have virtually destroyed our entire economic base (except tourism). Our lawyer informed us that we had the right to lobby to preserve our economic existence.

(d) Haines Borough is a member of the Haines Coalition whose purpose was to help the State in planning processes.

I was not an elected official at that time but have inquired among former members and can find none who recall the Borough joining the Haines Coalition, nor is there anything in the minutes of Assembly meetings. Whether or not we were a member, the Haines Borough, as such, did not take part in any of the planning meetings held by the Haines Coalition. As stated before the State of Alaska does have the right to plan in a Third Class Borough. Even when you have a Planning and Zoning Board in a municipality, public input is requested. The State held numerous hearings concerning what areas should be managed for timber, for fish, for game, etc. I believe that we as individuals as well as an organization have the right to participate, however, the final decision on planning and zoning should and was left to the State. And, it produced the Haines-Skagway Land Use Plan.

(e) Haines Borough was a party to a recent lawsuit

Once again, an attempt was made to destroy our economic base, by preventing the cutting of timber and by closing our mill. Our lawyer was very explicit in stating that we have a right to fight when the economic base of our citizens is being destroyed.

Mr. Palmer McCarter
Division of Local Government Assistance
Department of Community and Regional Affairs

page three

A second criticism was that the Haines Borough provides areawide services in other areas other than education and taxation. We are accused of providing areawide services such as a library, museum, tennis courts, cultural facilities, and a swimming pool. Since when does the Department of Community and Regional Affairs become the branch of government that gives legal opinions? We have two legal opinions from the Attorney General's office who I was under the impression had authority to issue legal opinion. Our first opinion was issued March 11, 1969 dealing with the library saying "properly supervised financial assistance to the library is prohibited by neither constitution nor by statute" (see enclosure). Then, again on April 24, 1979 we asked for confirmation and received "While the Assembly as an Assembly might have no power to provide for a library until authorized to do so by the electorate, the Assembly as a school board has ample power to provide for any number of educationally related facilities and services, e. g., libraries, swimming pools, playgrounds, gymnasiums, museums, cultural centers and the like and to make it available to the public generally" (see enclosure).

The Department must be hard up for evidence to say we have no power to operate a swimming pool, when it is to be built on to the existing school building, using the school heating plant, and at least present plans call for mutual use of locker room facilities for the swimming pool and gym. I remember the then Governor Gruening holding up our new high school plans at Petersburg because we did not have a swimming pool in the plans. Former Governor Gruening felt that it was essential that young Petersburg youth, who live near the water, learn to swim. This is also true today of the Haines youth. Likewise, the tennis court is on school ground and part of our physical education department.

The State did indeed tell us that we had the right to construct roads and trails. However, our Board felt that this was not in our jurisdiction and turned our money and authority over to the City of Haines, which does have that authority.

In conclusion, the Haines Borough operation as a Third Class Borough is one of the best forms of local government, yet devised. It is very sensitive to the wants of the people, and can provide the services the people want via service districts. There is no

Mr. Palmer McCarter
Division of Local Government Assistance
Department of Community and Regional Affairs

page four

Borough in the State that has worked any more smoothly or efficiently than ours. I believe it would be a real disservice to the people of Alaska to be denied the right to begin local government as a Third Class Borough.

Sincerely,


R. E. Henderson
Mayor

REH;kk

cc: Sen. Don Gilman, Chairman
Senate C&RA Committee
Sen. Arliss Sturgulewski, Chairman
Title 29 Revision Committee
Rep. Ben Grussendorf, Chairman
House C&RA Committee
Keith Specking,
Office of Governor
Sen. Charles Parr
Pat Poland / Don Bockhorst

STATE OF ALASKA

KEITH H. MILLER, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K, STATE CAPITOL - JUNEAU 99501

March 11, 1969

Mr. Raymond R. Smith
Assemblyman, Greater Haines Borough
Box 7
Haines, Alaska 99827

Dear Mr. Smith:

By letter dated February 17, 1969, you requested this office to determine whether the Greater Haines Borough, a borough of the third class, has the power to give financial assistance to the so-called Haines Public Library, a facility now owned and operated by the Haines Women's Club. It is my understanding that the Haines Women's Club is a private organization and intends to retain ownership of the library building, and intends to continue to control the function of the library.

It is the opinion of this office that the borough is not prohibited from giving this assistance to the library if the borough assembly so desires.

CONSTITUTIONAL PROVISIONS

There are two potential constitutional objections to such assistance. Art. IX, sec. 6, provides that

No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose. (Emphasis added.)

In Lien v. City of Ketchikan, 383 P.2d 721 (Alaska 1963), the Alaska Supreme Court interpreted this provision in such a manner that it would not prohibit the borough from granting financial assistance to the library. The Lien case held that a hospital constructed with public funds and leased to a non-profit corporation managed by a religious order fulfilled the necessary "public purpose". The court stated:

That purpose does not become non-public when the hospital is turned over to a charitable, non-profit corporation for operation, rather

Mr. Raymond R. Smith
Haines, Alaska

March 11, 1969

-2-

than being operated by the city itself. The public purpose remains unchanged.

The court reasoned that a community hospital "serves the general welfare", and that "the test of whether a public purpose is being served . . . [depends] upon the character of the use to which the property will be put." 383 P.2d at 722.

In the present situation the library would apparently continue to fulfill a public purpose. It appears that the library serves the public of the entire Haines area, and that as many as 500 library check-out cards have been issued by the Women's Club. Among the heaviest users of the library are the approximately 400 children who are enrolled in the Haines school system. In short, the interpretation of Art. IX, sec. 6, supplied by the Lien case indicates that an appropriation for assistance would be "for a public purpose."

Art. VII, sec. 1, also gives rise to a potential objection. That provision states in pertinent part:

No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

It is the opinion of this office that the Haines Public Library is not a "private educational institution" of the type referred to by the constitution.

Although there is some legal authority for finding that public libraries are educational institutions, see Board of Trustees, Newport Public Library v. City of Newport, 187 S.W.2d 806, 809 (Ky. 1945), such authority can be distinguished from the existing situation. There is also some legal authority for the proposition that institutions which are privately organized and owned, even though they fulfill public purposes, are private institutions. See Levin v. Sinai Hospital of Baltimore City, 46 A.2d 298, 300 (Md. 1946). Taken together, these lines of authority might be the basis for an inference that a privately sponsored library is a private educational institution.

It is the opinion of this office, however, that the term "private educational institution" was not intended to encompass those organizations whose functions are such that the organization serves a public function, is open to the entire public, and involves no course of study.

Mr. Raymond R. Smith
Haines, Alaska

March 11, 1969
-3-

When questioned about the scope of the phrase "private educational institution" on the floor of the convention, Delegate Awes, chairman of the Bill of Rights Committee which drafted Art. VII, stated that it would "undoubtedly be any educational institution that is not supported and run by the state." Minutes, Alaska Constitutional Convention at 1511, January 9, 1956.

In Lois Grunow Memorial Clinic v. Oglesby, 22 P.2d 1076 (Ariz. 1933), the court held a clinic was not exempt from taxation because it was not an "educational institution" because it was not:

One which teaches and improves its pupils; a school, seminary, college or educational establishment.

22 P.2d at 1078.

In Re Estate of Goetz, 218 N.E.2d 483 (Ohio 1966), held that certain organizations were not tax exempt because they were not within the meaning of "educational institution" as defined by the court:

a place where classes are conducted, such as schools and colleges, not an institution which furnished some education in no matter what branch, as an incidental adjunct to its main purpose.

218 N.E.2d at 485.

At the time the Alaska Constitutional Convention met in 1956, there was an existing prohibition on the use of public funds for private schools. Section 9 of the Organic Act, which was Alaska's "constitution" until statehood, 48 U.S.C. § 77, provided that:

. . . nor shall any public money be appropriated by the Territory or any municipal corporation herein for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the Government. . . .

That the committee chose to refer to "institution" rather than "school" may appear to indicate an intent to broaden the application of the restriction. However, the convention's floor

Mr. Raymond R. Smith
Haines, Alaska

March 11, 1969

-4-

discussion of this provision concerned situations which involved only private or parochial schools. There was no discussion intimating that the delegates to the convention intended that "educational institution" refer to more than schools. On the contrary, during the substantial discussion of this provision, the terms "educational institutions" and "schools" were used interchangeably. Minutes, Alaska Constitutional Convention, 1508 - 1532, January 9, 1956. The word "educational", in fact, was inserted before "institution" to restrict the applicability of the provision to educational matter. Minutes, at 1509.

Further, among the various proposals before the Bill of Rights Committee, were proposals such as No. 6, which stated in sec. 7 that:

No public funds from whatever source, local or state, shall be used directly or indirectly for the support, operation or maintenance, including transportation and other auxiliary services, for any school or children therein except those Public Schools under the exclusive supervision and direction of the State.

The Alaska School Boards Association also proposed to the committee its Basic Principles of Education which would have required "complete separation" of Church and state, and then commented that:

The Constitution must positively prohibit the use of public funds, either State or local for private, denominational or parochial schools.

Finally, the convention was fully aware of the broad protection of Art. IX, sec. 6, against the improper use of public funds for non-public purposes. Minutes, at 1515. It is logical to assume that the convention, having the broad Art. IX prohibition in mind, intended that Art. VII, sec. -, would apply only to education, and consequently that section should not be construed in an unnecessarily broad manner. For these reasons, it seems likely that the convention intended "private educational institution" to mean schools, or other non-public organizations involving courses of study.

This office is of the opinion that a library does not fall within the term "private educational institution" in the

Mr. Raymond R. Smith
Haines, Alaska

March 11, 1969
-5-

context of the Constitution where there is no formal course of study or even a suggested plan of education. A library serves a dual purpose of education and recreation, but it does not appear that a library such as this should be considered an educational institution for the purpose of prohibiting the expenditure of public funds.

The purpose of Art. VII, sec. 1, was apparently to prevent state subsidies for religious education and for private education. Where the organization which provides library facilities opens them to the public, there is little chance of endangering the state's system of public education. In the present situation, pupils in the public educational system are given free use of the library so there is no threat that the state is fostering private education. Also, there is little chance of aiding a facility which would compete with public facilities because there is apparently little likelihood at present that a totally public library will be built in the Haines area.

STATUTORY PROVISIONS

There is also the question whether the borough has the power to aid the library. Third class boroughs are given the primary educational power for the entire borough area, AS 07.17.020(a), and it would seem that furnishing library service could be considered an educational function. In addition, third class boroughs have those borough powers consistent with the third class borough act, and there appears to be no conflict which would prohibit the borough from providing proper assistance. AS 07.17.010.

SUMMARY

In summation, this office is of the opinion that properly supervised financial assistance to the library is prohibited by neither constitution nor by statute.

Note, however, that the complete retention of control by the Haines Women's Club would tend to place public funds in the hands of private individuals for disbursement. Although a public purpose would be fulfilled, it must be noted that there would be some danger of an improper delegation of authority of the assembly's power unless adequate standards were provided for the selection of books and the use of the funds. The outcome of this issue may rest on whether the Haines borough charter contains a prohibition against the delegation of borough powers, although the Lien case, supra, faced a similar question and held that Ketchikan's charter provision prohibiting delegation of power was not violated because the city

Mr. Raymond R. Smith
Haines, Alaska

March 11, 1969
-6-

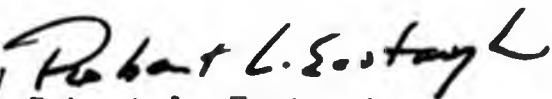
had not granted the power to make policy decisions to the religious order administering the hospital facility.

As a practical matter, if the assembly finds it desirable to provide the requested assistance, it would be best to provide clear standards which would govern the use of the funds. The types of approved library acquisitions should be noted. It might also be desirable for the assembly to require that borough funds be used only for acquisitions and that all acquisitions made with borough funds be recorded and marked and that those acquisitions be returned to the borough in the event the Women's Club closes the library or the borough constructs a public library.

I hope this has been of some assistance to you.

Very truly yours,

G. KENT EDWARDS
ATTORNEY GENERAL

By 
Robert L. Eastaugh
Assistant Attorney General

GKE/RLE/er

cc: Mrs. Dorothy E. Fossman
P.O. Box 237
Haines, Alaska 99827

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

ALASKA
STATE LEGISLATURE
MEMORANDUM

To: Ben

Date: 3/25/81

From: Linda

Re: Title 29 Revision/Luncheon with AML & DCRA

Palmer McCarter, Ginny Chitwood, David Dye/AA. Senate CRA, and myself met and discussed the approach to be taken for the passage of HB 170 and SB 180.

Possibilities discussed included:

- 1) Teleconference meetings scheduled at the end of this session to receive input into problem areas to be dealt with before introducing the bill before the Committees.
 - a) Possible teleconference coordinated with the annual Board meeting to be held in Anchorage for the Ak. Municipal League on May 2. Also included in this teleconference would be the League members, the Dept of CRA, the House & Senate CRA Committees, and the Title 29 Revision Commission members of last year.
 - b) The second possibility for another teleconference for public input approximately one week after the first teleconference may be beneficial in further study of problem areas that could be resolved before introduction of the bill to the legislative committees.
- 2) An interim committee to be appointed consisting of House CRA and Senate CRA members with the possible addition of legislative members that served on the Revision Commission for the original draft of the bill. Interim work could begin around the middle of July. It was suggested that there was a need for members to travel a circuit throughout the state, encompassing the extreme difference in community governments, choosing those communities that would show the obvious difference in governmental needs.
- 3) Also, a suggestion was made that perhaps a formal request be sent to Billy Berrier to request that Tam Cook who has been involved in the drafting of the bill to work with the Committee during the interim.
- 4) Senate CRA handed out an Index to the Title 29 changes in comparing the bills with the existing statutes. (In our files)
- 5) Senator Gilman would like to set up a meeting sometime this week with you, his aide and myself to discuss the above items.

[Handwritten signature] 3/25/81

nuveen

John Nuveen & Co. Incorporated

127 North Franklin Street, Suite 222, Juneau, Alaska 99801

(907) 588-1638

(907) 588-1708

March 24, 1981

The Honorable Donald E. Gilman
State of Alaska Senate
Pouch V
Juneau, AK 99811

Re: Statutory Limitations on Sale Prices of Municipal Bonds

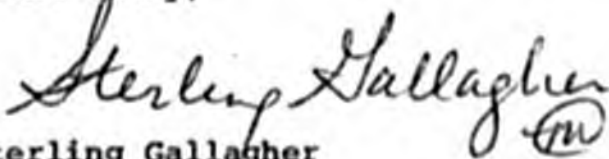
Dear Don:

As we discussed a few days ago, the wording of the present statute (AS 29.58.300) limits the marketability of municipal bonds. If the present wording were changed from: "No bonds may be sold at less than par value" to wording such as: "All bonds shall be sold under conditions and at prices the municipality finds reasonable", the marketability would be improved.

The draft of Senate Bill 180 provides another example of wording that would acceptably improve this situation (page 139, ARTICLE 6, Section 29.47.400), "Bonds and notes issued under this chapter may be sold at either public or private sale by the city or borough in the manner and at the price it determines."

I am enclosing a copy of Nuveen's research booklet on the Alaska Municipal Bond Bank, as promised.

Yours truly,



Sterling Gallagher
Vice President
John Nuveen & Co., Inc.

mh

Enclosure



BOX 335

CITY OF HOMER

HOMER, ALASKA 99603

March 24, 1981

Senator Arliss Sturgulewski, Chairman
 Title 29 Revision Policy Advisory Group
 Alaska Legislative Council
 Pouch V
 Juneau, AK 99811

Dear Arliss:

The Kenai Peninsula Borough proposes to "delegate the power to provide for land use planning and zoning regulations within the boundaries of each city located in the Borough, except (KPB Ord. 81-2 Section 21.01.020(A) in part)."

AS 29.40.010 (b) (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.

In light of the borough's consideration of delegating planning to the cities, Homer City Council recently concurred and directed that the Policy Advisory Group be contacted and requested to consider an additional change to that paragraph. The proposed state law still allows for revocation of the delegation of these powers without consent of the City. The Council finds this disparaging inasmuch as creation of an entire department could be abolished on simple notice to the City and without prior consent.


Language offered as acceptable and preferable is as follows:

"The Assembly may, after first obtaining the consent of the City revoke any power....."

Should this policy change not be acceptable, the revocation language should be examined closely to provide adequate measures for protection to the cities in whatever way the Policy Advisory Group feels is adequate.

Your attention and hopeful resolution to this concern is greatly appreciated.

Sincerely



Leo Rhode
Mayor

LR/KFH/ut

cc: Senator Don Gilman
Representative Hugh Malone
Representative Patrick O'Connell
City of Seward
City of Kenai
City of Soldotna
City of Seldovia

Enc:

Introduced by: Mayor ¹⁷
Date: March ³, 1981
Hearing: April ⁷, 1981
Vote: ²¹
Action:

KENAI PENINSULA BOROUGH

ORDINANCE 81-2

DELEGATING MUNICIPAL PLANNING AND ZONING POWERS TO THE
CITIES OF THE BOROUGH.

WHEREAS, the Borough, pursuant to AS 29.33.0⁷ et seq, currently exercises zoning, planning and platting powers within all areas of the Borough, including those portions of the Borough lying within the boundaries of each city; and

WHEREAS, the Borough Planning Commission and the Borough Assembly have provided for advisory planning commissions within each city; and certain zoning powers, such as granting conditional use permits and variances, have already been delegated; and

WHEREAS, the enforcement of zoning ordinances within each city, is a matter of local concern for the administration of each respective city, and;

WHEREAS, the Assembly has delegated its powers as a Board of Adjustment in certain instances to the city councils of each respective city; and

WHEREAS, Chapter 21.10 of the Borough Code provides that the Planning Commission, when considering zoning regulations within a city, shall adopt the recommendations of the city advisory planning commission or the city council whenever these land use regulations do not create a significant impact upon land use planning and zoning in the area outside the municipal district; and

WHEREAS, the Alaska Statutes provide for the delegation of planning and zoning powers to a city; and

WHEREAS, the Assembly finds that planning and zoning are primarily matters of local concern, and it is desirable and appropriate for each city to guide its own destiny and provide for land use planning and zoning regulation in accordance with local requirements and demands, so long as such decisions and regulations do not conflict with the overall Borough development, land use planning and zoning;

NOW THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE
KENAI PENINSULA BOROUGH:

Section 1. That the Borough Code of ordinances is amended by adding a new Chapter, to be numbered 21.01 which reads:

CHAPTER 21.01

LAND USE PLANNING AND ZONING POWERS IN THE BOROUGH AND CITIES.

21.01.010. Powers of the Borough and the cities.

A. The Borough Planning Commission shall exercise all planning, zoning and platting powers on an areawide basis within that portion of the Borough designated as the rural district by Section 21.040.010(B) of the Code. The Borough Assembly shall be the Board of Adjustment for appeals made from decisions of the Borough Planning Commission.

B. The Borough Planning Commission shall also exercise jurisdiction within both the rural district and the respective municipal districts regarding platting, subdivision approval, the siting of Borough schools, buildings and other Borough facilities, the planning and development of transportation networks and related facilities, the overall economic development of the Borough, and regarding Borough lands and natural resources. However, decisions made by the Borough Planning Commission under this subsection shall be consistent with land use and zoning regulations enacted by a city.

21.01.020. Delegation of land use planning and zoning powers to cities.

A. The Assembly hereby delegates the power to provide for land use planning and zoning regulation within the boundaries of each city located in the Borough, except those powers reserved to the Borough by Section 21.01.010. The city may exercise such powers to the extent that such powers have been granted to the Borough by statute. This delegation of power includes the option to reclassify into the rural district under Chapter 21.04 of the Borough Code of ordinances, provided that such classification is subject to approval of the voters in a regular or special municipal election. Land use in the rural district shall be unrestricted, except as otherwise provided in Title 21 of the Borough Code of ordinances.

B. Each city is delegated the authority to exercise such land use planning and zoning powers within the city as may be exercised by the Borough Planning Commission in the area outside a city.

C. The city council is delegated the power to provide for, and adopt, comprehensive land use plans and to enact ordinances providing for zoning and land use regulations to the extent that the Borough has been empowered by statute to enact such ordinances in the Borough.

D. The city council is delegated the power to establish a planning commission to hear all requests for amendments to zoning codes or land use plans, or for variances, conditional use permits, contract rezoning or to hear all other matters coming under the zoning ordinances enacted by the city. Appeals from a decision of the city planning commission may be made to the council of the respective city, sitting as a Board of Adjustment. Appeals from decisions of the Board of Adjustment shall be made to the Superior Court as provided by law.

E. The city council in exercising its delegation of authority may designate an officer of the city to act as the zoning enforcement officer for that city. The zoning enforcement officer shall advise the Borough of any matters which might fall within the scope of Borough jurisdiction. The Borough will not be responsible for the prosecution of land use regulation or zoning violations arising within cities, or for the defense and enforcement of decisions of the planning commission, the city council, or the Board of Adjustment.

F. The responsibility for funding planning and zoning functions in the cities including administrative costs of exercising the delegated powers of planning and zoning will not be borne by the Borough.

G. The Borough Assembly may by ordinance revoke the delegation of land use planning or zoning powers to a city if the Assembly finds, after public hearing, that the primary interest and jurisdiction of the Borough requires a revocation of the delegation of authority.

H. The Borough will not defend against any claims for damages, or other liability arising from the exercise of any planning or zoning power by the city, the city advisory planning commission, or any administrative officer of the city.

21.01.030. Borough and cities - Central files, maps, photographs. The Borough will maintain central files, maps, and other photographs showing the land use status of each area within the city and other areas of the Borough and this information shall be public and made available to the public upon request and payment of any appropriate fee established by the Borough.

21.01.040. Distribution of Planning Grant Funds. The Assembly shall allocate grants for the funding of general planning efforts by the Borough which are received from any source and which are not allocated to the performance of a specific project. They will be allocated between the Borough and any city exercising powers under this chapter.

Section 2. That this ordinance takes effect at 12:01 A.M., July 1, 1981, Alaska time, and Chapters 21.10 and 21.28 through 21.118 of the Borough Code of ordinances shall be effective until then to allow the respective cities to re-enact these provisions, or other provisions, under the authority delegated by this ordinance. At 12:01 A.M., July 1, 1981, Chapters 21.10, and 21.28 through 21.118 of the Borough Code of ordinances will be repealed by this ordinance.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
ON THIS _____ DAY OF _____, 1981.

Paul Fischer, Assembly President

ATTEST:

Borough Clerk

Kenai Peninsula Borough
Ordinance 81-2
Page 4 of 4 Pages

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: The Honorable Wilson L. Condon
Attorney General

DATE: March 23, 1981

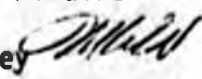
Attn: Rodger W. Pegues
Assistant Attorney General

FILE NO: J-66-801-80

TELEPHONE NO:

FROM: Lee McAnerney, Commissioner
Community and Regional Affairs

SUBJECT: Farm-Use-Land Assessment

By: Michael W. Worley 
Assistant State Assessor

This memorandum responds to your letter dated September 4, 1980, and, specifically, to paragraph two, where you discuss properties which might qualify for the special farm use assessment under AS 29.53.035.

Essentially, we agree with your position that one purpose of the statute is to preserve agricultural land. However, we think that purpose is secondary, and, in fact, is encompassed within a broader and more basic intention. We believe that intention is to ensure future availability of adequate food supplies for domestic livestock and human beings. We also consider it reasonable to say the statute intends to provide a tax incentive to promote the production of those food supplies.

Assuming our position is sound, we must consider in a somewhat different way the question of whether greenhouses do or do not qualify for the special assessment. Currently, it is our thinking that greenhouses, or portions thereof, used for raising food supplies, of the kind we have stated above, do qualify.

If we were to establish a policy based on that thinking, it would be necessary to differentiate between operations which raise food crops and those involved in other types of cultivation related activities (i.e., growing of ornamental or flowering plants, lawn sod, etc.). We believe such a policy would not be incompatible with the language used in AS 29.53.035.

Our reasoning is, that if the original intent of AS 29.53.035 had been to allow the latter types of operations to qualify for the special assessment, the word "horticultural", or the term "agricultural and floricultural", or similar language, would have been used in lieu of the existing word "agricultural".

Please advise at your earliest convenience whether you consider the above interpretation and position to be reasonable and sound.

We appreciate your attention to this matter.



CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

March 23, 1981

DAE

Honorable Don Gilman, Chairman
Senate Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman:

I have quickly reviewed SB 180 and find one major fault that I brought to the interim committee's attention when they first began their work. Somehow, the distinction between boroughs and cities didn't make much difference to the people who wrote these changes.

For example, on page 45, Article 3. BOROUGH EXECUTIVE AND ADMINISTRATOR. 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?

This is not an isolated instance. The real problem is that smaller cities don't have an attorney on the payroll full time to interpret these kinds of things the way most boroughs do. If it is absolutely necessary to intermingle boroughs and cities (and I don't understand why it should be), then let the cities take top billing and let the borough attorneys figure out what you meant to say.

I am currently serving as City Manager of my 3rd Alaskan city. Two have been first class and one home rule. In all 3 cities these kinds of questions can only be answered by an attorney.

The legislature currently has an opportunity to rid Title 29 of these confusing and ambiguous problems. I feel you would be quite remiss if you didn't remove them.

I am sending along a copy of my first letter on this issue that explains the problem further.

Sincerely,

Ivan L. Widom
Ivan L. Widom
City Manager





CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

September 22, 1980

Tamara Brandt Cook
Div. of Legal Services
Legislative Affairs Agency
Pouch Y, State Capitol
Juneau, AK 99811

Dear Ms. Cook:

RE: TITLE 29 Review

I have had one general problem with Title 29. As City Manager in Dillingham, Kodiak and now Nome, it seems obvious that Title 29 has been organized and written for governments who have an attorney that interprets each provision.

Many times one refers to Title 29 and needs an attorneys interpretation to understand what it means. This is not practical in a smaller city because of the cost and the amount of time it takes to get an opinion.

More specifically, I am referring to references to boroughs that apply to first class cities. This is very confusing because it's hard to understand when borough statutes apply. First class cities should be set out specifically to end the confusion.

There are a number of specific problems I'd like to bring to the Policy Advisory Groups attention.

29.28.040. Majority elections. The 40 per cent runoff election should be thoroughly considered if allowed to remain in the Statutes.

Article 3. Recall. These provisions should also be researched and grounds 29.28.140 should be made more clear.

Chapter 33. Areawide Borough Powers & Duties. 29.33.010 Scope. From this point on, Boroughs are given too much power. To be more specific, the fact that a borough plans for a city is a disaster in my experience. How can a city possibly exist as a city and not have control over its destiny? In Kodiak, while I was the manager, the Borough continually attempted to manage the City through its planning powers. This caused creation of service areas (another issue) and confusion where the City was to extend its services. City planning must be a responsibility of the government that

Tamara Brandt Cook
September 22, 1980
Page 2

is going to implement the projects planned for. In the case of Kodiak, I personally had to attend each planning commission and assembly meeting to make certain the City's interests were considered. Since the City Council had no real influence over the assembly or the planning commission, it became an unbelievable political struggle that wound up in Court. In this case, the City's taxpayers footed the bill for both attorneys since the majority of the tax base was inside the City.

The conflict with the Borough and the City regarding Borough powers adjacent to a City is a similar issue. In the case of Kodiak, the Borough wanted to establish a water, sewer and road service area that would utilize the City's water and sewer system and possibly contract for road service. This was their attempt to stop the City from annexing an area immediately adjacent to the City that needed to do something about those services. The competing aspects of this caused undue hardship and strains on the political as well as the social systems on the island. As far as I was concerned, the whole problem was the result of Chapter 38. Borough Powers and Duties in the Area Outside Cities. This chapter actually allowed the establishment of another taxing entity that was going to increase the cost of services to the users in the service area. It also made it more difficult for the city to plan for use and expansion of its facilities and equipment.

The conflicts described above are in direct conflict with Article X, Local Government of the Constitution of the State of Alaska.

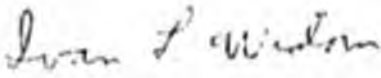
Section 1. Purpose & Construction. The purpose of this article is to provide maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions.

If the system of using Boroughs is to continue and expand into the Unorganized Borough, then the items I have mentioned, plus others will have to be straightened out.

I believe that 29.48.150. Ordinance. Procedure should be re one to clarify the number of times an ordinance should be voted upon. The question has come up a number of times.

Thank you for the opportunity to make suggestions regarding the Title 29 revisions. I am quite interested in these items as well as what others are suggesting and would like to be kept fully informed as to the Groups deliberations.

Sincerely,


Ivan L. Widom
City Manager

cc: Mayor & City Council

HAINES BOROUGH

P.O. BOX H
HAINES, ALASKA 99827
(907) 766-2711

March 11, 1981

- The Honorable Don Gilman
Senator
Chairman, Senate Community
and Regional Affairs Committee
Pouch V
State Capitol
Juneau, Alaska

RE: SB 180 - Revision of Title 29
HB 170 - Revision of Title 29
Municipal Code

Dear Senator Gilman:

On reviewing the revision of Title 29, I find several areas that I feel need to be reviewed and amended:

Sec. 29.04.030 Classes of General Law

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.

Sec. 29.04.050 Transitions

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.

Sec. 29.06.040 Local Boundary Commission

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.

page two

Sec. 29.20.160 Procedures of Governing Bodies

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.

Sincerely,

RE Henderson

R. E. Henderson
Mayor

REH:kk

CHARLIE PARR

ALASKA LEGISLATURE

S.R. Box 50599
Fairbanks, Alaska 99701
(907) 456-5029

Pouch V
Juneau, Alaska 99811
(907) 465-4907

March 10, 1981

Mr. Palmer McCarter
Director
Division of Local Government
Assistance
Pouch B
Juneau, Alaska 99811

Dear Mr. McCarter:

I appreciate your letter of March 2 giving me the Department's reasons for doing away with the third class borough.

The position paper confirms what I had already believed, which is that the absence of mandatory planning and zoning is a critical factor. It does appear to me that planning and zoning on a service area basis may, in many cases, make more sense than planning and zoning on an area-wide basis. (I note that this is what some second class boroughs presently do, although they do it by leaving much of the land zoned "unclassified".)

A borough, consisting of one city or several villages plus miles and miles of nothing, would certainly have no reason to zone the miles and miles of nothing.

The most important factor is not discussed in the position paper. It is simply this. If the people in the area prefer not to have area-wide planning and zoning, why should they be forced to?

Sincerely,

Charles H. Parr

CHP:vc

cc: Senator Don Gilman ✓
Senator Arliss Sturgulewski
Representative Ben Grussendorf
Pat Poland/Dan Bockhorst
Keith Specking, Office of Governor



JUNEAU, ALASKA

Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

465-4934
465-3824

March 4, 1981

Pouch V
State Capitol
Juneau, Alaska 99811

Last year the Legislature passed SCR 66 "Directing the Alaska Legislative Council to revise AS 29 (Municipal Government)." The revisions were completed during the interim between legislative sessions and have been submitted as identical bills in the Senate (SB 181) and the House of Representatives (HB 170). We have enclosed a copy of this legislation for your review and comment along with an introductory letter to the Legislative Council from Senator Arliss Sturgulewski, Chairwoman of the Policy Advisory Group which was responsible for overseeing the revisions.

This bill contains numerous substantive changes in the law as well as a considerable amount of redrafting in an attempt to simplify the language and improve its readability. There is also a reorganization and renumbering of the chapters and sections. This may present some problems comparing present law with the provisions of this legislation. Our staffs are preparing an index which will cross-reference the present section numbers with those in the proposed legislation. We will send this index to you as soon as it is completed.

If you have comments or suggestions regarding this legislation, we would appreciate receiving your written comments by April 5, 1981, so we may have some indication of potential problem areas before we schedule hearings on the bill.

Sincerely,

A handwritten signature in cursive script that reads "Don Gilman".

Don Gilman
Chairman, Senate Community
and Regional Affairs Committee

A handwritten signature in cursive script that reads "Ben Grussendorf".

Ben Grussendorf
Chairman, House Community
and Regional Affairs Committee

JAY S. HAMMOND, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

March 2, 1981

Senator Charles Parr
State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Parr:

RE: DEPARTMENT POSITION ON THIRD CLASS BOROUGHS

Attached to this letter is a copy of the Department's position paper on the third class borough form of government, which was prepared by staff members of our Anchorage office. By letter, you had requested this position paper and I had offered to have this report to you prior to this time; however, although the initial draft of the report was done by our self imposed deadline, the staff members responsible for this report had a couple of other thoughts they wanted to incorporate into that report. I contacted your secretary to indicate that the report would be presented to you a little bit later than the February 20 deadline that I had earlier stated, in order to incorporate those two other thoughts.

Quite frankly, having heard your earlier defenses of the third class borough form of government, I am not particularly convinced that our Department's position on this matter, as stated in this report, will be adequate enough to persuade you to support our position, that of the Alaska Municipal League, and the majority of members of the Title 29 Review Committee -- all of which have suggested elimination of the third class borough as a future form of municipal government. However, I hope that this report might provide you with more detailed reasons why, at least in this Department, we have long argued that the third class borough form of government is inappropriate, and at best, an "unwieldy" form of limited purpose regional government, based on our understanding of both constitutional and traditional statutory definitions of borough government.


Senator Charles Parr
March 2, 1981
Page -2-

Please accept this document as a "first cut" paper on the subject from this Department. Deputy Director, Pat Poland and LBC staff member Dan Bockhorst (who were responsible for preparation of this report) have indicated that, based upon discussions with representatives of the AHTNA Region of the state (who are contemplating submission of a petition to form a third class borough in that Region) additional arguments against a third class borough form of government can be made. Although I do not know the details of the proposed AHTNA Borough petition, based on my limited understanding, there is a move in the region to create a third class borough, principally to take over the REAA education function, utilize the pipeline tax base within the region, and to establish a public electric utility district in the area. I have requested that the Anchorage staff members proceed with updating this report to include their additional arguments concerning the third class borough form of government, and as soon as that report is prepared, I will submit a copy of it to you.

Thank you for requesting this written document; I am certain that once the respective legislative committees begin hearings and discussions on the new Title 29 legislation, that this type of position paper will be helpful during those deliberations concerning forms of borough government. If, after reading this report, you have questions or would like further clarification, please do not hesitate to contact me, and we will do our best to answer those questions. I am taking the liberty of also distributing a copy of this "first cut" position paper to the respective chairmen of the Community and Regional Affairs Committees and to Senator Sturgulewski who served as chair of the Title 29 Revision Committee, for their information.

Sincerely,

Lee McCarterney
Commissioner


By: Palmer McCarter
Director

cc: ✓ Senator Don Gilman, Chair
Senate C&RA Committee
Senator Arliss Sturgulewski Chair,
Title 29 Revision Committee
Representative Ben Grussendorf, Chair
House C&RA Committee
Pat Poland/Dan Bockhorst - Anchorage LGAD
Keith Specking, Office of the Governor

Attachment: