

ALASKA LEGISLATURE COMMITTEE FILES 1901-1902
1291 SCRA SB 180 (#13) 1291

FY 1982 MUNICIPAL REVENUE SHARING ENTITLEMENTS

TOTAL APPROPRIATION = \$55,707,600
 CHAPTER 88 APPROPRIATION = \$34,913,800
 CHAPTER 89 APPROPRIATION = \$14,047,800
 CHAPTER 90 APPROPRIATION = \$6,746,000

CHAPTER 88 PRORATION FACTOR = 6.43407506040690
 CHAPTER 89 PRORATION FACTOR = 0.86466238118747
 CHAPTER 90 PRORATION FACTOR = 0.83123348099043
 MINIMUM ENT. PRORATION FACTOR = 0.96590040891738
 HOLD HARMLESS PRORATION FACTOR = 0.99895030550008

| KEY | NAME | POPULATION | MILL RATE EGV | CHAPTER 88 ENTITLEMENT | CHAPTER 89 AND 90 ENTITLEMENT | MINIMUM ENTITLE ADD ON | HOLD HARMLESS ENTITLEMENT | TOTAL FY 1981 ENTITLE |
|----------------------------------|----------------------------|------------|---------------|------------------------|-------------------------------|------------------------|---------------------------|-----------------------|
| BOROUGH AND SERVICE AREAS | | | | | | | | |
| | TOTAL | | | \$2,708,086 | \$234,194 | | | \$2,966,745 |
| 0270 | HAINES BOROUGH | 1,712 | 5.85 | \$62,210 | \$0 | \$0 | \$0 | \$62,210 |
| 0280 | FIRE DISTRICT | 394 | 1.89 | \$4,626 | \$0 | \$0 | \$0 | \$4,626 |
| | TOTAL | | | \$66,836 | \$0 | | | \$66,836 |
| 0290 | JUNEAU BOROUGH A.W. | 21,080 | 14.81 | \$1,930,071 | \$397,718 | \$0 | \$0 | \$2,327,790 |
| 0300 | S.A. 1 | 4,883 | 12.35 | \$374,384 | \$30,728 | \$0 | \$0 | \$405,112 |
| 0310 | S.A. 2 | 1,378 | 6.60 | \$56,510 | \$10,969 | \$0 | \$0 | \$67,480 |
| 0320 | S.A. 3 | 14,819 | 1.18 | \$109,468 | \$83,503 | \$0 | \$0 | \$192,971 |
| 0330 | S.A. 4 | 1,848 | 0.56 | \$6,473 | \$0 | \$0 | \$5,459 | \$11,933 |
| 0340 | S.A. 5 | 10,822 | 1.57 | \$106,091 | \$0 | \$0 | \$0 | \$106,091 |
| 0350 | S.A. 6 | 855 | 1.01 | \$5,399 | \$0 | \$0 | \$345 | \$5,745 |
| 0360 | S.A. 7 | 326 | 0.76 | \$1,552 | \$0 | \$0 | \$0 | \$1,552 |
| 0370 | S.A. 8 | 695 | 0.28 | \$1,217 | \$0 | \$0 | \$3,079 | \$4,297 |
| | TOTAL | | | \$2,591,169 | \$522,920 | | | \$3,122,974 |
| 0380 | KENAI PENINSULA BOROUGH | 26,520 | 4.01 | \$648,537 | \$973,420 | \$0 | \$0 | \$1,621,958 |
| 0385 | CENTRAL PENINSULA HOSPITAL | 15,921 | 2.60 | \$257,519 | \$232,436 | \$0 | \$0 | \$489,956 |
| 0390 | NIKISKI F.P. | 3,136 | 1.53 | \$29,851 | \$0 | \$0 | \$0 | \$29,851 |
| 0395 | SOUTH PENINSULA HOSPITAL | 6,027 | 1.33 | \$50,068 | \$232,436 | \$0 | \$0 | \$282,504 |
| 0400 | NORTH KENAI REC. | 2,344 | 0.58 | \$8,559 | \$0 | \$0 | \$11,983 | \$20,543 |
| 0410 | BEAR CREEK F.P. | 674 | 2.82 | \$11,814 | \$0 | \$0 | \$0 | \$11,814 |
| | TOTAL | | | \$1,006,351 | \$1,438,293 | | | \$2,456,627 |
| 0420 | KETCHIKAN BOROUGH | 11,373 | 9.12 | \$642,305 | \$0 | \$0 | \$0 | \$642,305 |
| 0430 | SHORELINE S.A. | 504 | 0.99 | \$3,124 | \$0 | \$0 | \$2,148 | \$5,273 |

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| BOROUGHES AND SERVICE AREAS | | | | | | | | |
| | TOTAL | | | \$645,429 | \$0 | | | \$647,578 |
| 0440 | KODIAK ISLAND BOROUGH | 8,358 | 6.84 | \$355,014 | \$349,584 | \$0 | \$0 | \$704,598 |
| 0450 | FIRE DISTRICT I | 1,430 | 2.01 | \$18,535 | \$0 | \$0 | \$0 | \$18,535 |
| 0455 | SERVICE DISTRICT | 1,207 | 1.16 | \$8,736 | \$0 | \$0 | \$0 | \$8,736 |
| 0460 | ROAD DISTRICT | 230 | 4.00 | \$5,719 | \$34,865 | \$0 | \$0 | \$40,585 |
| | TOTAL | | | \$388,006 | \$384,449 | | | \$772,456 |
| 0470 | MAT-SU BOROUGH | 19,123 | 7.42 | \$830,123 | \$0 | \$0 | \$0 | \$830,123 |
| 0480 | WASILLA F.P. | 3,201 | 0.50 | \$10,006 | \$0 | \$0 | \$20,176 | \$30,183 |
| 0490 | BUTTE F.P. | 2,068 | 0.68 | \$8,827 | \$0 | \$0 | \$10,671 | \$19,499 |
| 0500 | GREATER PALMER F.P. | 2,498 | 0.49 | \$7,625 | \$0 | \$0 | \$20,192 | \$27,818 |
| 0510 | SUTTON F.P. | 675 | 2.32 | \$9,741 | \$0 | \$0 | \$0 | \$9,741 |
| 0520 | NON AREA-WIDE | 14,695 | 0.51 | \$47,395 | \$0 | \$0 | \$0 | \$47,395 |
| 0525 | TALKEETNA FLOOD S.A. | 254 | 1.21 | \$1,909 | \$0 | \$0 | \$0 | \$1,909 |
| 0530 | TALKEETNA F.P. | 371 | 0.61 | \$1,418 | \$0 | \$0 | \$0 | \$1,418 |
| 0540 | GARDEN TERRACE | 65 | 1.62 | \$653 | \$0 | \$0 | \$0 | \$653 |
| 0541 | MIDWAY | 1 | 0.00 | \$0 | \$1,319,775 | \$0 | \$0 | \$1,319,775 |
| 0550 | LAKES F.P. | 1,485 | 1.35 | \$12,534 | \$0 | \$0 | \$0 | \$12,534 |
| | TOTAL | | | \$930,236 | \$1,319,775 | | | \$2,301,053 |
| 0560 | NORTH SLOPE BOROUGH | 7,098 | 9.71 | \$428,259 | \$240,818 | \$0 | \$0 | \$669,077 |
| 0570 | SITKA BOROUGH | 7,927 | 13.58 | \$668,680 | \$290,463 | \$0 | \$0 | \$959,144 |
| FIRST CLASS CITIES | | | | | | | | |
| 1000 | BARROW | 2,539 | 5.98 | \$94,332 | \$0 | \$0 | \$0 | \$94,332 |
| 1010 | CORDOVA | 2,223 | 25.61 | \$408,738 | \$295,620 | \$0 | \$0 | \$704,359 |
| 1020 | CRAIG | 560 | 31.15 | \$108,310 | \$31,332 | \$0 | \$0 | \$139,642 |

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|----------------------------|--------------|------------|-----------|------------------------|-------------------------------|------------------------|---------------------------|-----------------------|
| FIRST CLASS CITIES | | | | | | | | |
| 1030 | DILLINGHAM | 1,670 | 24.03 | \$249,171 | \$21,709 | \$0 | \$0 | \$270,881 |
| 1040 | FAIRBANKS | 25,568 | 15.67 | \$2,488,813 | \$1,804,256 | \$0 | \$0 | \$4,293,070 |
| 1050 | GALENA | 805 | 22.08 | \$110,352 | \$26,406 | \$0 | \$0 | \$134,094 |
| 1060 | HAINES | 1,017 | 23.97 | \$151,352 | \$24,266 | \$0 | \$0 | \$175,618 |
| 1070 | HOMER | 2,588 | 13.27 | \$213,285 | \$42,070 | \$0 | \$0 | \$255,356 |
| 1080 | HOONAH | 799 | 5.38 | \$26,735 | \$9,207 | \$0 | \$29,034 | \$65,077 |
| 1090 | HYDABURG | 356 | 4.79 | \$10,608 | \$6,845 | \$6,902 | \$0 | \$24,355 |
| 1100 | KAKE | 583 | 16.78 | \$60,748 | \$11,582 | \$0 | \$0 | \$72,330 |
| 1110 | KENAI | 4,558 | 23.13 | \$654,721 | \$121,494 | \$0 | \$0 | \$776,215 |
| 1120 | KETCHIKAN | 7,200 | 28.29 | \$1,264,863 | \$326,990 | \$0 | \$0 | \$1,591,853 |
| 1140 | KING COVE | 513 | 21.13 | \$67,298 | \$17,602 | \$0 | \$0 | \$84,900 |
| 1150 | KLANOCK | 389 | 2.93 | \$7,084 | \$10,559 | \$6,838 | \$0 | \$24,482 |
| 1160 | KODIAK | 4,678 | 17.83 | \$517,898 | \$34,121 | \$0 | \$0 | \$552,019 |
| 1170 | NENANA | 592 | 21.76 | \$79,989 | \$38,440 | \$0 | \$0 | \$118,430 |
| 1180 | NOME | 3,039 | 16.96 | \$320,079 | \$390,018 | \$0 | \$0 | \$710,098 |
| 1190 | NORTH POLE | 928 | 8.19 | \$47,238 | \$26,822 | \$0 | \$0 | \$74,061 |
| 1200 | PALMER | 2,275 | 17.10 | \$241,568 | \$267,409 | \$0 | \$0 | \$508,978 |
| 1210 | PELICAN | 172 | 22.30 | \$23,820 | \$9,994 | \$0 | \$0 | \$33,815 |
| 1220 | PETERSBURG | 3,001 | 22.62 | \$421,463 | \$266,782 | \$0 | \$0 | \$688,245 |
| 1230 | SAND POINT | 697 | 22.08 | \$95,548 | \$32,243 | \$0 | \$0 | \$127,791 |
| 1240 | SAINT MARY'S | 432 | 28.36 | \$76,063 | \$50,024 | \$0 | \$0 | \$126,088 |
| 1250 | SELDOVIA | 505 | 15.15 | \$47,521 | \$22,104 | \$0 | \$0 | \$69,626 |
| 1260 | SEWARD | 1,943 | 16.45 | \$198,519 | \$408,971 | \$0 | \$0 | \$607,491 |
| 1270 | SKAGWAY | 819 | 12.30 | \$62,570 | \$29,519 | \$0 | \$0 | \$92,090 |
| 1280 | SOLDOTNA | 2,445 | 15.43 | \$234,266 | \$57,597 | \$0 | \$0 | \$291,864 |
| 1290 | UNALASKA | 1,944 | 36.39 | \$439,291 | \$116,287 | \$0 | \$0 | \$555,578 |
| 1300 | VALDEZ | 3,279 | 6.38 | \$129,929 | \$308,900 | \$0 | \$0 | \$438,829 |
| 1330 | WRANGELL | 2,345 | 23.04 | \$335,482 | \$254,348 | \$0 | \$0 | \$589,831 |
| 1360 | YAKUTAT | 430 | 16.92 | \$45,173 | \$15,131 | \$0 | \$0 | \$60,304 |
| SECOND CLASS CITIES | | | | | | | | |
| 5000 | AKHIOK | 103 | 0.00 | \$0 | \$9,297 | \$16,984 | \$0 | \$19,824 |

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| ----- | | | | | | | | |
| SECOND CLASS CITIES | | | | | | | | |
| 5010 | AKIACHAK | 435 | 3.23 | \$8,752 | \$29,571 | \$0 | \$3,314 | \$39,154 |
| 5020 | AKIAK | 197 | 0.00 | \$0 | \$9,276 | \$23,423 | \$0 | \$32,700 |
| 5030 | AKOLMIUT | 695 | 4.30 | \$18,575 | \$96,390 | \$0 | \$0 | \$104,566 |
| 5040 | AKUTAN | 189 | ###.## | \$151,075 | \$0 | \$0 | \$0 | \$151,075 |
| 5050 | ALAKANUK | 534 | 14.26 | \$47,285 | \$34,787 | \$0 | \$0 | \$82,073 |
| 5060 | ALEKNACIK | 152 | 0.00 | \$0 | \$8,940 | \$22,575 | \$0 | \$31,516 |
| 5070 | ALLAKAKET | 158 | 0.00 | \$0 | \$8,120 | \$25,753 | \$0 | \$33,874 |
| 5180 | AMBLER | 198 | 8.05 | \$9,906 | \$25,323 | \$0 | \$0 | \$35,230 |
| 5090 | ANAKTUVUK PASS | 235 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5100 | ANDERSON | 500 | 3.75 | \$11,643 | \$15,037 | \$7,428 | \$0 | \$34,110 |
| 5110 | ANGDON | 445 | 1.43 | \$3,978 | \$11,617 | \$9,853 | \$13,310 | \$38,768 |
| 5120 | ANIAK | 338 | 5.28 | \$11,085 | \$86,919 | \$0 | \$0 | \$98,005 |
| 5130 | ANVIK | 110 | 3.94 | \$2,695 | \$9,624 | \$21,606 | \$0 | \$33,925 |
| 5140 | ATMAUTLUAK | 226 | 1.13 | \$1,596 | \$9,286 | \$21,851 | \$3,665 | \$35,614 |
| 5150 | BETHEL | 3,549 | 23.43 | \$516,270 | \$237,861 | \$0 | \$0 | \$754,131 |
| 5160 | BREVIK MISSION | 149 | 7.11 | \$6,581 | \$9,624 | \$17,719 | \$0 | \$33,925 |
| 5170 | BUCKLAND | 211 | 6.03 | \$7,907 | \$0 | \$25,690 | \$0 | \$33,597 |
| 5180 | CHEFORNAK | 230 | 7.61 | \$10,872 | \$9,276 | \$12,550 | \$0 | \$32,700 |
| 5190 | CHEVAK | 491 | 2.55 | \$7,800 | \$10,726 | \$14,222 | \$0 | \$32,749 |
| 5200 | CHUATHBALUK | 104 | 5.72 | \$3,695 | \$32,482 | \$0 | \$0 | \$32,292 |
| 5210 | CLARK'S POINT | 78 | 12.74 | \$6,169 | \$8,940 | \$16,406 | \$0 | \$31,516 |
| 5220 | DEERING | 155 | 18.80 | \$18,093 | \$9,624 | \$6,207 | \$0 | \$32,535 |
| 5230 | DELTA JUNCTION | 945 | 0.00 | \$0 | \$35,266 | \$0 | \$7,597 | \$42,863 |
| 5240 | DIOMEDE | 149 | 2.35 | \$2,178 | \$0 | \$29,032 | \$0 | \$31,211 |
| 5250 | EAGLE | 186 | 2.11 | \$2,447 | \$5,979 | \$19,727 | \$0 | \$28,154 |
| 5260 | EEK | 226 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5270 | EKWOK | 76 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5280 | ELIM | 228 | 3.93 | \$5,563 | \$14,437 | \$14,090 | \$0 | \$30,691 |
| 5290 | EMMONAK | 568 | 6.32 | \$22,218 | \$32,207 | \$0 | \$0 | \$54,496 |
| 5300 | FORT YUKON | 599 | 10.86 | \$40,411 | \$40,602 | \$0 | \$0 | \$81,013 |
| 5310 | FORTUNA LEDGE | 243 | 3.87 | \$5,848 | \$23,771 | \$3,574 | \$0 | \$33,194 |

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| ----- | | | | | | | | |
| SECOND CLASS CITIES | | | | | | | | |
| 5320 | GAMBELL | 480 | 3.91 | \$11,666 | \$0 | \$21,931 | \$0 | \$33,597 |
| 5330 | COLOVIN | 94 | 6.93 | \$4,044 | \$9,624 | \$20,256 | \$0 | \$31,953 |
| 5340 | GOODNEWS BAY | 167 | 0.70 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5350 | GRAYLING | 202 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5360 | HOLY CROSS | 233 | 5.16 | \$7,467 | \$21,654 | \$5,213 | \$0 | \$34,335 |
| 5370 | HOOPER BAY | 624 | 2.45 | \$9,500 | \$0 | \$22,883 | \$0 | \$32,384 |
| 5380 | HOUSTON | 583 | 0.11 | \$415 | \$68,891 | \$0 | \$0 | \$69,306 |
| 5390 | HUGHES | 71 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5400 | HUSLIA | 230 | 0.00 | \$1 | \$62,858 | \$0 | \$0 | \$62,860 |
| 5410 | KACHEMAK | 425 | 2.06 | \$5,453 | \$0 | \$20,511 | \$0 | \$25,965 |
| 5420 | KAKTOVIK | 201 | 0.25 | \$323 | \$0 | \$33,273 | \$0 | \$33,597 |
| 5430 | KALTAG | 239 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5440 | KASAAN | 64 | 0.10 | \$43 | \$6,910 | \$17,404 | \$0 | \$24,357 |
| 5460 | KIANA | 356 | 2.64 | \$5,848 | \$16,241 | \$12,061 | \$0 | \$34,151 |
| 5470 | KIVALINA | 249 | 4.16 | \$6,433 | \$0 | \$27,164 | \$0 | \$33,949 |
| 5480 | KOBUK | 64 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5490 | KOTLIK | 339 | 3.48 | \$7,329 | \$9,276 | \$16,093 | \$0 | \$32,700 |
| 5500 | KOTZEBUE | 2,250 | 14.66 | \$204,850 | \$52,933 | \$0 | \$0 | \$257,783 |
| 5510 | KOYUK | 203 | 5.40 | \$6,808 | \$15,007 | \$12,293 | \$0 | \$34,109 |
| 5520 | KOYUKUK | 95 | 8.75 | \$5,160 | \$12,631 | \$16,235 | \$0 | \$34,028 |
| 5530 | KUPREANOF | 49 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5540 | KWETHLUK | 451 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5550 | LARSEN BAY | 167 | 0.00 | \$0 | \$0 | \$25,964 | \$0 | \$25,965 |
| 5555 | LOWER KALSKAK | 244 | 2.81 | \$4,265 | \$93,415 | \$0 | \$0 | \$91,611 |
| 5560 | MANOKOTAK | 290 | 1.51 | \$2,734 | \$10,142 | \$18,680 | \$0 | \$31,557 |
| 5570 | MCCRATH | 343 | 1.71 | \$3,661 | \$42,557 | \$0 | \$0 | \$46,219 |
| 5580 | MEKORYUK | 176 | 7.90 | \$8,634 | \$9,276 | \$14,788 | \$0 | \$32,700 |
| 5590 | MOUNTAIN VILLAGE | 580 | 13.89 | \$50,042 | \$50,732 | \$0 | \$0 | \$100,774 |
| 5600 | NAPAKIAK | 283 | 7.25 | \$12,747 | \$16,466 | \$3,732 | \$0 | \$32,945 |
| 5610 | NAPASKIAK | 242 | 0.00 | \$0 | \$9,276 | \$23,423 | \$0 | \$32,700 |
| 5620 | NEHALEN | 135 | 0.39 | \$334 | \$8,940 | \$22,240 | \$0 | \$31,516 |

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| SECOND CLASS CITIES | | | | | | | | |
| 5630 | NEW STUYAHOK | 327 | 0.00 | \$0 | \$8,940 | \$22,575 | \$0 | \$30,766 |
| 5640 | NEWTOK | 175 | 0.81 | \$890 | \$9,276 | \$22,533 | \$0 | \$32,700 |
| 5650 | NIGHTMUTE | 135 | 7.12 | \$5,969 | \$9,276 | \$17,454 | \$0 | \$32,700 |
| 5660 | NIKOLAI | 88 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5670 | NONDALTON | 171 | 0.18 | \$197 | \$13,131 | \$18,330 | \$0 | \$31,659 |
| 5680 | NOORVIK | 508 | 2.89 | \$9,140 | \$16,902 | \$8,130 | \$0 | \$34,173 |
| 5690 | MULATO | 338 | 2.07 | \$4,356 | \$27,068 | \$3,095 | \$0 | \$34,520 |
| 5700 | NUIGSUT | 271 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5710 | OLD HARBOR | 334 | 0.18 | \$387 | \$10,343 | \$15,587 | \$0 | \$26,317 |
| 5720 | OUZINKIE | 170 | 1.39 | \$1,471 | \$7,205 | \$17,533 | \$0 | \$26,210 |
| 5730 | PILOT STATION | 323 | 5.17 | \$10,385 | \$5,797 | \$16,398 | \$0 | \$32,581 |
| 5740 | PLATINUM | 55 | 13.59 | \$4,647 | \$0 | \$27,770 | \$1,334 | \$33,752 |
| 5750 | POINT HOPE | 531 | 1.03 | \$3,408 | \$0 | \$30,189 | \$0 | \$33,597 |
| 5760 | PORT ALEXANDER | 90 | 2.59 | \$1,448 | \$0 | \$23,578 | \$0 | \$25,026 |
| 5770 | PORT HEIDEN | 91 | 1.08 | \$612 | \$83,262 | \$0 | \$0 | \$83,874 |
| 5780 | PORT LIONS | 218 | 8.99 | \$12,173 | \$7,879 | \$6,180 | \$0 | \$26,233 |
| 5790 | QUINHAGAK | 409 | 3.01 | \$7,650 | \$12,900 | \$12,273 | \$0 | \$28,312 |
| 5800 | RUBY | 190 | 0.60 | \$714 | \$0 | \$32,883 | \$0 | \$33,597 |
| 5810 | RUSSIAN MISSION | 168 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5820 | SAINT MICHAEL | 258 | 2.33 | \$3,745 | \$9,624 | \$20,555 | \$0 | \$33,925 |
| 5830 | SAINT PAUL | 591 | 8.45 | \$31,009 | \$104,776 | \$0 | \$0 | \$135,786 |
| 5840 | SAVDONGA | 530 | 6.59 | \$21,705 | \$9,624 | \$2,596 | \$0 | \$33,925 |
| 5850 | SAXMAN | 276 | 0.00 | \$0 | \$6,910 | \$17,447 | \$0 | \$24,357 |
| 5860 | SCANNON BAY | 249 | 2.36 | \$3,663 | \$3,623 | \$25,220 | \$0 | \$32,507 |
| 5870 | SELAWIK | 372 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| 5880 | SHAGELIK | 127 | 0.92 | \$729 | \$6,015 | \$27,057 | \$0 | \$33,802 |
| 5890 | SHAKTOOLIK | 177 | 2.88 | \$3,167 | \$52,632 | \$0 | \$0 | \$55,800 |
| 5900 | SHELDON POINT | 103 | 5.67 | \$3,631 | \$9,276 | \$19,792 | \$0 | \$32,700 |
| 5910 | SHISHMAREF | 425 | 3.06 | \$8,082 | \$5,955 | \$19,763 | \$0 | \$33,800 |
| 5920 | SHUNGNAK | 208 | 1.96 | \$2,542 | \$9,624 | \$21,758 | \$0 | \$32,601 |
| 5930 | STEBBINS | 357 | 3.79 | \$8,421 | \$9,624 | \$15,879 | \$0 | \$28,903 |

FY 1982 MUNICIPAL REVENUE SHARING ENTITLEMENTS

TOTAL APPROPRIATION = \$55,707,600
 CHAPTER 88 APPROPRIATION = \$34,913,800
 CHAPTER 89 APPROPRIATION = \$14,047,800
 CHAPTER 90 APPROPRIATION = \$6,746,000

CHAPTER 88 PRORATION FACTOR = 6.43407506040690
 CHAPTER 89 PRORATION FACTOR = 0.86466238118747
 CHAPTER 90 PRORATION FACTOR = 0.23125348099043
 MINIMUM ENT. PRORATION FACTOR = 0.96590040891738
 HOLD HARMLESS PRORATION FACTOR = 0.99895030550008

| KEY | NAME | POPULATION | MILL RATE EGV | CHAPTER 88 ENTITLEMENT | CHAPTER 89 AND 90 ENTITLEMENT | MINIMUM ENTITLE ADD ON | HOLD HARMLESS ENTITLEMENT | TOTAL FY 1981 ENTITLE |
|---------------------|--------------------------|------------|---------------|------------------------|-------------------------------|------------------------|---------------------------|-----------------------|
| ----- | | | | | | | | |
| SECOND CLASS CITIES | | | | | | | | |
| | 5940 TANANA | 463 | 3.08 | \$8,854 | \$95,310 | \$0 | \$0 | \$104,164 |
| | 5950 TELLER | 229 | 7.51 | \$10,681 | \$17,714 | \$5,805 | \$0 | \$34,201 |
| | 5980 TENAKEE SPRINGS | 132 | 2.33 | \$1,910 | \$11,649 | \$11,864 | \$0 | \$25,424 |
| | 5990 TOGIAK | 511 | 2.69 | \$8,547 | \$22,911 | \$533 | \$0 | \$15,869 |
| | 6000 TOKSOOK BAY | 331 | 6.48 | \$13,333 | \$9,276 | \$10,090 | \$0 | \$32,700 |
| | 6010 TLUKSAK | 234 | 2.93 | \$4,259 | \$14,610 | \$0 | \$0 | \$115,869 |
| | 6015 TUNUNAK | 301 | 1.92 | \$3,606 | \$9,276 | \$19,817 | \$0 | \$32,700 |
| | 6020 UNALAKLEET | 672 | 6.36 | \$26,572 | \$38,256 | \$0 | \$0 | \$64,829 |
| | 6030 UPPER KALSKAG | 128 | 2.52 | \$2,004 | \$34,286 | \$0 | \$0 | \$36,291 |
| | 6040 WAINWRIGHT | 410 | 0.00 | \$0 | \$0 | \$0 | \$0 | \$0 |
| | 6050 WALES | 143 | 1.21 | \$1,077 | \$0 | \$30,133 | \$0 | \$31,211 |
| | 6060 WASILLA | 1,928 | 0.33 | \$4,021 | \$15,468 | \$0 | \$0 | \$119,489 |
| | 6070 WHITE MOUNTAIN | 135 | 10.18 | \$8,538 | \$13,187 | \$9,935 | \$0 | \$31,661 |
| | 6080 WHITTIER | 211 | 33.93 | \$44,450 | \$15,012 | \$0 | \$0 | \$59,462 |
| | 6090 EXT FIRE AREAS | 7,443 | 0.00 | \$0 | \$64,289 | \$0 | \$0 | \$64,289 |
| | 6100 NATIVE VILLAGE GOVT | 1 | 0.00 | \$0 | \$1,187,662 | \$0 | \$0 | \$1,187,662 |
| | | | | ----- | ----- | ----- | ----- | ----- |
| | TOTAL | | | \$32,560,301 | \$20,772,072 | \$1,189,359 | \$1,185,866 | \$55,627,711 |

April 13, 1982

Doug Griffin
Local Government
Specialist
Division of Local
Government Assistance
Department of Community
and Regional Affairs
Pouch B
Juneau, AK 99811

Dear Doug,

I recently received a letter from the Kenai Peninsula Borough concerning roads that the Borough proposes to maintain. I know that there will have to be a proration of funds. Can you at this time make any predictions on what will be the effect of such a proration?

Sincerely,

Don Gilman
State Senator

cc: The Honorable Stan Thompson



KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

April 2, 1982

Mr. Doug Griffin
Local Government Specialist
Alaska Department of Community & Regional Affairs
Division of Local Government Assistance
Pouch B
Juneau, AK 99811

RE: State Aid to Kenai Peninsula Borough for
Road Maintenance-Fiscal Year 1983

Dear Mr. Griffin:

The Kenai Peninsula Borough will be submitting approximately 416 miles of road for eligible state aid for road maintenance for the 1983 Fiscal Year. In accordance with Alaska Statutes 29.89.020, \$2,500 per mile with a 7.5% cost of living allowance is requested.

Maps and figures have been sent to the Department of Transportation to verify the eligible roads. The figures indicating the totals are enclosed for your information. Formal application will be made when appropriate forms are available.

Please contact me if you would like additional information.

Sincerely,

G.S. Best
Planning Director

GSB:cm

Enclosures

cc: Mr. Mark Hesse, Department of Transportation
The Honorable Patrick O'Connell, Alaska State Legislature
The Honorable Hugh Malone, Alaska State Legislature
✓ The Honorable Donald E. Gilman, Alaska State Senate

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



CITY OF KENAI "Oil Capital of Alaska"

P. O. BOX 580 KENAI, ALASKA 99611
TELEPHONE 283 - 7535

*Some
title 29
HB 146*

October 8, 1982

Senator Lon Gilman
P. O. Box 630
Kenai, Alaska 99611

I would like to provide input with regard to the oversight hearing which you plan to hold on November 12, 1982 in conjunction with AMI's Local Government Conference in Valdez.

Specifically, I want to comment on the new requirement that municipalities must pay interest on amounts retained on contracts for construction projects. The City has weighed the benefits of retaining a percentage of payments to contractors against the disadvantages of paying interest on such retainage. We have decided that, unless circumstances of the project performance are such that we need to retain to provide an extra measure of safety, the City will not withhold retainage on contracts dated on or after July 1, 1982.

Some of the primary reasons for this decision are that if the City retained monies under these circumstances, then:

- 1) The City's security position would be substantially diluted in that the contractor would be under no pressure to complete a project to obtain the amount retained. He could easily view the retainage as an interest bearing investment, particularly in a time of falling interest rates.
- 2) Complexity of computing the interest, where the retainage amount, the number of days of earnings, and the rate itself could change many times over the course of the project.
- 3) The City would be paying for a commodity which it never received. We would have to pay (an expenditure) for the use of money which was not borrowed. This may be in violation of our purchasing ordinance (KMC 7.15).

October 8, 1982

Page 2

As a result of this law, the City has lost a valuable tool that was designed to provide a city with protection from a contractor's poor performance.

I hope this information has helped you in some way, and we appreciate the opportunity to express our position on this.

Sincerely,



Charles A. Brown
Finance Director

CAB: jh



Box 335
Homer, Alaska 99603

REPLY TO:

- City Hall
Phone 235 8121
- Port of Homer
Phone 235 8597
- Harbor Master
Phone 235 8959
- Public Works Dept
Phone 235-8120

CITY OF HOMER

October 12, 1982

Take 29 File

Senator Don Gilman
P. O. Box 630
Kenai, AK 99611

Dear Senator Gilman:

While attending the Clerk's spring training seminar in Juneau last spring, you and I had an opportunity to discuss municipal elections and Title 29 requirements for run off. The proposed "29" revisions contained language which provide for the municipality by ordinance to opt out of the run off requirement. The last sentence of AS 29.28.040 raised a question in both our minds as to whether that provision might already exist.

You may be interested in the enclosed legal opinion by Bob Hahn, Attorney for the City of Homer. It clears up the intent of the existing law for me. I am again of the opinion that proposed changes to these provisions in "29" are important for clarification.

Sincerely,

Kathy
Kathy Harold
City Clerk

FTH:ler

Er. Harold

LEGAL MEMORANDUM

F.C.
File 29

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TO: Kathy Herold, City Clerk
FROM: Bob Hahn, City Attorney
RE: Elections

The following analyses pertain to several questions you have asked concerning elections.

1. Recounts. Section 4.04.250 of the former Homer Municipal Election Code provided that a recount of a general or special municipal election be called and conducted pursuant to Title 15 of the Alaska Statutes. City Ordinance 82-6, Section 1, incorporates State law, thereby preserving the reference to Title 15 as to recounts, without specific reference thereto. There are other specific references to the recount procedures in Section 18(c) (Recount in case of a tie vote), 19(b) (canvassing Board powers) Section 22 (Destruction of election materials stayed until recount completed) and Section 24 (Expenses of recount pursuant to election contest.). If it chose to do so, the Council could easily amend Ordinance 82-6 to add a section which applies specifically to Recounts as is the case with Section 23, Contest of Election. As you know, Title 15 has separate Articles 3 and 4 entitled, respectively, Election Recounts and Election Contests.

2. Tie Vote. There is a specific provision in Ordinance 82-6, Section 19(e) which governs the procedures in case of a tie vote in a city election. Since the ordinance does incorporate State law by reference, it seems clear that the

LAW OFFICES OF HAMPTON, JEWELL & STANFILL
531 WEST SEVENTH A. SUITE 212
ANCHORAGE, ALASKA 99501 TELEPHONE 270-1584
HOMER, ALASKA TELEPHONE 235-8700

1 provisions of A.S. 15.15.460 (Tie Votes), the recount provisions
2 of A.S. 15.20.430-15.20.530 and specifically 15.20.530 (Deter-
3 mination of Tie Votes) would also establish applicable
4 guidelines for city elections. You will note in Section
5 530, that if the recount confirms a tie, the determination
6 of the successful candidate will be by lot. Ordinance 82-6
7 provides for the toss of a coin, which would be the legal
8 equivalent of the State Statute.

9
10 3. Majority Elections. After analyzing the language
11 of A.S. 29.28.040, I am convinced that the word "majority"
12 here means a number greater than one-half of the total votes
13 cast. In other words, I believe the sentence in that section
14 which reads: "The assembly or council may by ordinance
15 require a majority vote for election of officials" means that
16 the Council could enact an ordinance which requires that a
17 successful candidate for office receive at least 51% of the
18 total votes cast for the office for which he or she is a
19 candidate. Under the existing statute, if a candidate
20 receives more than 40% of the votes cast for the office, and
21 he is the high vote, by a plurality of only one vote, he is
22 the winner. The option is given to the municipalities in
23 the above quoted sentence to require that the successful
24 candidate must garner a majority (or at least 51%) of the
25 votes cast. Thus, even if there were three or more candidates
26 for an office, the council could, by ordinance require that
27 a successful candidate receive at least 51% of the vote (a
28 majority) and that a run off election or other means can be
29 used to obtain that majority. The case of John Todd, cited
30 in Black's Law Dictionary under the word "majority" is direct-

1 on point where the court found:

2 "When there are only two candidates, he
3 who receives the greater number of the
4 votes cast is said to have a majority;
5 when there are more than two competitors
6 for the same office, the person who receives
7 the greatest number of votes has a plurality,
8 but he has not a majority unless he receives
9 a greater number of votes than those cast
10 for all his competitors combined."

11 Webster's New Collegiate Dictionary, 150th Anniversary Edition
12 also defines majority as:

13 "A number greater than half of a total."

14 Accordingly, it is my opinion that our existing ordinance
15 Section 82-6, Section 20, Run-off Election, complies with
16 existing state law and that the only change open to the City
17 would be to pass an ordinance amending the section to require that
18 any successful candidate must receive at least 51% (or some
19 figure greater than 50%) of the votes cast for the office.

20 DATED this 5th day of October, 1982.



21 A. Robert Hahn
22 City Attorney

23 LAW OFFICES OF HAHN, JEWELL & STANFILL
24 451 WEST BROADWAY AVENUE, SUITE 210
25 ANCHORAGE, ALASKA 99501 • TELEPHONE 276-1844
26 HOMER, ALASKA • TELEPHONE 239-1700

27
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29
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31
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Monday May 17, 1962

Letter to all Legislators
of the State of Alaska

P.O. Box 564
Fairbanks, Alaska 99707
488-6691

Re: HCS CSSB 180 (Second, Finance), "An Act relating to Municipal Government"

Dear Legislator,

SB 180 has seen much action these past few weeks, and some changes have been made, but this latest substitute bill still leaves incorporated into it several oppressive, unconstitutional provisions. The changes made reflect the interests of the Municipal League and the Department of Community and Regional Affairs, imposing a straightjacket of controls and unconstitutional mandates.

Please let me point out some changes that I think should be made to this bill. First, on page 71, lines 1 and 2, "(12) to acquire membership in an organization that promotes the good of the municipality", should be deleted. It violates the Alaska Constitution, Article I, Sec. 2: "All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole" - not for the good of some municipal organization however good its avowed purposes.

Second, the right of the people to petition for a change in local government regulations and other administrative matters will be eliminated should the proposed AS 29.26.110(a) (3) and (4) (p.60, lines 26-28) become law. The constitutional right of individuals to petition their government for a change in administrative regulations that abuse common justice and legal discretion is infringed. A good example of this is the proposed (HESS), SCS HSSHB 41 where the bill proposes law AS 12.27.010 (a) "the commissioner shall establish a state health insurance program for residents" and (b), "the commissioner shall by regulation specify the professional and institutional benefits to be provided by the program." Here the legislature, instead of prescribing specific

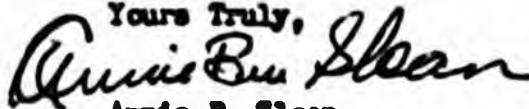
instructions by law, confers that right and duty to the administration. Likewise, many legislative bodies of local governments write similar ordinances allowing the local administration broad discretion in enacting regulations. That abuse of discretion will occur is well established; and consequently, the right of the individual citizens to petition for a change in a law or ordinance affecting administrative matters or relating thereto shouldn't be infringed. AS29.26.110(a)(3) and (4) ought, therefore, to be deleted from SB 180. It would be entirely new since nothing like it exists in the present Title 29.

Also for the legislature to demand that at least 10 voters are required in order to sponsor a petition is a violation of the 1st Amendment to the U.S. Constitution which mandates "no infringement". This sponsor requirement would be unequally applied also since we have many very small communities in Alaska.

Further, the reduction of time from the present 90 days to only 60 days during which signatures for a petition may be secured reflects only the desire of the Municipal League lobbyists to make it harder if not impossible to successfully petition the borough governments.

Present law under chapter 28 of Title 29 AS very adequately provides the provisions for initiatives and referendums and the changes under proposed new chapter 26 are redundant and unwarranted.

SB 180 SHOULD BE OPPOSED.

Yours Truly,

Annie B. Sloan
P.O. Box 546
Fairbanks, Alaska 99707
488-6691

P.S.
THE OPTION TO FORM NEW
3rd CLASS BOROUGHS OR TO RE-
CLASSIFY FROM A 2nd TO A
3rd CLASS BOROUGHS MUST
REMAIN ON OUR LAWS.

Twelfth open letter to all
Legislators of the State of Alaska

May 19, 1982

Re.: HCS CSSB 180(2d Fin) "An Act relating to municipal government"

Dear legislator: *Senator Gilman:*

We have spent much time reviewing this version of SB 180 as well as the other committee versions. We only can react to a bill that comes out of a committee and the comments we make seem to be of no concern to the next committee scrutinizing and amending the same bill from their special point of interest. Therefore please consider the objections expressed from the viewpoint of the voters as enumerated in the letters I previously mailed to you plus the following:

With respect to the proposed procedures for the incorporation of home rule municipalities - in order to assure maximum local voter approval and local self-determination - the following changes must be made:

Delete proposed AS 29.05.060(13) "for a home rule municipality a proposed home rule charter" (at page 6);

delete proposed AS 29.05.110(d) "A home charter included in an incorporation petition under AS 29.05.060(13) is considered to be part of the incorporation question. The home rule charter is adopted if the voters approve incorporation of the municipality." (at page 8);

add "Because a home rule municipality has all legislative powers not prohibited by law or charter, a listing of each additional municipal power (additional to the mandatory powers of tax assessment and collection, education etc.) must appear separately on the ballot so that each could be voted on for the purpose of exclusion from exercise by the proposed new municipality.";

delete proposed AS 29.10.010(g) "The proposed charter for an unincorporated community or an area of the unorganized borough shall be filed with the incorporation petition filed under AS 29.05.060." (at page 28); and

add the following to AS 29.10.020:

"Model charters may serve only as an example or as a guideline to the members of the charter commission and must not be made a part of the incorporation petition under AS 29.05.060."

With respect to penalties (AS 29.25.070 at page 57), violation (AS 29.-40.180 at page 92) and remedies (AS 29.40.190 at page 92) - in addition to the objections expressed in my previous letters - the following ought to be added:

"Harm must be established in an action under this Title. Harmless violation of a provision under this Title or of an ordinance or regulation shall not be construed as a punishable offence."

HB 170 or SB 180 in any form must not become law.

Very truly yours,

Wolfgang Falke
Wolfgang Falke

P.S.

The third class borough form of local government is not "only a school district"! Please see AS 29.41.010(b), and my 10th and 4th open letter to all Legislators.

The third class borough must remain law as a first step to borough organization.

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

Fairbanks Daily News-Miner
Fairbanks, Alaska

May 15, 1982

Re.: SB 180

Dear Editor:

The passage of Senate Bill 180, "An Act relating to municipal government", is being aided by the Department of Community and Regional Affairs, the Municipal League, and some other pro-more-government-control special interest groups. This bill must be considered as one of the most dangerous pieces of legislation to come from Juneau ever. It infringes on every individual's property and liberty rights secured in both the U.S. Constitution and the Constitution of the State of Alaska.

SB 180, should it become law, will give the Department of Community and Regional Affairs the power to determine by regulation the public services to be provided in the "unincorporated communities", within the "unorganized borough". This is contrary to the constitutional mandate to "provide for maximum local self-government" and in excess of the Department's authority to "advise and assist local government".

It will no longer allow the people to petition the government for a change in government regulations and other "administrative matters".

It will limit petitioning to "legislative matters" only and will reduce the time during which signatures for a petition may be collected from the present 90 days to only 60 days.

It will raise penalties from the present 10% to 20% and interest charges from the present 8% to 15% for taxes due, (that is a first year total of 35%).

It will allow the local governments to impose land use regulations upon the people and to impose fines up to \$ 1,000 on individuals who violate or threaten to violate local ordinances; and "each day such violation continues constitutes a new violation".


It will give second class boroughs the power to "provide for economic development" and any kind of transportation system without the approval of the local voters (this could include the running of a government drug store, for example, or a petro-chemical plant, a pipeling, or even a government-run trucking business).

It will allow appeals to the Superior Court only based on the record prepared by the local government and will deny a trial by jury for individuals who they allege are in violation of local government ordinances or regulations, or who they allege to be threatening to violate an ordinance.

This bill is touted as "just revising" or "re-codifying" the municipal law of Title 29, Alaska Statutes.

SENATE BILL 180 MUST NOT BECOME LAW.

Very truly yours,


Wolfgang Falke



Office: Business

Alaska State Legislature

Senate

Committee on Community & Regional Affairs

465-4934
465-4935

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

February 2, 1982

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Don Gilman

FROM: McKie Campbell

SUBJECT: Effect on Oil and Gas Property Tax of an Increase in a Municipality's Population, Without a Corresponding Increase in Property Value

1. Municipalities may not levy taxes that exceed 3 percent (30 mills) of the assessed valuation of property in the municipality.
2. Municipalities may not levy taxes which result in tax revenues from all sources that exceed \$1500 per year per resident or exceed 225 percent of the average per capita state assessed value times the municipality's population.
3. The limitations mentioned above do not apply to taxes levied to pay principal or interest on bonds. There is no limit on taxation to pay for bonds.
4. The state levies a 20 mil ad valorem tax on oil and gas production and pipeline property.
5. Municipalities may also levy and collect a tax on oil and gas production and pipeline property at a rate no higher than the rate other property in the municipality is taxed.
6. Oil companies are allowed to deduct any amount of municipal property tax they pay from their state tax bill.
7. In municipalities that have adequate property valuation, and levy the full 30 mills allowable for operating expenses, \$4,790.75 is raised for each resident. [Average Per Capita State Assessed Value (\$70,974) X 225 (2.25) X 30 mills (.030) = \$4,790.75]

8. If the North Slope Borough shows a population increase of 3,000 persons, this would result in an increase in their tax revenues produced by the first 30 mills of \$14,372,235. As stated in Mr. Heier's memorandum, 95.5 percent of this difference, or \$13,725,484 would be a direct loss to the state treasury.

9. As mentioned above, municipalities may levy above 30 mills if necessary to pay principal or interest on bonds. In point of fact, no municipality other than the North Slope Borough levies more than 20 mills. The North Slope Borough levied 91.54 mills last year. As with the first 30 mills, 95.5% of this tax is levied on oil and gas production and pipeline property and the state allows the oil companies to credit the amount of the municipal tax against their state tax bill. With the steadily increasing Average Per Capita State Assessed Value, the decreasing value of the pipeline, and the extremely high mill rates levied by the North Slope Borough, it is possible that within the next several years the state will lose more money through the oil companies for tax credit for the North Slope's oil and gas property tax than it will take in through the 20 mill ad valorem tax on all oil and gas production and pipeline property within the municipal limits of the North Slope Borough.

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



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET
KETCHIKAN, ALASKA 99901

225-6151

February 22, 1982

The Honorable Robert M. Ziegler
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

We would like your help in the form of an amendment to Title 29 to address a problem our Assembly faces. With a seven member body we frequently find ourselves working with a six member quorum. Of late we have had several issues that have been hungstrung due to a 3-3 vote. Senate Bill 180, revising Title 29, carries forward the restriction that borough mayors may not vote to break a tie (Sec. 29.20.250(b)) and we would like you to consider an amendment.

I need a mechanism to to break a tie vote. Many times important issues are held in limbo until a full body is together. At other times when an issue is voted upon, the vote goes 3-3 and is thus defeated, example the Gravois hard link study. The tie vote confused our expensive consultants and especially the community visionaries. Needless to say, the anti hard link types were feeling comfortable. The hard link study issue was not clearly supported or defeated. At a subsequent meeting I put the issue back on the agenda where the issue survived with a 5-1 vote. Returning it to the agenda was not without peril or challenge.

There are other issues of significance to some where the votes cause inconvenience and confusion and tends to give the Assembly a black eye because it is properly perceived that we can not conduct business in a timely and decisive manner; including just recently a vote on the secondary route, award of bids for airport carpeting, adding temporary staff at animal control and approving a rezone.

We can't see any reason for the inequity of first class cities being able to address the issue while boroughs cannot. It does not seem reasonable that borough assemblies must have the full body present in order to effectively conduct business. We will continue to have absenteeism for vacations, illness and out-of-town on business.

We hope you can support us in requesting an amendment to Senate Bill 180 and would appreciate your thoughts on the matter.

Sincerely,

WICKHAM GATEWAY BOROUGH

Carroll G. Feder
Carroll G. Feder, Mayor *by P.C.*

cc: Oral Freeman
Terry Gardiner

PLEASE BE SURE TO MAKE A COPY OF THE LETTER TO SENATOR ZIEGLER FOR REPRESENTATIVES FREEMAN AND GARDINER.

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



BOX 335

CITY OF HOMER

HOMER, ALASKA 99

December 2, 1981

Senator Don Gilman
Box 630
Kenai, Alaska 99611

Dear Senator Gilman:

Enclosed please find a copy of Resolution 81-98, passed unanimously by the Homer City Council, which amends the language of the proposed Title 29 (SB 180), Chapter 40, Platting, Planning, and Land Use Regulations.

The resolution gives the city the ability to set up a long term planning and zoning program without the possibility of the Kenai Peninsula Borough Assembly revoking planning and platting powers at will. The assembly would still have the power to revoke responsibility delegated under this section upon mutual consent with the city, or without consent of the city for failure to comply with the provisions of Chapter 40.

Your support of this amendment would be greatly appreciated.

Very truly yours,

Larry C. Farnen
Larry C. Farnen
City Manager

LCF/RK/pb
enclosure

CITY OF HOMER
HOMER, ALASKA

RESOLUTION 81-98

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF HOMER REQUESTING AMENDING LANGUAGE TO THE PROPOSED TITLE 29 (SB 180), CHAPTER 40, PLATTING, PLANNING AND LAND USE REGULATIONS.

WHEREAS, the present language of the proposed revisions of Title 29 contained in SB 180 regarding delegation and revocation of planning and platting powers to cities places an undue burden on the cities; and,

WHEREAS, if the assembly had unlimited power to revoke planning and zoning powers, the cities would be severely restricted in organizing a long term planning and zoning program; and,

WHEREAS, if the city takes on the responsibility and fiscal costs of planning and zoning powers, the city must have assurances that those powers will not be withdrawn at will;

NOW THEREFORE, the Common Council of the City of Homer declares that Chapter 40, Sec. 29.40.010 the second sentence of Paragraph b of the proposed Title 29 contained in SB 180 should be amended to read:

The assembly, with the consent of the city, may revoke any power or responsibility delegated under this section, or without consent of the city for failure to comply with the provisions of this chapter.

DATED at Homer, Alaska, this 23rd day of November, 1981.

CITY OF HOMER


Leo Rhode, Mayor

ATTEST:


Kathleen F. Herold, City Clerk

↓ does this language work?



CITY OF KENAI
"Oil Capital of Alaska"

P. O. BOX 898 KENAI, ALASKA 99611
TELEPHONE 283 - 7835

January 18, 1982

Senator Donald Gilman
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman,

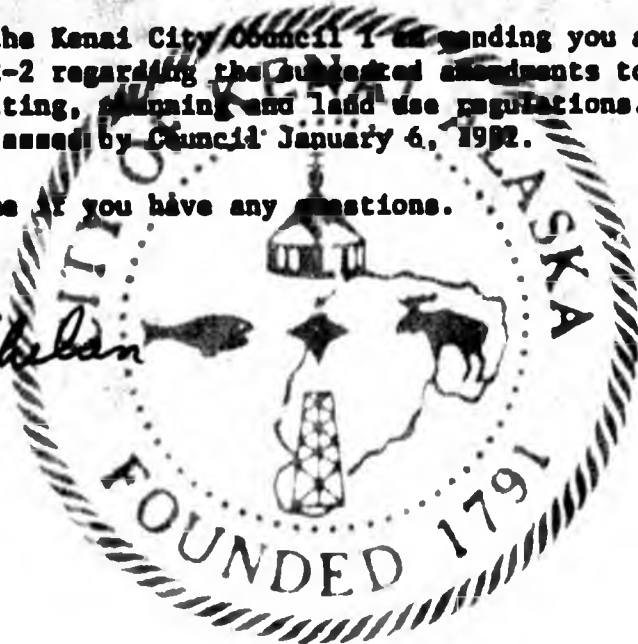
Per request of the Kenai City Council I am sending you a copy of resolution 82-2 regarding the suggested amendments to Title 29 on platting, planning and land use regulations. This resolution was passed by Council January 6, 1982.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Janet Whelan".

Janet Whelan
City Clerk



Enc: 1

JAW:ja]

CITY OF KENAI

RESOLUTION NO. 82-02

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, REQUESTING AMENDING LANGUAGE TO THE PROPOSED TITLE 29 (SB 180), CHAPTER 40, PLATTING, PLANNING AND LAND USE REGULATIONS.

WHEREAS, the present language of the proposed revisions of Title 29 contained in SB 180 regarding delegation and revocation of planning and platting powers to cities placed an undue burden on the cities; and,

WHEREAS, if the assembly had unlimited power to revoke planning and zoning powers, the cities would be severely restricted in organizing a long term planning and zoning program; and,

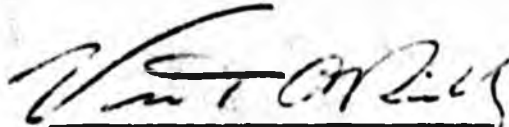
WHEREAS, if the City takes on the responsibility and fiscal costs of planning and zoning powers, the City must have assurances that those powers will not be withdrawn at will;

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that Chapter 40, Section 29.40.010, the second sentence of Paragraph b of the proposed Title 29 contained in SB 180 should be amended to read:


The Borough assembly, with the consent of the Council of the City, may revoke any power or responsibility delegated under this section.

BE IT FURTHER RESOLVED that upon adoption of this resolution, copies be sent to Senator Don Gilman, Representative Hugh Malone, Representative Patrick O'Connell and members of the Title 29 committee of the House and Senate.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 6th day of January, 1982.


VINCENT O'REILLY, MAYOR

ATTEST:


Janet Whelan, City Clerk

City of Soldotna

BOX 409

PHONE 907-770-1111

SOLDOTNA, ALASKA 99669



CITY OF OPPORTUNITY

January 12, 1982

Honorable Don Gilman
Senator
Alaska State Senate
Pouch V Mail Stop 3100
Juneau, Alaska 99811

Dear Senator Gilman:

Enclosed is a resolution adopted by the City Council of the City of Soldotna at the January 7, 1982 meeting concerning SB180.

Sincerely,


Patricia C. Burdick
City Clerk

PCB/mjd

Enclosure

CITY OF SOLDOTNA
RESOLUTION 82-2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLDOTNA REQUESTING AN AMENDMENT TO THE LANGUAGE OF THE PROPOSED TITLE 29 (SB 180), CHAPTER 40, PLATTING, PLANNING AND LAND USE REGULATIONS

WHEREAS, the present language of the proposed revisions of Title 29 contained in SB 180 regarding delegation and revocation of planning and platting powers to cities places an undue burden on the cities, and

WHEREAS, if the assembly had unlimited power to revoke planning and zoning powers, the cities would be severely restricted in organizing a long term planning and zoning program, and

WHEREAS, if the city takes on the responsibility and fiscal costs of planning and zoning powers, the city must have assurances that those powers will not be withdrawn at will, now therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA:

That Chapter 40, Section 29.40.010, of the second sentence of Paragraph b of the proposed Title 29 contained in SB 180, be amended to read:

The assembly, with the consent of the city, may revoke any power or responsibility delegated under this section, or without consent of the city for failure to comply with the provisions of this chapter.

ADOPTED this 7th day of January, 1982.

Mayor Justin McAule

ATTEST:

Patricia Budick
City Clerk



ALASKA ASSOCIATION OF REALTORS®

1818 W. Northern Lights Blvd., Suite 104 • Anchorage, Alaska 99503
Telephone 907-272-9918

April 1, 1982

Honorable Don Gilman
Alaska State Legislator
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Gilman:

Thank you for your interest when I talked with you in Juneau March 26th after I had testified before the House CERA Committee regarding the omission of AS 29.33.170 (Waiver in Certain Cases) in SB 180.

I am enclosing a copy of a proposed amendment to SB 180 and a copy of a letter to Chairman O'Connell of that committee wherein the Alaska Association of REALTORS expresses support for the suggested amendment to proposed AS 29.40.090 and AS 29.40.100 that would reinstate the provisions of AS 29.33.170.

We do urge your support of this suggested amendment unless it is unfavorably altered by the House Committee.

Sincerely,

Audie L. Moore

ALASKA ASSOCIATION OF REALTORS

ALM:ew

Enclosures





ALASKA ASSOCIATION OF REALTORS®

1818 W. Northern Lights Blvd., Suite 104 • Anchorage, Alaska 99503
Telephone 907-273-0010

April 1, 1982

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

RE: CSSB 180 (C&RA) AM

Dear Mr. O'Connell:

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

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

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

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

We thank the full committee for your courtesy and consideration.

Sincerely,

Audie L. Moore

ALASKA ASSOCIATION OF REALTORS

ALM:ew

Attachment

CC: Senator Don Gilman
Senator Jay Kerttula
Senator Arline Sturgulewski



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

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

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

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

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

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

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

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

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

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

(1) initial point of survey;

(2) original or reestablished corners and their descriptions;

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

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

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

April 1, 1982

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

Dear Representative *Pat* O'Connell:

RE: CSSB 180 (C&RA)am

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

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

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

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

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

To alleviate this situation the Department requests that AS 29.60.140 be

- 1) deleted from the bill, or as an alternative,
- 2) amended in such a manner as to make eligible those unincorporated communities of 25 or more in the unorganized borough.

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

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

Sincerely,

LEE McANERNEY
COMMISSIONER


BY: Palmer McCarter, Director
Local Government Assistance Division

Enclosures

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

MEMORANDUM

State of Alaska

TO Hon. Lee McAnerney, Commissioner DATE September 2, 1981
Dept of Community & Regional Affairs
FILE NO J-66-829-81
ATTN: Palmer McCarter, Director
Div. of Local Gov't Asst TELEPHONE NO 465-3600

FROM WILSON L. CONDON SUBJECT State financial aid
ATTORNEY GENERAL to benefit unincorporated communities

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

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

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

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

September 2, 1981

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

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

Assuming that the legislature intended by AS 29.89.-050 to provide public services to the residents of unincorpo-

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

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

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

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

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

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

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

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

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

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

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

September 2, 1981

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

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

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

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

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

- 5 -

September 2, 1981

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

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

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

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

LLD/pjg

MEMORANDUM

State of Alaska

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

DATE: April 27, 1981

ATTN: Palmer McCarter, Director
Div. of Local Gov't Asst

FILE NO: J-66-335-81

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

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

By: Rodger W. Pegues
Assistant Attorney General

You have asked for additional advice on this subject.

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

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

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

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

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

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

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

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

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

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

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

The provisions of article X carry out the framers

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

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

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

April 27, 1981

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

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

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

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

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

Palmer McCarter, Director
C&RA - Local Government Asst

- 5 -

April 27, 1981

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

RWP/pjg

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

Daniel W. Hickey
Chief Prosecutor
Juneau AGO - Criminal Section

MEMORANDUM

State of Alaska

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

FILE NO: J-66-261-82

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

FROM WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Revenue sharing
to unincorporated
communities

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

NOV 19 1981

DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

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

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

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

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

We understand that the Senate community and regional

Palmer McCarter, Director
CRA-Local Government Assistance

November 18, 1981
Page #2

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

L.L.D./p.jg

Alaska State Legislature

SENATOR
DON GILMAN

Juneau Ph.
(907) 485-4834



State Senate

HOME ADDRESS
P.O. BOX 630
KENAI, ALASKA 99511
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DURING SESSION
FOUCH V
JUNEAU, ALASKA 99511

March 31, 1982

MEMORANDUM

To: Gordon Tope
Senator Kerttula's Office

From: McKie Campbell
Senator Gilman's Office

Attached is a copy of proposed language for the House C&RA Committee to consider amending SB 180 (the Title 29 revision). Objections have been raised to the Short Plat Procedure currently contained in the bill. The attached language is a rewrite of the existing Sec. 29.33.170 (waiver in certain cases).

Steve Monnissett did the rewrite and, according to him, Mr. Moore of the Alaska Realtors Association approved of the language when Steve read it to him over the phone. Mr. Moore is scheduled to pick up a copy of the language today and we hope he will call Senator Kerttula to discuss it with him.

We believe that new language allows the latitude the realtors desire while remaining consistent with the rest of the chapter. I believe the House C&RA Committee is very interested in Senator Kerttula's opinion on this matter.

Attachment

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

FOURTH FLOOR - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3000

MEMORANDUM

March 25, 1982

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

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

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

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

1. Chapter 14, which begins on page 31 is essentially identical to the provisions dealing with the capital city currently contained in AS 29.14.510 - 29.18.810. However, Sec. 7, Chapter 143, SLA 1978 provides that the Capital City Incorporation Act "... takes effect 30 days after certification that a bond issue for costs of relocation of the capital has been adopted by the voters of the state". This effective date was inadvertently omitted from CSSB 180 (C&RA) am, so that Chapter 14 takes effect on the effective date of the Act. I would recommend that an effective date similar to that contained in Sec. 7, Chapter 143, SLA 1978 be added with respect to Chapter 14, or that the first sentence of Sec. 29.14.010 be changed to read: "Thirty days after certification that a bond issue for costs of relocating the state capital has been authorized by the voters of the state there is created and incorporated a city of the state as the capital city of Alaska that is a city of the first class."

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

Representative Patrick M. O'Connell
Page 2
March 25, 1982

3. On page 102, line 28 an existing chapter in Title 29 was inadvertently omitted from the repealer. AS 29.48 should be repealed in this Act, since material currently in AS 29.48 has been reorganized into Chapter 35 of this Act.

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

TBC:ljb

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ORIGINAL.

**Amendments to CSHB170 and CS6B180
Municipal Government**

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

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

Compare: AS 35.30.030 which allows the governor to waive compliance with local zoning regulations for the construction of a public project.

Methods: (1) Impose limitation in Chapter 40 of Title 29, dealing with the exercise of zoning powers.

(2) Since home rule municipalities are not subject to Chapter 40 [except §§200 (subdivision of state land) and 180 (title to vacated areas)], see AS 29.10.110, refer to limitation in Chapter 40 by inserting a new subsection in AS 29.10.110 (limitation of home rule powers).

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

1. Alternative 1:

Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE AGENCIES.

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

2. Alternative 2:

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

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

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

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

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

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

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

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

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

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

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ORIGINAL.

LAW OFFICES

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GEORGE T. FREEMAN

TELEPHONE
AREA CODE 907
278-8401

March 15, 1982

RECEIVED
MAR 16 1982

BUDGET/AUDIT
COMMITTEE

Hon. Arliss Sturgulewski
Chairman
Legislative Budget and
Audit Committee
Pouch V
Juneau, Alaska 99811

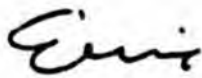
Dear Arliss:

I attach a copy of a letter of comment on HB 170/SB 180 which I commented on during the Saturday morning hearing last December. I have looked at Committee Substitute for Senate Bill 180 which I understand passed the Senate with six amendments on March 11, 1982 (I do not yet have the amendments). I find that the comments I made in the letter on the bonding sections were not reflected at least in the Committee Substitute I have at hand. I will examine the amendments to see if any of them dealt with that subject matter.

Arliss, you may recall I came in early on a Saturday morning for the telephone conference meeting with the Committee and I thought generally that my technical comments were acceptable to the Committee and its staff. Some of them are fairly important from a bonding point of view particularly in the ability of local governments to issue revenue bonds for any purpose as long as taxes are not involved.

Please let me know if I can be of any further assistance on this.

With Kind Regards,



Eric E. Wohlforth

EEW/am

Enclosure - as stated.

ERIC E. WOHLFORTH
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AREA CODE 907
276-8401

November 30, 1981

Hon. Don Gilman
State Senator
Chairman, Senate Committee
on Community and Regional Affairs
Pouch V
State Capitol
Juneau, Alaska 99811

Hon. Pat O'Connell
State Representative
Chairman, House Committee
on Community and Regional Affairs
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Gilman and Representative O'Connell:

Thank you for giving us the opportunity to comment on committee substitute for HB 170/SB 180, a revision of the existing Title 29 of the Alaska Municipal Code. The slowness of the mails (your letter was dated November 16 and received here on November 23) and the year-end rush prevents us from participating in your calendared hearing for December 5 and 6 in Juneau.

Nevertheless, please let us submit for the record the following comments with respect to the above draft bill:

1. I point out to the Committee that the 1972 revision of the Alaska Municipal Code deleted references to "city" or "borough" (except where required) and used the term "municipality". I do not see the utility of going back to using "city" or "borough", especially when the unified city and borough of Anchorage operates under the technical nomenclature of "Municipality of Anchorage".

2. With respect to AS 29.47.040 and 29.47.120 and 29-47.200, in my opinion a sufficient and full expression of the nature of a general obligation bond or note is that "the full faith and credit of a municipality are pledged". Note that in the first two mentioned sections variant phrases are used (e.g.,

Done

Done

Hon. Don Gilman
Hon. Pat O'Connell
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Page 2.

"a pledge of the full faith, credit and unlimited taxing power of the city and borough" is referred to in AS 29.47.040, line 23, and "the full faith, credit, taxing power and resources" is referred to in AS 29.47.120, line 26. All three sections should be made consistent and an adequate expression is to the "full faith and credit".

3. AS 29.47.180, line 13, the redundant phrase "negotiable or nonnegotiable" should be eliminated.

4. AS 29.47.190, line 16, the term "bond authorization ordinance" has required where applicable that lengthy ordinance proceedings must be undertaken by a municipality prior to submitting a bond proposition to the voters. Unless the Committee feels there are policy reasons for this requirement, the insertion of the term "~~or resolution~~" after the word "ordinance" would give municipalities the option to abbreviate this procedure prior to submission of the proposition to the voters.

5. The most important suggestion I would make would be to restore the language of 29.58.200(c) into next section 29.47-.350. This language provides "A municipality may also issue revenue bonds for any lawful purpose. The bonds are payable from any amounts pledged by the municipality except taxes and do not constitute general obligations of the municipality." The analogous provisions of proposed 29.47.350 would require that revenue bonds be payable solely from the revenue and property of the project being financed. This ~~s~~ is an unnecessary limitation which was overcome by the above quoted language of 29.58.200(c). The reason for the AS 29.58.200(c) language was twofold:

(1) A municipality might desire to issue revenue bonds secured by the project being financed and another project already constructed. Such bonds would not be general obligation bonds, but would simply be bonds secured by the revenues of more than the project being financed.

(2) Secondly, a municipality might desire to issue industrial development bonds which are not necessarily secured by the project being financed, but are otherwise an obligation of the company on whose behalf the bonds are issued.

Both of these courses of action are desirable, but would be inhibited by the provisions of AS 29.47.350, page 138, lines 27 and 28; page 139, line 6 and line 14. In all these cases, revenue bonds may only be secured by the revenues of the

*everywhere
to clarify
check
background*

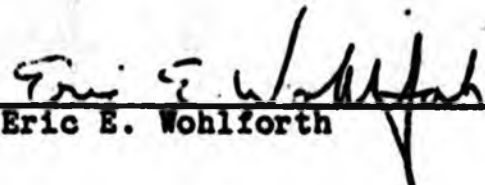
Hon. Don Gilman
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Page 3.

projects being financed. Finally, 29.47.350 should more appropriately be made a part of Article 4 or 6 of the Chapter. Perhaps as Section 270 or 480.

Thank you for the opportunity to comment on your proposed revision.

Very truly yours,

WOHLFORTH & FLINT

By 
Eric E. Wohlforth

EEW:jr

cc: Mr. Robert Berry
Assistant to Senator Gilman



Official Business

Alaska State Legislature

Senate Committee on Community & Regional Affairs

465-4934
465-4935

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

Pouch 7
State Capitol
Juneau, Alaska 99811

June 28, 1982

MEMORANDUM

To: Senator Don Gilman
Chairman, Senate Community and
Regional Affairs Committee

From: McKie Campbell, *MEK*
Professional Assistant
Senate Community and Regional
Affairs Committee

Subject: Department of Community and Regional Affairs
Submission on SB 180

Rather than submitting a standard entitled bill report to the Governor on SB 180, the Department of Community and Regional Affairs has submitted a memorandum from Commissioner McAnerney to Governor Hammond along with memorandums from Deputy Commissioner Richard Aks to Commissioner McAnerney, from Jim Kohler, Deputy Director of Community Planning through Larry Kimball, Director of Community Planning, to Commissioner McAnerney, and from Palmer McCarter, Director of the Local Government Assistance Division, to Commissioner McAnerney. Attached to the LGAD memorandum is a memorandum from David Swanson, State Demographer, to Richard Aks.

The package is somewhat unique in that though each of her Directors and her Deputy Commissioner strongly recommend veto of SB 180 and carefully detail their reasons, the memorandum from Commissioner McAnerney to Governor Hammond glosses over the problems raised and recommends passage of the bill.

Though I will occasionally refer to the Directors' and Deputy Commissioner's memoranda on specific points, I would like to focus on the memorandum from Commissioner McAnerney to Governor Hammond. The memorandum from Commissioner McAnerney is a very skillfully written, 4 1/4 page effort

drafted by Av Gross. It would seem that having an attorney, in the employ of the North Slope Borough, draft a commissioner's recommendation to the Governor would raise questions of propriety. This is particularly true when passage of the bill in question would result in over \$20 million a year flowing from the state general fund and other municipalities to the North Slope Borough.

The first paragraph of the memorandum states that most of the changes in the bill are necessary, have been supported by the Department of Community and Regional Affairs, and are also supported by the Municipal League and most local governments. That is true. What is not said in the first paragraph, however, is that the Municipal League, most local governments, and Commissioner McAnerney's own Directors are now uniform in their recommendation that SB 180 be vetoed.

The second and third paragraphs of the memorandum complains that discussion of this bill seems to focus not on the positive changes the bill makes, but on the three specific negative amendments. The people and organizations who are now calling for veto are completely and totally aware of good aspects of SB 180. The Municipal League, the Alaska Municipal Attorneys Association, the Alaska Municipal Finance Officers Association, Senator Sturgulewski and you are among those who have the greatest investment of time and effort in the Title 29 revision. The fact that you and these other persons and organizations are calling for a veto of SB 180 is a measure of the depth of your conviction that these amendments have tragically crippled SB 180 and that the wait until next year to pass a revised Municipal Code will not have damaging effects.

The fourth paragraph simply dismisses the amendment forbidding municipalities to regulate the possession and use of firearms as not being a substantive matter. The paragraph says that should municipalities consider this a serious matter, they can press for change. It appears that many municipalities believe this is a serious enough matter to mention it prominently in their veto requests. The fourth paragraph also says there is one municipality in the state that has adopted ordinances relating to the use of firearms. This is incorrect. I believe every one of the larger municipalities throughout the state have rather detailed local ordinances on the use of firearms. Brian Porter, the Chief of Police of the Municipality of Anchorage, feels strongly enough about this issue that he has sent a special veto request to the Governor on behalf of the Anchorage Police Department.

The fifth paragraph of the memorandum discusses the population amendment. This amendment would count all "permanent residents" and all workers in isolated job sites. As the Attorney General's Opinion on this matter makes plain, this language is very ambiguous. It may well exclude large numbers of seasonal cannery workers that are now included in U.S. Census accepted population counts. Despite this clear warning in the AG's Opinion and in memoranda from Dave Swanson, State Demographer, the drafter uses the Bristol Bay Borough as an example of a municipality that would benefit under this amendment. The reason for this choice of example is obvious. The fact that the Bristol Bay Borough might in fact be substantially penalized is ignored. It is understandable, however, why the North Slope Borough was not used as an example because precisely the services that are listed in the fifth paragraph of the memorandum (police, fire, sewage, etc.) are those not provided to workers in isolated job sites on the North Slope. You have said repeatedly in the past, and I believe this is shared by the Municipal League and Senator Sturgulewski, that you would support some adjustment in the regulations governing state revenue sharing and municipal assistance to make certain that municipalities which do have an influx of non-resident seasonal workers are compensated in some manner for this. Such an adjustment in regulation could very easily be done under existing law.

The sixth paragraph acknowledges that this amendment is seen by many as special interest legislation benefiting only the North Slope Borough. The paragraph references an Attorney General's Opinion by Rod Pegues but attributes a conclusion to that Opinion that I do not believe can be found there, no matter how strained the reading. What the Opinion does say is, "We have concluded that the word 'population' as used in the new Revenue Sharing Act, AS 29.88, includes all those persons who would ordinarily be counted in a given locality by the census." This is exactly the standard imposed by existing law and clearly contrary to the proposed amendments in SB 180.

Paragraph no. 7, the first paragraph on the third page, repeats a theme that has often been sounded by proponents of these amendments. It suggests patching the law with regulations to make it workable until next legislative session and then letting the legislature pass new legislation to amend the policy if it appears faulty. In his memorandum to Commissioner McAnerney, Deputy Commissioner Richard Aks points out the foolishness of this approach. This approach would wind up

with an administration enacting very controversial regulations in its final days, and there is no guarantee that the legislature will be in a position to address this issue early in the session. It will be a new legislature, with attendant organizational problems and lack of familiarity with many issues which take a great deal of time. I believe a new legislature would be reluctant to undo what the previous legislature had done without a very careful and long look. We all also know, that once you give someone something, no matter how undeserved, it is very hard to take away.

Though forest lands are not specifically mentioned in paragraph no. 7, it should be pointed out that the forest lands problem will not lend itself to being fixed by regulation. Title 29 is state law; however, the collection of local taxes is a local matter between the tax payer, the local assessor and the municipal attorney. The state has no authority to issue regulations or interfere in this relationship.

Paragraph no. 8 states that the final objection to the population amendment is that it complicates census counts in Alaska by using different standards than the federal census. While I do not agree this is the final objection, I do agree it is certainly an additional objection. Paragraph no. 8 makes plain that either the drafter of Commissioner McAnerney's memorandum has not read the other attached supporting memoranda from her Deputy Commissioner and Directors or simply chooses to ignore them. In LGAD's memorandum, a memorandum from David Swanson, State Demographer, is included. He points out that one of the problems with the amendment is that the term "permanent resident" is, "neither tied to a census definition of resident nor clearly defined. By departing from the definition used by the U.S. Bureau of the Census, the amendment introduces a number of problems that have already been resolved during the 200 years of experience acquired by the U.S. Bureau of the Census." He then lists 13 categories, with 16 subcategories, of persons whose residence would be in doubt under this amendment. Despite this, paragraph no. 8 says, "the counts that we will use will include "permanent residents" of a borough as that term is employed in the federal census." Icing over problems or pretending they do not exist does not contribute to an intelligent discussion of the issues.

Paragraph no. 9 concludes that the amendment on population is not perfect by any means but holds that the basic approach of the amendment is sound and does not warrant a veto. I

strongly disagree with that conclusion. Nowhere in the discussion of the population amendment does it mention that only the North Slope Borough would benefit from the population amendment attached to the tax limitation statute, that there would be an annual cost to the State of Alaska General Fund of over \$18,000,000, and that virtually every other municipality in the state could potentially lose large amounts of municipal assistance and revenue sharing as indicated in the chart published in the Senate Journal Supplement No. 53. In fact, this amendment may have the effect of taking away money from some of the very poorest municipalities in the state to give it to one of the very richest.

Paragraph no. 10, which is the middle paragraph on page 3, starts the discussion of the "forest land" amendment. The memorandum states, "the legislature has made a policy choice to treat timber like oil as a statewide resource subject to state rather than local taxation." This is simply not correct. On three separate occasions, representatives of Sealaska Corporation testified in front of legislative committees urging the adoption of an exemption from municipal taxation for forest lands. On each occasion, the committees refused to adopt the amendment because it was only a partial measure exempting forest lands from municipal taxation but not placing them under any other form of taxation. Representatives of Sealaska were repeatedly told that a number of legislators would be willing to work with them to draft legislation to be introduced next session which would set up a statewide severance tax on timber and at the same time, through use of a tight definition, exempt commercial forest lands from municipal taxation. Representatives of Sealaska chose instead to have a very poorly drafted amendment attached on the House floor where it was not exposed to public comment and did not receive the benefit of any committee work. Passage of SB 180 would result in no taxation on timber. I can imagine nothing more dissimilar to this than the way the oil industry is taxed. Paragraph no. 10 says, "I gather there is no fundamental opposition to this policy decision." While a policy decision on the taxation of the timber industry may be appropriate in the future, it has not been made at this time and passage of SB 180 would not result in the situation the drafter suggests.

Paragraph no. 11 states the authors of the forest lands amendment intended the amendment to apply only to commercially viable timber stands. I agree that this is what the authors of the amendment were concerned about. However, a reliance

on intensive lobbying and political pressure rather than the committee process and public discussion produced a very poorly drafted amendment which could have a devastating financial impact on municipalities throughout the state. These effects became evident before the bill went to the Senate for concurrence, but a choice was made to gain a concurrence vote rather than allow the bill to go to conference committee where the problems could be worked out.

Paragraph no. 12 again employs the device of suggesting that opinion be sought from the Department of Law on meaning of the forest lands amendment, while ignoring the Department of Law's June 11, 1982 opinion specifically on this subject. I am certain the Commissioner was aware of this opinion because I had discussed it with her at length a number of days prior to this memorandum's date.

Paragraph no. 13, the last paragraph on page 3, points out that most of the high quality commercial timber land in Alaska lies outside municipal boundaries and that federal, state and Native corporation timber lands within municipal boundaries are not subject to property tax until they're developed or leased for timber harvesting purposes. This is true, but it has nothing to do with the objection to the amendment. The objection to the amendment lies in the fact that it has been very poorly drafted and references a very broad definition contained in AS 41.17.950(6). This definition reads, "forest land means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes, and includes any such land under state, municipal or private ownership." Opinions by both Legislative Council and the Attorney General's Office have stated that this would effectively exempt undeveloped land with trees on it from municipal taxation. This is an opinion that is shared by municipal attorneys and assessors throughout the state.

In paragraphs 14 and 15, the memorandum overstates the opposition's case so that it is easier to argue against. Despite what the memorandum suggests, no one has suggested that a residential lot with a residence and trees on it would be exempt from taxation under this amendment; however, undeveloped land, no matter what its intended purpose, would be exempt if it were tree covered. Using very conservative estimates, local assessors in boroughs throughout the state have estimated that they will lose from 7 to 53 percent of

their total tax base if this language becomes law. Having set up the straw man of any lot with a house and tree on it, the drafter of the memorandum then argues that the legislature would not have enacted such a basic change in the municipal taxing structure in this way. I believe the memorandums from Legislative Council and the Attorney General's Office are clear on what the effect of the forest lands amendment would be.

In paragraph no. 14, the drafter engages in wishful conjecture stating, "I think most people will assume the amendment was not meant to apply to that type of property. For those people who may try to take advantage of an amendment which was obviously not meant to apply to them, the cost of a lawsuit against local government would be heavy, the benefits slight, and in my view, the chance of success minimal." This is in direct contradiction to the Attorney General's Opinion which predicts, "This amendment should become known popularly as the Lawyer's Relief Act."

Paragraphs 16 and 17 conclude the memorandum stating that the question comes down to whether SB 180 should be signed into law and then cleaned up by legislation next session or whether it should be vetoed and reintroduced next year. The memorandum says, "on balance having reviewed the arguments pro and con raised by people in this department and having considered it myself at some length, I recommend enactment of this legislation." I believe it is a point worth making that I am not aware of any conclusions in favor of passage of SB 180 by members of the Department of Community and Regional Affairs other than the Commissioner. I believe this is supported by the memoranda attached to the Commissioner's memorandum.

It is worthwhile to note that those persons who are now expounding the virtues of SB 180 and claiming that it is a vital and necessary piece of legislation are, in general, people who had no interest whatsoever in this bill until their amendments were attached to it, while those persons who have worked hardest and longest on the bill, including the Alaska Municipal League, the Alaska Municipal Finance Officers Association, the Alaska Municipal Attorneys Association, and the past and present Chairs of Senate and House Community and Regional Affairs Committees, are all strongly urging the veto of this legislation. You are aware that these are the persons and groups that have the greatest investment in SB 180, who give up the most if it is vetoed, and yet they all join together to unanimously call for the veto of SB 180.

SENATOR
ARLISS STURGULEWSKI

COMMITTEES
CHAIRMAN

Legislative Budget & Audit

Community & Regional Affairs
Finance
Resources



Senate


1117 EMBLETON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in JEROME
FOUCHER
JUNEAU, ALASKA 99811
(907) 685-9818

MEMORANDUM

May 28, 1982

TO: All Senators

FROM: Arliss Sturgulewski 
Senator, District 10-H

RE: HCS CSSB 180(JUD)amB

The House version of Senate Bill 180, "An Act relating to municipal government, and providing for an effective date," will soon be before the Sena... The amendments made to the Senate version, in my view, create serious problems that need to be resolved before final passage of the bill.

Of the nearly 50 changes made by the House, the following issues are the most in need of further work:

1. Exemption of private forest lands from taxation, AS 29.43.030(a)(7). This amendment was added without analysis of effect on current or future municipal tax-base or revenues. State reimbursement of lost revenues, as provided for senior citizen tax exemptions, was not included in the bill. The definition of "forest lands" referenced in the act is extremely broad, and could apply to timbered land in a number of boroughs. The definition of forest lands includes land, of any acreage, "...stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes..." While an accurate figure of possible impact of this exemption is not available, the amount received by municipalities under the Forest Service Receipts program in FY 81 totaled \$3,775,194.45. (This amounts to about 8% of total national forest receipts during the year.)

2. Penalties and interest on delinquent taxes, AS 29.45.250.

By unanimous action on the Senate floor, the rates of interest on delinquent real and personal property tax assessments was set at 8%. Penalties on late tax payments were set at 10%. The House doubled these interest and penalty figures, raising the limits to 15% on interest and 20% on penalties.

3. Granting of Franchises and permits, AS 29.35.060-070.

The Alaska Public Utilities Commission is seriously concerned that the revised language, coupled with deletions of existing law, undermine the current "due process" requirements for granting franchises and setting rates for utilities not regulated by the APOC. These concerns are complex, and need conference committee consideration.

4. Amending the definition of "population", AS 29.45.090(e), AS 29.45.090(b), AS 29.60.020, AS 29.60.130(a).

These amendments revise the definition of population to be used by the revenue sharing program, aid to volunteer fire departments, limitations on property tax collections and limitations on taxation of state-assessed oil and gas property. The direct fiscal impact on the state of this language would have been a loss of \$18.8 million in FY 82 general fund revenues from state taxation of oil and gas production and transportation property. In addition municipalities would have lost some \$1.5 million in municipal assistance and revenue sharing program grants that would be diverted to the North Slope Borough. (See attached Table)

The proposed language would also create inequities in eligibility under these programs. While temporary employees at "remote job sites" could be counted by some communities, the same type of temporary or seasonal employees located in or near other communities could not be counted. Thus, the "in-town" seasonal employees found in many fishing, construction and lumbering communities, that place demands on local facilities and services, would not fall within the definition of employees at "remote sites."

Finally, this definition of population could affect future state and local revenues from federal revenue sharing programs and all other federal programs distributed on the basis of population, including CETA funds, cooperative extension services programs and the new federal block grants. After several years effort, the U.S. Census Bureau has agreed to accept the state's own estimates of population. This means that federal agencies now must use state population estimates in their funding formulas. The attached memo from the State Demographic warns that the proposed definition of population varies greatly from federal standards, and the state will lose its hard earned ability to set population figures for federal programs.

Attachments

ON REVENUE SHARING AND
MUNICIPAL ASSISTANCE
FY82 Actual Distributions

| <u>Municipality</u> | <u>MUNICIPAL ASSISTANCE</u> | <u>REVENUE SHARING</u> | <u>TOTAL CHANGE</u> |
|-----------------------|-----------------------------|------------------------|---------------------|
| | \$ | \$ | \$ |
| Anchorage | -622,107 | -98,394 | -720,501 |
| BRISTOL BAY B. | -4,068 | -1,460 | -5,528 |
| EBERHART - N. STAR B. | -86,610 | -20,428 | -107,038 |
| Eberhart (City) | -88,004 | -18,614 | -106,618 |
| NORTH POLE | -3,194 | -353 | -3,547 |
| HAINES B. | -2,332 | -499 | -2,831 |
| HAINES (CITY) | -3,500 | -1,131 | -4,631 |
| JUNEAU | -72,537 | -19,440 | -91,977 |
| KENAI PENN. B. | -48,381 | -7,615 | -55,996 |
| HOMER | -8,908 | -1,594 | -10,502 |
| KENAI | -15,689 | -4,895 | -20,584 |
| SELDOVIA | -1,738 | -365 | -2,093 |
| SEWARD | -6,687 | -1,486 | -8,173 |
| SOLDOTNA | -8,416 | -1,752 | -10,168 |
| KACHEMAK | -1,463 | -2 | -1,465 |
| KETCHIKAN B. | -13,413 | -4,481 | -17,894 |
| KETCHIKAN CITY | -24,782 | -9,457 | -34,239 |
| SAXMAN | -950 | -1 | -951 |

| <u>MUNICIPALITY</u> | <u>MUNICIPAL ASSISTANCE</u> | <u>REVENUE SHARING</u> | <u>TOTAL</u> |
|---------------------|-----------------------------|------------------------|--------------|
| KODIAK ISL B. | -9,276 | -2,902 | -12,178 |
| KODIAK (CITY) | -16,101 | -3,872 | -19,973 |
| OLD HARBOR | -1,149 | -1 | -1,150 |
| DURINKIE | -739 | -1 | -740 |
| PORT LINDS | -726 | -2 | -728 |
| LARSEN BAY | -575 | -2 | -577 |
| AKHIOK | -354 | -1 | -354 |
| | | | |
| MAT-SU B. | -49,348 | -7,343 | -56,691 |
| PALMER | -7,831 | -1,807 | -9,638 |
| HOUSTON | -2,006 | -4 | -2,010 |
| WASILLA | -6,636 | -30 | -6,666 |
| | | | |
| NORTH SLOPE B. | +1,268,658 | +245,893 | +1,514,551 |
| ANAKTUVUK PAS | -808 | - | -808 |
| BARROW (RECOUNTED) | +27,910 | -705 | +27,205 |
| KAKTOVIK | -692 | -3 | -695 |
| POINT HOPE | -1,828 | -3 | -1,831 |
| WAINWRIGHT | -1,411 | - | -1,411 |
| NUIQSUT | -933 | - | -933 |
| | | | |
| SITKA | -27,557 | -5,000 | -32,557 |
| | | | |
| ALL OTHER CITIES | -155,749 | -32,240 | -187,989 |

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

Senator Arliss Sturgulewski
Senator Donald E. Gilman
Pouch V
Juneau, Alaska 99811

BOX 1148
JUNEAU, ALASKA 99811

May 27, 1982

Dear Senators:

In response to your request for an analysis of Amendment No. 10 to House CS for CS for Senate Bill No. 180 (copy attached), I am providing the following two examples of the amendment's fiscal impact.

1. This amendment's definition of population will cause the U.S. Bureau of the Census to reverse its current acceptance of state-assisted census results for federal revenue-sharing and other programs. As an example of the fiscal impact of such a reversal, the city of Nome is currently receiving a notice for a federal revenue-sharing entitlement of \$308,820 for period 14 (10/1/82-9/30/83) using a federal estimated population of 2,301. By using the state-assisted census figure of 3,242, the estimated revenue sharing entitlement could be as high as \$423,494, an increase of \$114,674 in federal revenue-sharing.

If the amendment had been in effect when Nome did its state-assisted census, the potential for an increase of \$114,674 in federal revenue sharing would not have been possible. Similar impacts will occur over the entire decade - projecting the loss for Nome to 1990 would find a loss of about \$1.1 million.

2. Under the current policy being developed at Community and Regional Affairs, no city or borough in the state except the North Slope Borough has an "isolated work site" as defined in the amendment. Had the amendment been in effect last year, the following cities could not have counted any of the following seasonal workers employed during their census counts.

| <u>City</u> | <u>Number of Seasonal Workers Lost</u> | <u>Estimated State Revenue Sharing funds lost</u> |
|-------------|--|---|
| Cordova | 98 | \$32,000 |
| Petersburg | 95 | \$22,400 |
| Wrangell | 42 | \$10,900 |
| Unalaska | 890 | \$258,500 |

The preceding seasonal workers were counted because they met the definition of a census resident. Fiscal losses due to the amendment would impact every community with canneries in a manner similar to those shown above.

Sincerely,

David Swanson
David Swanson
State Demographer

Encl. (1)

cc: Ed Orbeck, Commissioner

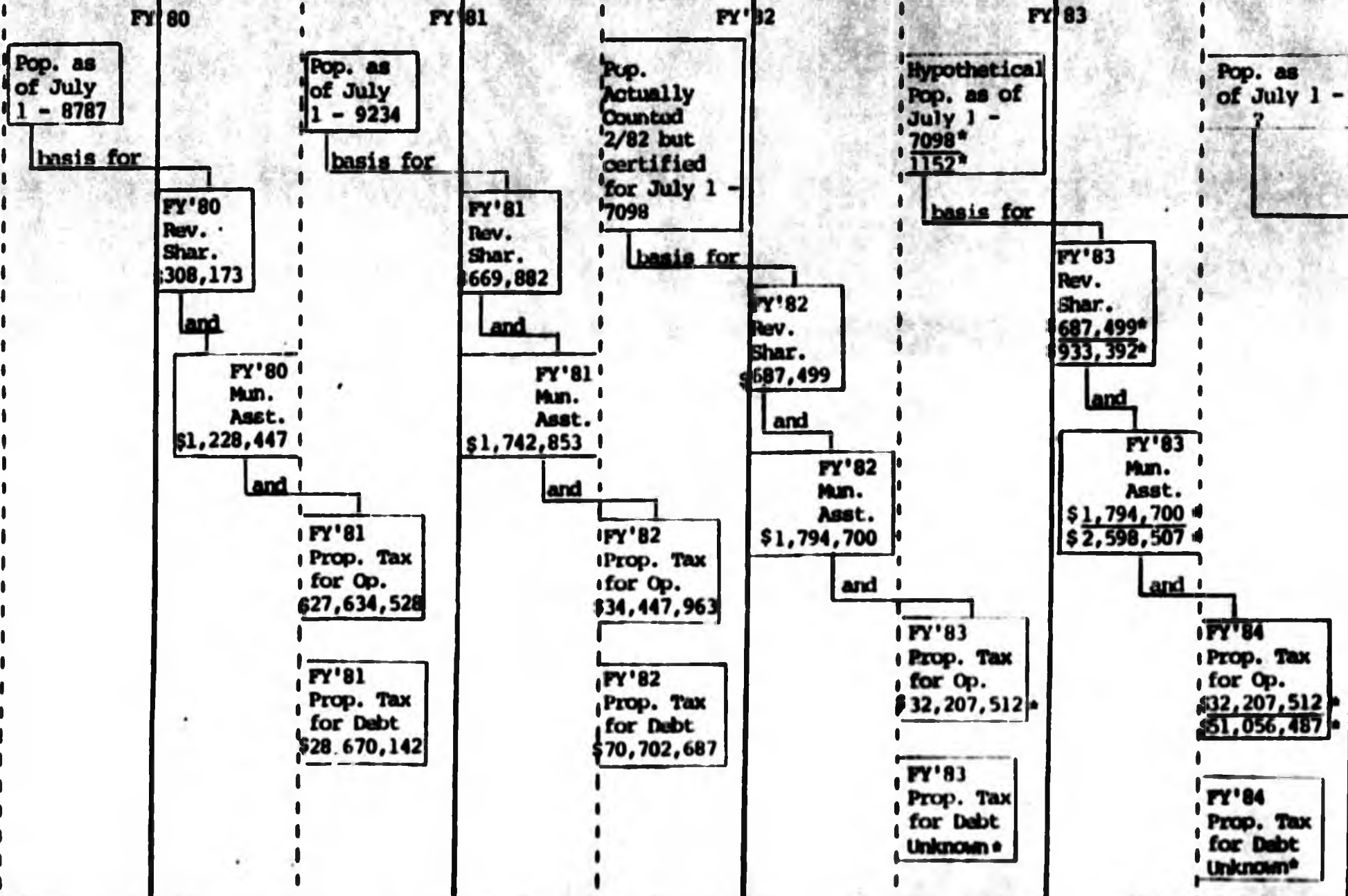
Governor Hammond:

I think this method of illustrating the effects of population helps understand the effects of the amendments in SB 180.

Bottom line is North Slope Borough taxed for operation in FY'82 \$34,447,963. They can only tax for \$32,207,512 under new population (7098) for FY'83; using 11,252 they can tax for \$51,056,487.

1979 1980 1981 1982 1983

MAMJ JASON D JFMAMJ JASON D JFMAMJ JASON D JFMAMJ JASON D JFMAMJ JASON D



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

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

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

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 1, 1982

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

TO: Senator Donald E. Gilman

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked for an interpretation of Amendment No. 17 to HCS CSSB 180 (Judiciary) am H adopted by the House. In particular, you have asked whether the reference to AS 41.-17.950(6) can be construed to incorporate other provisions of AS 41.17.

Sec. 29.45.030(a) of the bill lists the types of property that are exempt from municipal taxation. Amendment No. 17 adds to that list "(7) forest land as defined in AS 41.-17.950(6)". AS 41.17.950(6) provides the following definition:

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

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

None of the other provisions of AS 41.17 are applicable to the determination of whether land is "forest land" for the purpose of municipal taxation. In particular, AS 41.17.050(c)

Senator Donald E. Gilman
Page 2
June 1, 1982

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

TBC:ljb

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

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

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

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

TE/J1/0948Q

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



Official Business

Alaska State Legislature

Senate

Committee on
Community & Regional Affairs

465-4934
465-4935

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

Pouch V
State Capitol
Juneau, Alaska 99811

June 4, 1982

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

Dear Governor Hammond:

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

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

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

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

Governor Jay Hammond
June 4, 1982
Page 2

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

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

Sincerely,



Don Gilman
State Senator

Enclosures



Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

465-4934
465-4935

Official Business

Donald Gilman, Chairman
Robert H. Ziegler, Sr., Vice-Chairman
Mike Collatta
Arlis Sturgulewski
Frank Ferguson

Pouch V
State Capitol
Juneau, Alaska 99811

June 4, 1982

PRESS RELEASE

FROM: SENATOR DON GILMAN'S OFFICE

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

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

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

STATE OF ALASKA
THE LEGISLATURE

FOUR - STATE CAPITOL
JUNE 1, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 1, 1982

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

TO: Senator Donald E. Gilman

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

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