

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1292 SCRA SB 180 (#13) 1292

Senator Donald E. Gilman

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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:ljt

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

Municipality	Value Loss	Revenue Loss	% of tax base loss
Anchorage	\$488,415,224	\$4,056,978	7%
Fairbanks	303,825,000	2,278,688	22%
Juneau	59,176,160	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 total revenue loss could be substantially higher.

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

52/01/09460

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

## North Slope Comparison

The amendments to SB 180 would have the effect of requiring the Department to utilize the higher population figure for several programs. The impact is estimated as follows:

	FY 81	FY 82 Census Population	SB 180 Amendments using FY 82 data
Population	9234	7098	11,252
Municipal Assistance	\$ 825,679	\$ 1,794,700	\$ 2,598,507
Revenue Sharing	669,882	687,499	933,392
Locally Collected Taxes for operating purposes from Oil & Gas Properties (limited by statute)	27,634,528	32,207,512	51,056,484
Locally Collected Taxes for bonded Debt from Oil & Gas Prop- erties (not limited)	28,670,142	70,722,234	70,722,234

# Officials say problems plague municipal code bill

by Bill White  
and Al Campbell  
Times Writers

A controversial change in the way people are counted in Alaska has pitted local government lobbyists against each other in a fight over a 187-page rewrite of the state's municipal code.

By one estimate, the change could cost Anchorage as much as \$1.5 million.

And State Assessor Terry Earley and some of his local government counterparts are worried that one proposed revision of Alaska's municipal statutes could be interpreted broadly enough to exempt from local taxes virtually any property with marketable trees.

The bill, among many other things, would let about 4,000 temporary workers at Prudhoe Bay be counted as part of the North Slope Borough's population. However, seasonal workers at canneries and other sites wouldn't be included in the population base of localities in which the canneries are located.

The amendment was one of 17 added to the bill on the House floor this week. The measure passed the House on a 22-17 vote and should be taken up today by the Senate, which either will agree with House changes or send the bill into a conference committee.

The effect of the population amendment would be to shift the flow of about \$20 million to the North Slope Borough and away from the state and local governments.

The amendment was offered by Rep. Al Adams, whose district includes the borough, and was pushed by Sen. Frank Ferguson, the powerhouse senator from the same district.

Adams said the amendment corrects an injustice against the borough. Temporary workers strain borough services without paying taxes in return, he said. They were counted as part of the population until new regulations were adopted last October, he said.

Adams added that the local gov-

ernments and state would be returning to the borough money that would have gone there had the regulations not changed. Lobbying for the borough are two heavyweights, Lew Dischner and Kim Hutchinson.

Fighting to put the bill in conference are Sen. Arliss Sturgulewski, R-Anchorage, and Don Gilman, R-Kenai, both backed by municipal lobbyists.

Sturgulewski and Gilman argue the new population count will divert nearly \$19 million now going to the state's treasury into the borough's. And cities could lose well over \$1 million.

Gene Dusek, Anchorage's chief budget officer, was in Juneau Friday to discuss the issue with senators before the action expected today.

Dusek called conservative figures compiled by Sturgulewski's office that show Anchorage losing \$720,501 in state aid under the bill. That figure is based on the temporary workers — 3,000 of which live

(See CODE PAGE A-4)

# Code

(Continued from page A-1)

in Anchorage — being counted at both locations. If they're counted only as part of the North Slope's population, the bill could cost the city \$1.5 million, he estimated.

Gilman warned the amendment will force the federal government to reject population figures compiled by the state. The state figures usually are more accurate, and higher.

Endangered would be "the state's ability to provide local census figures for the almost 100 federal programs that factor population in their distribution formulas," he said.

Dusek said the effect is "so complex that only a computer in Washington (D.C.) could figure it out."

Gilman, Sturgulewski and others object to other changes made by the House in the bill, which took four years to write. Among these are:

- A provision to let municipalities grant franchises to corporations or utilities not certified by the Alaska Public Utilities Commission.

- A section that bars local governments from regulating ownership or possession of guns. Ginny Chitwood of the Alaska Municipal League said Anchorage is concerned that it couldn't control possession of weapons in bars or parks, under the bill.

- An exemption of forest lands from taxation. Chitwood said the

definition of "forest" is "so broad that it could practically include everyone's back yard." Forests would be defined as an area "stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes."

The state gets federal funds when trees are cut from national forests. Last year, \$3.8 million was shared with local governments. The Kenai and Matanuska-Susitna boroughs would be hit hard by this section.

Earley said the proposal to exempt "forest land" from local taxation has "popped up" only recently, although the revision of statutes affecting local governments has been under review for four years.

Some local assessors, who asked not to be identified, suggested the exemption has come up under pressure from native corporations, some of which control vast tracts of timbered land.

If the forest definition is interpreted too liberally, assessors say native corporations, land speculators, homesteaders and thousands of other property owners would benefit.

Earley said some professional foresters define "stocked" timberland as any land supporting trees, either planted by man or growing naturally in the wild.

Steve Van Sant, Matanuska-Susitna Borough assessor, said such a definition would be "a catastrophe" for Alaska's borough governments.

In the Mat-Su Borough alone, 55 percent of the total assessed acreage is classed as "vacant, unoccupied."

"Assuming there are trees on the land — and where isn't there trees — the property couldn't be taxed by us," Van Sant said. That would mean about \$500 million of an estimated \$1 billion in assessed value could not be taxed, if the exemption took effect this year, he said.

"I am talking about planned huge real estate developments, homesteads, even small, residential parcels with 'forest trees' growing on them," Van Sant said. "Lord, boroughs would either go broke or have to lay all the taxes on city property owners."

Van Sant, past president of the Alaska Association of Assessment Officers, said if the forest land exemption is included in the final rewrite of legislation, it is "dead certain" to end up in court.

"Either local governments will have to sue to have forest lands defined, or property owners will refuse to pay taxes on their property if they have marketable trees, and we'll end up in court anyway," Van Sant predicted. "For all I know even one tree with a potential sale value qualifies you for an exemption."

Joe Charles, current president of the assessment officers' organization, said the group is hoping Earley's office and other state officials will be able to persuade legislators to cut the forest land exemption.

"Otherwise, we don't know what could happen to the local tax base," said Charles, an Anchorage municipal assessment official.

Earley said the Department of

Community and Regional Affairs is "concerned enough" to be contacting legislators asking for further study before the forest land provision is adopted into the new statute.

"It wasn't under consideration for all this time, and now it has popped up," Earley said Friday. "We think it is moving too quickly and could be trouble."

Late Friday Van Sant was consulting with staff from Senate President Jay Kerttula's office to try to have the controversial section removed, or at least delayed.

"If it (the local government bill) passes like this, we are in trouble," Van Sant said.

- Obituaries
- Business



# Vote expected today on new municipal code

by Karin Davies  
Associated Press

Juneau — Alaska senators have been under intense pressure from powerful lobbyists who are backing a bill that would divert more than \$18 million from the state and local governments to the North Slope Borough this year.

The bill that was slated for a Senate vote this morning also would bar local governments from levying taxes on forest lands — a provision that could substantially reduce cities' incomes, but would benefit property owners who have timber within municipal boundaries.

The legislation revising the state's municipal code has surfaced as one of the key issues of the 1988 legislative session, and has kept veteran lobbyists working overtime.

Lobbying "is as heavy as any I have seen," said Sen. Arias Sturgulewski, R-Anchorage. She and Sen. Don Gilman, R-Kenai, have been the prime opponents of heavyweight lobbyists Lewis Dischner, Kim Hutchinson and Alex Miller.

North Slope lobbyists and legislators want the Senate to stamp approval on the 187-page code revision bill without tinkering with its provisions and send it to Gov. Jay Hammond.

Gilman and Sturgulewski are pushing to put the bill into a conference committee because they want to delete certain House-passed amendments.

A vote on the bill was expected this morning.

Gilman and Sturgulewski said some of the amendments approved

said the new method for determining the population of an area would mean a 1 percent reduction in per capita payments from the state to local governments. She said the cutback would hurt, but cities already have suffered a 20 percent loss of state money.

Adam's amendment calls for people who are employed on July at remote sites within a locality jurisdiction to be counted as residents of the borough in which they are working, regardless of the permanent residence.

Sturgulewski said most localities would be able to count temporary workers because they do not work at remote sites.

Adams said his amendment corrects an injustice against the borough that resulted from a recent change in state law which barred pipeline workers from being counted as part of the borough's population. He said the money that would be taken from state to local governments under his amendment rightfully belongs to the North Slope Borough.

Sturgulewski said the borough already is taking a significant share of the state's income. In 1986 the borough collected \$12,000 per capita in taxes compared with a statewide average of \$400 per capita, and in 1981 the borough's bond debt was \$63,990 per resident compared with \$2,964 statewide, she said.

Sturgulewski also said if the state tapers with its constitutionally required method the federal government may reject statistics compiled by the state, and large sums of money the federal government

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Gilman and Sturgulewski said some of the amendments approved by the House are "poorly thought out" and "have potential for damaging effects beyond anything we can believe their makers intended."

Of primary concern is an amendment that would allow the North Slope Borough to collect a bigger share of a state tax on the oil pipeline.

A provision added by Rep. Al Adams, D-Kotzebue, would allow about 4,000 temporary workers at Prudhoe Bay to be counted as part of the North Slope Borough's population. Census figures are used to distribute the state's take from a tax on the oil pipeline, as well as municipal assistance and revenue sharing dollars.

Sturgulewski said the amendment would cost the state \$18.8 million in lost tax revenues, and would divert \$1.5 million from local governments statewide to the North Slope Borough.

Alaska Municipal League Executive Director Ginny Chitwood

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Sturgulewski said the borough already is taking a significant share of the state's income tax. The borough collected \$12 million in taxes compared to the statewide average of \$400 per capita, and in 1981 the borough's debt was \$63,990 per resident compared with \$2,964 statewide, she said.

Sturgulewski also said the state tampers with its census-taking method. The federal census method may reject statistics compiled by the state, and large amounts of money the federal government gives to Alaska on a per capita basis may be jeopardized.

A provision tacked on to the House bill by Reps. Jim Egan, D-Juneau, and Oral Frerking, D-Ketchikan, which would exempt forest lands from municipal taxation is potentially more damaging than the population amendment, said Ms. Chitwood said.

A memo from Gilman and Sturgulewski said, "Because the definition is vague and over broad defining forest lands referenced in the amendment, it appears that privately held land with timber could qualify. Steve VanSledright, assessor for the Flat-Su Borough estimates the borough could lose 56 percent of its tax base this year."

Chitwood said local government officials are worried the population revision could be interpreted broadly enough to exempt local taxes any property with marketable trees.

# The Anchorage Times

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And General Manager

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Managing Editor

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Tuesday, June 1, 1982

## End-of-session games

ATTEMPTS are being made in Juneau to divert enormous amounts of public money to the North Slope Borough under a provision that would count temporary Prudhoe Bay oil workers as residents for tax purposes. It is a scheme that typifies the way the Alaska Legislature in recent years has been used as a tool to benefit some at the expense of others.

This particular action is a pure and simple raid on the public treasury. It has been vigorously pursued by highly paid lobbyists hired by the borough, lobbyists to whom many legislators apparently are beholden that they are unable to stand up to the pressure.

According to reports from Juneau this morning, \$18.8 million of the state taxes from oil operations at Prudhoe Bay and another \$1.5 million disbursed by the state to other municipalities of Alaska would go to the North Slope Borough in this push to amend the state's municipal code.

THAT THE BOROUGH provides no services to speak of for the workers at Prudhoe is not part of the discussion, of course. Likewise, the North Slope Borough's lobbyists push aside the fact that it already benefits greatly from state taxes collected on the oil pipeline.

Sen. Artiss Sturgulewski, one of the two leaders in opposition to this dreadful bit of business, says the North Slope Borough in 1980 collected \$12,000 per capita in taxes

porary workers at Prudhoe Bay to be counted as part of the borough's population.

Most other local governments in Alaska would not benefit appreciably, because temporary workers in other areas are not living at a remote site — one of the key elements of the amendment. But it is not designed to aid most localities — it is meant only to add more dollars to the kitty of the North Slope Borough.

INCREDIBLY, the measure now is being described by the Associated Press as "one of the key issues of the 1982 legislative session."

Certainly the public had no way of knowing this was to be "a key issue." It was on no priority list at the beginning of the session. Neither the AP or any other press report gave it much attention until, all of a sudden, it exploded on the scene as this dreary session extended over the Memorial Day weekend into the month of June.

But it reveals dramatically how little insight the people of Alaska have into the motives that drive legislative maneuvers — or the games that go on behind the scenes that make the sessions drag on and on and on.

This battle is a classic example of the tactics of those who favor no limit on the length of the sessions. Through weeks of stalls and delays, they create tensions and strains that wear on those legislators who want to bring the session to an end. In the pressure cooker of June with

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The fight is over an amendment inserted in the municipal code revision bill when it was before the House Finance Chairman Al Adams, who had been under fire earlier in rural areas because of his tough dedication to budget cutting, sponsored the amendment. It would allow about 4,000 tem-

porary workers at Prudhoe Bay to be counted as part of the borough's population.

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This battle is a classic example of the tactics of those who favor no limit on the length of the session. Through weeks of stalls and delays, they create tensions and strains that wear on those legislators who want to bring the session to an end. In the pressure cooker of June, with the public frustrated and disgusted, self-serving legislation is slipped through.

It's outrageous, of course. But even in an election year, not a single candidate for statewide office addresses the problem or promises a glimmer of hope that this terrible situation might one day be corrected.



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*FBI News Miner  
June 4, 1992*

24 Pages

## Code rewrite urged vetoed by Assembly

By DAN JOLING  
Staff Writer

The Fairbanks North Star Borough Assembly voted Thursday to urge Gov. Jay Hammond to veto a bill which local officials say could cost the borough millions in tax revenues and state municipal assistance.

In a special meeting at 5 p.m. Thursday, assembly members voted 9-0 to urge Hammond to reject SB 180, a bill rewriting state laws governing Alaska's cities.

Amendments to the original bill provide for an exemption from local property tax rolls of all unimproved land containing trees. If it becomes law, it could mean the loss of a substantial part of the local tax base, according to borough officials.

The assembly also objected to a provision allowing a change in how population is counted for determining state aid. The proposed change allows municipalities to count temporary pipeline workers as part of its population—a change which would greatly benefit the North Slope Borough but at a cost of diverting about \$1.5 million in municipal assistance and revenue sharing from other communities in Alaska.

The local borough is not the only municipality taking a close look at the bill.

The Matanuska-Susitna Borough voted Tuesday to authorize its administration to oppose final adoption of amendments attached to what was originally termed a housekeeping effort to streamline statutes that determine how cities operate.

"The bottom line is, they used SB 180 as a vehicle for taking care of very narrow special interest groups," said Mat-Su Borough Manager Gary Thurlow this

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"The bottom line is, they used SB 180 as a vehicle for taking care of very narrow special interest groups," said Mat-Su Borough Manager Gary Thurlow this morning.

The Juneau assembly last night asked its attorney to analyze the effect on that city.

"At this point they have not taken any action, but they do want an analysis to determine if they should take that sort of action or not," said Juneau attorney Lee Sharp.

Adoption could mean a loss of millions in revenues for the Fairbanks North Star Borough—particularly from the unimproved forest land exemption.

In a memorandum, Fairbanks Borough Assessor Dave Braden said almost 60 percent of the borough's 34,000 parcels are vacant.

(See CODE, page 2)

## CODE . . .

(Continued from page 1)

"It is my opinion that we are talking a minimum potential loss in land valuation due to SB 180 of \$300 million," Braden said.

Translated into tax revenue at a 6.4 mill rate, that equals \$1.92 million, Braden said. Total assessed valuation in the borough will be about \$2.2 billion in 1982.

Thurlow said the impact was greater in his borough.

"It looks like it would take away more than half of our tax base," Thurlow said.

He said 56 percent of the Mat-Su borough's assessed valuation was in unimproved forested parcels. Of the approximately \$1 billion in assessed valuation, \$560 million would disappear, he believes.

"It could be a lot more than that," Thurlow said.

Sharp in Juneau said most attorneys who looked at the language in the bill had agreed that the definition was rather broad. "That in itself is a problem," he said.

Under the most open interpretation, it could mean "every vacant lot that has a tree on it," he said.

Thurlow said Dorothy Jones, chairwoman of the Mat-Su Borough Assembly, was in Juneau this morning to urge the governor's veto.

If it is signed into law, owners of improved land would feel a significant impact, Thurlow warned. "People who own homes and businesses would see their taxes more than double," he said.

He also took the Legislature to task for approving the revisions to population counting.

"It's intended to benefit the North Slope Borough by picking up those oil field workers who don't vote in elections and don't get any police or fire protection," Thurlow said.

"We think that this is an outrageous tinkering with population estimates," he said, adding it benefits no one except the 3,000 people in the North Slope Borough.

Thurlow also said the bill loosens rules for subdivisions, easing requirements for roads in which lots are five acres or more. He said it doesn't require that roads be connected, resulting in serious implications for school bus service and fire protection.

# New code could cost city-borough \$410,000

By ANNABEL LUND  
Empire Staff Reporter

Juneau may lose at least \$410,000 in taxes this year because of revisions in the state's municipal code.

The loss is the result of two amendments to the 187-page bill reorganizing Alaska's jumbled medley of laws regulating municipalities.

One amendment, sponsored by Rep. Jim Duncan, D-Juneau, would exempt forest lands from property taxes — a boon to local Native corporations but a \$340,000 drain on city coffers. Another amendment, promoted aggressively by the North Slope Borough, would change the method of determining population for revenue-sharing, lopping off at least 1 percent of the city's revenue sharing funds, about \$70,400.

Under the new legislation, Alaska boroughs would count remote site workers as residents instead of using U.S. Bureau of Census standards for determining population figures as the state does now. Under this law, the North Slope Borough could count 4,000 oil field workers as residents, entitling the state's wealthiest borough to \$1.5 million in additional revenues, thereby reducing other municipalities' slice of the revenue sharing pie by one percent.

In addition, state revenues on oil and gas properties on the North Slope may be as much as \$18 million less because oil companies are allowed, by state law, to subtract the borough's property taxes from the state taxes they are required to pay.

The Alaska Municipal League distributed bulletins Tuesday advocating an increase in state revenue sharing funds to offset the squeeze on cities' finances caused by the new tax sharing plan.

The League also opposed the new tax exemptions, unless the state was willing to compensate local governments for the loss in tax revenues.

"We feel that since it was a state decision to exempt certain property from taxes, the state should reimburse local governments for the loss," Ginny Chitwood of the Alaska Municipal League explained.

Juneau City-Borough Attorney Lee Sharp, who helped construct the original legislation two years ago, told the Empire the forest land exemption provision "bristles with interpretation problems." The broad language of the bill may have to be defined in court, he said.

"The way it stands now, someone with an undeveloped lot with two trees on it may be able to file for a tax exemption. A whole bunch of problems that will probably end up in court could have been avoided by careful thought in the drafting stages of the legislation," Sharp said. "If these amendments had popped up in the committee process, instead of at the end of the session when there was so much else going on, we could have clarified them."

The Alaska Municipal League also opposes an amendment, sponsored by National Rifle Association Board of Director Rep. Ken Fanning, L-Fairbanks, prohibiting cities from passing laws governing firearms. The amendment, Chitwood said, would "unduly restrict local government."

Sections of the new municipal code endorsed by the league include regulations governing optional tax exemption for personal property, an increase in penalties and interest rates for delinquent tax payments, changes in voter qualifications and simplified

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## Code...

Continued from Page 1

procedures for voter recalls.

The law is currently undergoing review by the state departments of Law, Labor, and Community and Regional Affairs and is not expected to reach the governor's desk for signature for several weeks. During a press conference Monday, Hammond said he was concerned about the forest land exemption and population redistribution amendments to the legislation. He would not say whether he favored it.

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VENT

The average dishwasher uses 14 gallons of hot water per load.



# Alaska State Legislature

Senate  
Committee on

Community & Regional Affairs

465-4934  
465-4935

Official Business

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

Pouch V  
State Capitol  
Juneau, Alaska 99811

June 28, 1982

## MEMORANDUM

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

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

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

Rather than submitting a standard enrolled 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 complain 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 Sturkulowski 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 dismissed 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, spoke strongly enough about this issue that he has sent a special veto request to the Governor on behalf of the Anchorage Police Department.

Senator Don Gilman

June 28, 1982

Page 3

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 Sturqulewski, 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 nonresident 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 Regue 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 AS 29.88.

Paragraph 6 of the fifth 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 the memorandum to Commissioner BrAnerney, dated 22 June 1982, Richard ASB 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 LAD'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 introduced a number of problems that have already been touched upon in the 200 years of experience recorded by the U.S. Bureau of the Census." He then lists 14 categories with 12 subcategories of persons whose residence would be in question under this amendment. Despite this, paragraph no. 8 says, "It seems that we will use the term 'permanent residents' in a broad enough as that term is applied in the field of census." However, problems or problems that do not contribute to an improvement in the quality of the census.

In my opinion, the only way that the amendment on population would be a good idea is that the basic approach to the amendment is a good one but without 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. As a result of this it would result in a tax 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 HB 270 would result in the situation on the matter described.

Paragraph no. 11 states the authors of the forest lands amendment intended the amendment to apply only to commercially owned timber lands. 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 against 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.



# Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

465-4934  
465-4935

Official Busin .s

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

Pouch V  
State Capitol  
Juneau, Alaska 99811

June 4, 1982

PRESS RELEASE

FROM: SENATOR DON GILMAN'S OFFICE

Senator Don Gilman sent a letter to Governor Jay Hammond today, earnestly 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 rescind these tactics and veto this legislation, because if you don't, you will be condoning such actions."

As a result of the change in the population demographics affecting the municipal assistance and revenue sharing programs, it is Senator Gilman's intent to work on a complete overhaul 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 Municipal Officers Association and the Alaska Council of Mayors will also participate in the effort. Senator Gilman expects to introduce legislation on this matter in the first of the 10-month legislative sessions. If the Municipal Code Revision is not vetoed by Governor Gilman's office, he expects to publish a budget version of that bill in a few days.



STATE OF ALASKA

1959

USA

June 17, 1982

The Honorable Donald Gilman, Senator  
Alaska State Legislature  
Pouch V  
State Capitol  
Juneau, AK 99811

Dear Senator Gilman:

Thank you for sharing your views with Governor Hammond on SB 180 relating to municipal government.

This complex bill is currently undergoing legal and policy review. Your comments will be helpful to the Governor as he considers what action to take on this legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rebecca L. Egan".

Rebecca L. Egan  
Special Assistant  
to the Governor

SUMMARY OF COMMENTS ON SB 180

<u>Source</u>	<u>Action Recommended</u>	<u>Main Reasons</u>	<u>Staff Comments</u>
<u>C&amp;RA</u> Commissioner	Sign	Feels controversy is exaggerated Most changes in bill needed and most supported by Municipal League Can address problems by regulations Won't easily pass again immediately	No analysis to support approval and no information addressing or refuting the Department staff analysis
Deputy Commissioner	Veto	Relies too heavily and ambiguously on regulations, jeopardizes State/federal census agreement which has taken two years to achieve and which works to the advantage of Alaska in federal funding Both Governor's preference to help communities with seasonal, temporary and isolated workers and maintaining a census program holding the U.S./Alaska census program intact are possible under existing law with regulations (Pegues memo supports that) No reference to population counts of U.S. Bureau of Census creates problems in definition, competing State interests not balanced well in forest lands issue (statewide system of taxation of a renewable resource or local property taxation for local determination and provision of services) Usurping local determination and decision making on gun control issue, has other alternative solutions on some of these issues	Deputy Commissioner's comments probably the best written critique
DIVISION of Community Planning	Veto	Increases in revenue sharing funds to communities with transient population effected by inequitable approach benefiting one community at the expense of all others; forest land policy singles out and places inequitable tax burdens on others and benefits one nobody	

<u>Source</u>	<u>Action Recommended</u>	<u>Main Reasons</u>	<u>Staff Comments</u>
Division of Local Government Assistance	Veto	Several amendments not debated in committee and presented for public hearing and committee meetings jeopardize integrity of bill Limitation on ability of local governments to control and tax firearms; expansion of initiative and referendum to include administrative matters in government; forest land language ambiguous, ill-defined and counter to Governor's policy themes for FY 83 (seeking to set a tax system equitably distributing responsibility for funding government services, and without providing free rides at the expense of other property owners and taxpayers; development of local government units assuming responsibility for and contributing to provision of services using local resources) would increase demand by local municipalities for state help Would increase revenues of at least \$18 million to North Slope Borough at expense of the State and other local governments	
<u>Labor</u> Commissioner	Veto	Would jeopardize U.S. Bureau of Census acceptance of State figures and throw "glitch" into timely and accurate population determination (from which they could lose funding - as in past) Objects to language regarding Worker's Comp Board and group insurance program	
<u>Law</u> Attorney General (not in final draft by 6/24/82 but Condon says letter of 6/11/82 is the basic message and final letter may be stronger)	Veto for at least no signature	Census population issue amendments - relying too heavily on regulations, unclear definitions, "isolated job sites" key to it and a major problem Forest lands amendment while probably won't go to the absurd extreme of those claiming exemptions, still a major problem, needs clearer definition and references - litigation potential such that it may become a "lawyer's relief bill"	

<u>Source</u>	<u>Action Recommended</u>	<u>Main Reasons</u>	<u>Staff Comments</u>
<u>Legislators</u>			
Sponsors Sturzelowski	Veto	Limited debate and hearing on amendments of highest impact, changes in population definition detrimental to State and benefiting entirely the North Slope Borough Mandatory exemption of forest lands from local taxation Problems with regulation of utilities and franchises	Strongly suggest reading her full letter before Monday meeting
Gilman	Veto	Severe problems with population amendments, forest land amendments and the utilities concerns Abortion of process and lack of hearing for public on most controversial and impacting amendments	
Personal Meeting with Rep. Carney and Susan Greene	Consider Veto	Had no idea of extensive impact on State or local governments and thought bill was going to free conference for corrections	
Pat O'Connell (copy of note to Sturzelowski in file)	No recommended action on file	Appears Rep. O'Connell concerned enough to probably recommend veto in that he expressed concern that House probably would pass SB 780 to get it to free conference, but if it were not going to free conference, would probably not pass	
<u>Revenue</u>			
Commissioner	Veto	Abuse of process as handled in last minute amendments, reduces State revenue receipts by \$18.6 million this year alone Benefits one local entity at the expense of others	
<u>Public Utilities</u>			
Commission Chairman	Veto	While majority of bills may be acceptable, the section affecting APUC makes unfavorable changes in public utilities' law without any APUC comment, procedural due process protection removed, related to public utilities rate-making policy but does not take into account APUC involvement or analysis	

<u>Source</u>	<u>Action Recommended</u>	<u>Main Reasons</u>	<u>Staff Comments</u>	
<u>Local Governments</u>				
Anchorage	Veto	Inequitable method of population count for local funding, tax exemption provisions reduce revenue, inequitable tax policy		
Fairbanks City Council	Veto			
North Pole City Council	Veto			
Mayor of Soldotna	Veto			
City of Palmer	Veto			
City of Wasilla	Veto			
Fairbanks North Star Borough	Veto			
Mat-Su Borough	Veto			
Kenai Peninsula Borough	Veto			
City & Borough of Sitka	Veto			
Haines Borough	Veto			
(no support calls or correspondence from any local government entities except North Slope Borough.)				
<u>Local Government-Related Persons or Organizations</u>				
Carl Borglum (appraiser to Mat-Su)	Veto	Same as above		
Brian Porter (Anchorage Chief of Police)	Veto	Limited to objection on prohibition against local government ordinances on firearms		
Municipal Finance Officers Assn. of Alaska	Veto	Population determination problem and forest land problem (severe losses to local governments without compensatory action)		
Alaska Municipal Attorneys Assn.	Veto	Last minute amendments unwise on population determination, subjects municipalities to protracted litigation and not in overall public interest of State or local governments or citizens		
<u>General Public</u>				
John & Ella Prosen (Fairbanks)	Veto	General		

<u>Source</u>	<u>Action Recommended</u>	<u>Main Reasons</u>	<u>Staff Comments</u>
Larry Owen (Wasilla)	Veto	General	
William Purrington (Anchorage)	Veto	Too many negatives outweighing positives in this bill!	
Wolfgang Falke (Fairbanks)	Veto	Not enough publicity and participation by those affected by last minute amendments	
Richard Underwood (Fairbanks)	Veto	Too much power to municipalities	
Steve Laroe (Fairbanks)	Veto	Too much benefit for North Slope Borough, no protection for other entities, opposed to exemptions for forest industry	
<u>Chambers/Business</u>			
Alaska State Chamber of Commerce	Veto	Primarily forest lands exemption from general taxation and equitability of tax burden and suing as issue	
Anchorage Chamber of Commerce	Veto	Population count and selective exemption of timberlands from municipal taxation (privilege status for certain industries - burden on others)	
Cook Inlet Region	Support	Primarily because they felt most features of bill were much needed by local governments Real reason for their interest is that they wanted the tax exemption clarification on forest lands - need amendment to avoid unfair burden on boroughs and Native corporations for potential litigation	Law says the language makes litigation potential worse than CIR thought
<u>Utilities</u>			
Alaska Cable Television Association	Veto	Bill provides public utilities be regulated by municipality as to rates (conflict with other law deregulating certain utilities from APUC control) Inappropriate remedy to overlapping authority between Title 29 and APUC's laws Undue hardship on cable industry and general public as contained in this bill	Contradicts 1980 law, so should be approached in comprehensive way, not hasty amendment

<u>Source</u>	<u>Action Recommended</u>	<u>Main Reasons</u>	<u>Staff Comments</u>
Cordova Electric Cooperative, Inc.	Veto	Opposed to regulatory changes without opportunity for intensive participation in consideration of the law	
Alaska Rural Electric Cooperative Assn. representing 18 electric non-profit cooperatives	Veto	Object to inclusion in municipal code of a major public utilities regulatory issue The section reading utilities would negate election process afforded in 1980 APUC legislation allowing members of electric cooperatives to vote on question of regulatory authority or whether they want to manage their own affairs	
Cordova Electric Cooperative	Veto	Same as above	
Cordova Telephone Cooperative, Inc.	Veto	Same as above	
Glacier Highway Electric Association	Veto	Same as above	

AMENDMENTS TO SUMMARY ON SB 180

<u>Source</u>	<u>Action Recommended</u>	<u>Main Reasons</u>	<u>Staff Comments</u>
<u>Legislators</u> Rep. Carney (letter now in file)	Veto	Limited information available at time voted on in House when Rep. Carney voted for the bill	
<u>Utilities</u> Glacier Highway Electric Assn.	Veto	Basically, the same as others in the utilities field urging more work particularly on amendments	
<u>Local Governments</u> Alaska Municipal League	Veto	Amendments are faulty and harmful to local government interests - specifics to be discussed in meeting	Full letter and amendments of executive meeting available in file
City of Kenai	Veto	Basically same as other local governments	

# Alaska State Legislature

SENATOR  
ARLISS STERGULEWSKI

COMMITTEES  
CHAIRMAN  
Legislative Budget & Audit

Community & Regional Affairs  
Finance  
Resources



Senate

2957 SHELDON JACKSON  
ANCHORAGE, ALASKA 99504  
DISTRICT 10-H

While In Juneau  
POUCH V  
JUNEAU, ALASKA 99911  
(907) 465-3918

MEMORANDUM

June 24, 1982

TO: Senator Arliss Stergulewski

FROM: Glen L. Svendsen *GLS*  
Special Assistant

RE: SB 180--Population Amendment

By amending the definition of population eligible for revenue sharing (and indirectly municipal assistance as that program uses the revenue sharing population figures), approximately 17,000 to 20,000 non-resident employees could be added to state population figures. In addition, between 15,000 and 19,000 Alaska residents may be "double counted", residing in one community but working in another. Combined, this could increase the revenue sharing program's population totals by 8-10%, decreasing the per capita payments to local governments by the same percentage. (See Table 1)

These estimates are derived from well-known activities: seafood harvesting and processing; oil and gas drilling and pipeline transportation; and logging camps or contractors (lumber mills were not included). Seasonal workers, either non-residents or Alaskan residents working in other areas, that are associated with such activities as construction, surveying, touring and so on, will add to the population increases shown above.

These estimates of non-resident and "double" Alaskan residents employed in these 3 industry activities are based on data gathered by the Department of Labor and by a statistical analysis completed by the House Research Agency. These figures are probably conservative in that they total the number of people employed during the year.

Encl: 2

Non-Resident and Double Counted Alaskan Residents  
Employed in Selected Industries 1979-1980

	<u>Total Employment</u>	<u>Non-Alaskan</u>	<u>Alaskan Residents Double Counted</u>
Seafood Harvesting and Processing*	44,000	15,710 to 18,920	**A minimum of 10,600 maybe up to 15,000
Oil & Gas Mining & Pipelines***	7,114	1,138	3,344
Wood Products- Logging Camps Only	1,802	288	347
Totals	52,916	17,136 to 20,346	14,791 to 19,191

\* From House Research, "The Alaska Fishing Industry: An Overview of State Expenditures and Economic Benefits," January 1982.

\*\* Estimated at 50% to 55% of seasonal Alaska resident employment.

\*\*\* Department of Labor, statistical quarterly and field surveys.

# Alaska State Legislature



Senate

SENATOR  
ARLISS STURGULEWSKI

COMMITTEES  
CHAIRMAN  
Legislative Budget & Audit

Community & Regional Affairs  
Finance  
Resources

2957 SHELDON JACKSON  
ANCHORAGE, ALASKA 99504  
DISTRICT 10-H

While in Juneau  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465 3518

MEMORANDUM

June 24, 1982

TO: Senator Arliss Sturgulewski

FROM: Glen L. Svendsen *HS*  
Special Assistant

RE: DCRA Submission on SB 180

In addition to the previously noted shortcomings in the Department of Community and Regional Affairs' (DCRA) submission to the Governor regarding SB 180, the following weaknesses need to be discussed.

First, the construction of the population amendment is just opposite of the policy that the DCRA memo suggests it is meant to institute. It is the communities with large processing facilities, harbors, bunkhouses, etc., within their developed areas that bear the demand for increased services. However, it is just these communities with "in-town" seasonal employees that may not be covered under the proposed language. The Attorney General has stated that the term "isolated job sites" must be strictly defined; the implications of such a narrow interpretation need to be clarified. It appears that some communities may actually lose population under the proposed language, if local counts must be limited to "permanent residents" and "isolated job sites," as you pointed out in your June 4, 1982 memo to the Governor.

In addition, the proposed definition would result in serious double counting of individuals, and reverse the underlying methodology of the municipal assistance program, in an unequal manner. A basic tenet of the municipal assistance program is that residents of local governments would not be double counted. The municipal assistance program even deducts city residents from the related borough population figures. For example, the Kodiak Island Borough received payment under this year's municipal assistance program for 2,095 people, while total Borough population was estimated at 11,978. Thus, city and borough population figures are carefully separated, even if a borough provides services to city residents.

The proposed language would upset this process, allowing people who work within one jurisdiction, but reside in another, to be counted in both jurisdictions. The State Demographer found that over 52% of the Prudhoe Bay

employees that were not residents of the North Slope claimed residence elsewhere in Alaska. Contrary to the existing program, there may be double counting even within a borough. For example, people residing in the City of Kenai, but working in one of the "isolated" oil facilities across the inlet might be counted, under SB 180, by both the City of Kenai and the Kenai Peninsula Borough, even though the City residents are to be deducted from the Borough's population count. Thus, some communities will benefit from this proposed change without any relationship to the underlying rationale of the funding programs.

# Municipality of Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-4431

TONY N. WILES  
MAYOR

OFFICE OF THE MAYOR

RECEIVED

June 10, 1982

JUN 16 1982

Honorable Jay S. Hammond  
Office of the Governor  
State of Alaska  
Pouch A  
Juneau, AK 99811

OFFICE OF THE COMMISSIONER

RE: S.B. 180 - Municipal Code Revision

Dear Governor Hammond:

This letter is to follow-up on my telephone conversation with you concerning S.B. 180 and its impact on the Municipality of Anchorage. After closer analysis by Municipal staff, further extremely detrimental impacts on the Municipality have been identified. Based upon the additional analysis, I can only, with regret, strongly recommend that you exercise the right you have to veto the bill.

As you know, over two years worth of substantial effort on the part of numerous individuals representing both the State and political subdivisions of the State led to the drafting of S.B. 180. Numerous hearings were held and extensive research was conducted into the provisions of existing Title 29, with the basic goal of cleaning up and reorganizing that statute. The end result, S.B. 180, was acceptable to the Municipality of Anchorage. However, in the last couple of weeks of the legislative session, numerous amendments to S.B. 180 were made by the House of Representatives. The amendments were made without the benefit of any meaningful input from the Municipality of Anchorage. Without any doubt, those amendments have made S.B. 180 unacceptable to the Municipality.

In the absence of any meaningful public hearing process on the amendments to S.B. 180, our concerns were not heard. Our only method of appeal on the amendments containing the S.B. 180 is to urge you to veto the bill.

Our analysis of S.B. 180 shows four major problems affecting the Municipality. Those problems are contained in amendments No. 5, 10, 12, and 17. Following is a brief statement of how those amendments detrimentally affect the Municipality of Anchorage.

1. Amendment No. 5 Exemption of Firearms from Taxation and Prohibiting Municipalities from regulating ownership and participation of firearms.

This amendment prohibits local governments from regulating the "ownership or possession of firearms". Amendment No. 5 severely restricts local autonomy with respect to regulation of public safety. The Municipality of Anchorage has at least two ordinances that differ from State statutes regarding the possession of firearms within the municipal boundaries. The Municipality also has additional ordinances duplicating state law, which are enforceable by the Anchorage Police Department and Municipal Prosecutors. We are extremely concerned that, in the absence of local control over prosecution of firearm violations we cannot ensure a vigorous enforcement program tailored to community needs.

In addition, our analysis indicates that the exemption of firearms from taxation removes approximately 3.5 million dollars worth of Anchorage Personal Property Tax base. This Personal Property Tax base consists of inventory held by firearms dealers within the Municipality.

2. Amendment No. 10. Determination of population.

Amendment No. 10 requires, for various State aid programs, the counting of "all persons working on isolated job sites" in making population determinations for the Municipality. According to figures we have access to, the only political subdivision to benefit from the population amendment is the North Slope Borough. For fiscal year 1982 Municipal Assistance and State Revenue Sharing, we project that the Municipality of Anchorage will lose approximately \$720,000 in revenue, which will be shifted to the North Slope Borough. This estimate is based upon an assumption that the remote workers will be counted both in the population of the work site location and where they maintain their residence. Should double counting not be allowed, the expected loss to the Municipality could increase to \$1.5 million.

We also fear that amendment No. 10 will reduce net receipts of certain per capita aid programs such as S.B. 168. We are extremely concerned because of the potential impact on federal revenue sharing programs and the impact the amendment would have on the Federal government's willingness to accept local population counts. Credibility is an important factor in the federal government's willingness to accept local population counts, and we fear that amendment No. 10 will lose that credibility for us.

Honorable Jay S. Hammond  
Office of the Governor  
State of Alaska  
Re: S.B. 180 - Municipal Code Revision  
Page 3.

Of course one of the consequences of losing revenue from one source is to seek additional revenue from another source. The readily available sources within the State of Alaska and the Municipality of Anchorage are taxpayers and the State. We can anticipate seeking the lost revenue from both sources.

3. Amendment No. 12. Short Plat procedures.

This amendment affects some areas in Anchorage, and may subvert our Alpine Slope development ordinance. This measure has an even more devastating impact in communities such as the Mat-Su Borough, which still has large tracts of available land to which Short Plat procedures would apply.

4. Amendment No. 17. Forest lands exemption.

This amendment would exempt from municipal real property taxation all forest lands as defined by Alaska Statute 41.17.050. Because of the vague and overly broad definition of forest lands contained in the amendment, it appears that most privately held undeveloped lands containing trees could qualify for the exemption. Using a strict interpretation of the definition of forest lands, we calculate that Anchorage could lose a minimum of 500 million dollars from a real property tax base. A more liberal interpretation of the definition could cause Anchorage a maximum of 1.5 billion dollars loss from real property tax base. Needless to say, the financial impact on Anchorage would be extremely serious and we can assume that the same is true for other municipal governments.

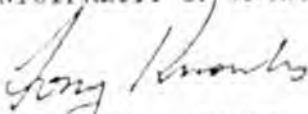
As a result of the vague and broad definition of forest lands, we can certainly expect multiple lawsuits over issues of what lands are exempt under this amendment. Regardless of the outcome of any litigation, it is clear that the Municipality of Anchorage either has to reduce expenditure or services in order to compensate for loss of revenues, or seek increased State assistance to compensate for those lost revenues. Maintenance of municipal services will either cost the State more money or will shift the tax burden for support of services for undeveloped lands to already developed residential or commercial properties.

Honorable Jay S. Hammond  
Office of the Governor  
State of Alaska  
Re: S.B. 180 - Municipal Code Revision  
Page 4

I cannot stress enough the fact that these amendments were made to S.B. 180 without the benefit of meaningful public input. I strongly believe that the harm enactment of this bill will cause to the Municipality is not outweighed by the remaining beneficial portions of the bill, and I encourage your veto of S.B. 180.

Very truly yours,

MUNICIPALITY OF ANCHORAGE



Tony Knowles, Mayor

ajs

cc: Commissioner Lee McAnerney  
Commissioner Thomas K. Williams  
Commissioner Edmund N. Orbeck  
Commissioner John C. Katz  
Senator Arliss Sturgulewski  
Senator Don Gilman  
Ginny Chitwood, NCC

# Alaska State Legislature



Senate

SENATOR  
ARLISS STURGULEWSKI

COMMITTEES  
CHAIRMAN  
Legislative Budget & Audit

Community & Regional Affairs  
Finance  
Resources

2957 SHELDON JACKSON  
ANCHORAGE, ALASKA 99504  
DISTRICT 10-H

While in Juneau  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-2818

June 4, 1982

The Honorable Jay S. Hammond  
Governor, State of Alaska  
Office of the Governor  
Pouch A  
Juneau, AK 99811

Dear Governor Hammond:

In reviewing the provisions of SB 180, I have become firmly convinced that the amendments adopted by the House will have extremely serious financial and jurisdictional impacts on local governments. Because of the limited debate and analysis of these amendments, more information on the effects on the state and its local governments is coming to light continuously.

As to SB 180 itself, I strongly urge that the legislation be vetoed. The remainder of this memo highlights flaws in the bill that will place an extreme hardship on local governments, and potentially on the State itself. Some have suggested enactment of SB 180, with the intention of "cleaning up" the bill next session. This argument, however, is unacceptable on several counts. First, the "clean-up" argument recognizes that there are things wrong with the bill that need correcting. Since SB 180, for the most part, recodifies existing law, delaying enactment of a new municipal code will not create undue hardships. But enactment of an uncorrected SB 180 would have severe impacts, even within the time frame of future corrective legislation. Finally, there is no guarantee that the new municipal code could be made more acceptable in succeeding years. Preventing the creation of problems through a veto is a much more certain approach than allowing SB 180 to become law, and depending on future legislatures to pick up the pieces.

At this time, there appear to be four major problems with SB 180. These problem areas are:

- \*Changes in the way "population" is determined for state programs;
- \*Mandatory exemption of forest lands from local taxation;

°Regulation of utilities and franchises; and,

°Limitations on the ability of local governments to control possession of firearms.

A brief analysis follows of the main fiscal impacts and policy questions surrounding each of these four topics. (See Attachment #1)

#### Definition of "Population"

The amended language defining how population is counted refers to permanent residents, military personnel and employees, and all workers at "isolated job sites." This creates a number of significant, although possible unforeseen, problems (see Attachment #2). First is the possible inequitable effect on Alaskan communities. The proposed language eliminates the distinction between standard definitions of residency and the simple "presence" of a person at a particular place at any time. While temporary employees at "isolated" job sites will be counted, the proposed language may not allow temporary employees in many communities to be counted and may decrease the population count in some cases (see Attachment #2, page 6). Second, there is no attempt to eliminate double counting of state residents. The Department of Labor indicates that fully three-quarters of the temporary employees at isolated job sites on the North Slope report residence elsewhere in Alaska. This double counting expands the total population estimate, thereby decreasing the "per capita" amount of state aid received by all communities. Initial estimates are that local governments would lose about \$1.5 million, which would accrue entirely to the North Slope Borough. If double counting of Alaska residents were eliminated, this "redistribution" could reduce the revenue sharing and municipal assistance grants to specific communities even further. Not only would the prorated amounts decrease, but many communities would lose population as well.

A third effect of this amended language involves the potential loss of federal revenues by both the state and local governments. At present, Alaska is one of only 5 states nationwide that have their own population estimates accepted by the U.S. Bureau of the Census for all federal programs which use population in their funding formulas. The population figures certified by DCRA in its revenue sharing program form the basis for the population estimates accepted by the Census Bureau. The Department of Labor has advised me that Alaska would lose this ability to adjust federal funding formulas under the proposed language, which could mean the loss of millions of dollars in increased federal aid to the state between now and the 1990 census.

Finally, because of the expansion of the term "resident" to include any person employed at a remote site, approximately \$18 million in Oil and Gas Property Tax receipts would be shifted from the State to the North Slope Borough. There is some concern over the justification of this windfall, as the redefinition of population is of questionable propriety. A special census sponsored by the North Slope Borough, DCRA,

and Department of Labor was conducted in February of 1982. This census found a population of 7,098 in the North Slope Borough meeting the standard definition of population; the amended language would add some 4,150 temporary employees to the Borough's population count, most of whom reside elsewhere in Alaska.

#### Mandatory Exemption of Forest Lands from Local Taxation

A House amendment added "private forest lands" to the list of mandatory exemptions from local taxation in the proposed AS 29.45.030(a) without any analysis of the effects of that exemption. The definition of "forest lands", referenced as AS 41.17.950(6), is extremely broad, including any vacant land with trees. A legal opinion on the extent of this definition by Tamara Cook, Legislative Counsel, is included as Attachment #3. That opinion also makes the point that nothing in the House amendment indicates that this tax exemption was to apply only upon participation in AS 41.17, the Forest Resources and Practices Act, nor that any other provision of AS 41.17 are applicable.

The forest lands tax exemption will have extremely serious impacts on local fiscal health, and on local tax rates. The potential loss of local property tax revenues are estimated by borough assessors to range from 10% to over 50% of total tax base receipts. Immediate serious financial impacts for almost all boroughs could occur, with the total loss of borough tax revenues conservatively estimated as \$12.3 million annually. (see Attachment #4)

In addition, local governments will lose federal revenues as well. The federal government provides for payments "in-lieu" of local taxes. However, this federal money is forthcoming only if the federal property would be taxable in private ownership. Thus, any federal land meeting the extremely broad definition of "forest lands" would also be taken off the "rolls" for federal payments in lieu of taxes. This will create further reductions in federal receipts for Anchorage and the Fairbanks North Star Borough. Estimates of the dollar impacts are still being prepared by affected local governments and the State Assessor's Office.

Taxes on businesses and homeowners will increase dramatically as a result of the forest lands tax exemption. In the Mat-Su Borough, for example, the tax burden on remaining property would more than double to maintain tax revenues at a continuation level. This constitutes a major shift of taxes to the business community and homeowners in general, to accommodate the desires of a specific interest group whose timber holdings, for the most part, are not even within a municipality at this time, and thus pay no taxes.

#### Regulation of Utilities and Franchises

Carolyn Guess, Chairman of the Alaska Public Utilities Commission, has pointed out serious omissions in the current bill that, coupled with House amendments, eliminate protection to both the public and to private utilities in the granting of franchises and setting of rates. In a

major policy change, the ability of municipalities to set rates for municipally-owned utilities has been broadened to include the authority to set rates for all utilities not regulated by the APUC, whether privately or municipally owned. (Compare the existing AS 29.48.040 with the proposed AS 29.35.070.) Enactment of SB 180, then, would eliminate the existing due-process requirements of AS 29.48.060-090, while authorizing the local governing body to set rates for all utilities "de-regulated" at the state level.

#### Possession of Firearms

The amendment which prohibits local governments from regulating the ownership or possession of firearms limits the ability of local governments to enact concealed weapons ordinances which are stricter than state law. Anchorage, for example, has a more restrictive concealed weapons ordinance which would be voided by enactment of SB 180.

In summary, I would like to stress that I feel the only "corrective" step to be taken at this point is the veto of SB 180. Even though I have spent uncountable hours over the past four years on developing a revision to the municipal code, I believe most strongly this bill will do more to harm Alaskan municipalities and to the people they serve than to benefit them. I urge your support for a veto of this legislation. I will continue to make the enactment of responsible revisions to the municipal code a top priority for the next legislative session.

Sincerely,



Arliss Sturgulewski  
Senator, District 10-B

#### Attachments

cc: Commissioner Lee McAnerney  
Commissioner Thomas E. Williams  
Commissioner Edmund N. Orbeck  
Commissioner John C. Katz  
Mayor Tony Knowles  
Gary Thorlow  
Ginny Chittwood

June 2, 1982

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

Re: HCSCSSB 180 "An Act relating to municipal government and providing for an effective date."

Dear *Jay*:

This letter is in support of legislation entitled HCSCSSB 180 "An act relating to municipal government and providing for an effective date" which has passed the legislature and is before you for signature at this time. More particularly our comments reference AS 29.45.030(a)(7) Required Exemptions - an exemption of forestland and AS 29.45.030(m) - a tax exemption required by 43 U.S.C. 1620(d), as amended, Alaska Native Claims Settlement Act dealing with "developed" Native lands.

In this session's legislative history, these provisions were considered as separate bills HB 885 and SB 802 and finally properly incorporated as amendments in HCSCSSB 180. Originally, this legislation evolved from efforts of corporations across the State to seek State interpretive legislation to define the term "developed" in Section 21(d) ANCSA and to define the time and extent of taxation of use and improvements of conveyed Native lands by local governments. This legislation unless amended, would have included forestlands and their improvements within the definition of real and personal property as defined under AS Title 29 Municipal Government. By this definition, local governments, to the extent of their boundary jurisdiction incorporated such lands, could tax forestlands and improvements as real property under a mileage rate system. This approach to taxation would not have been favorable to privately held forest land holdings.

The need to define the term "developed" in Section 21(d) of ANCSA has overshadowed the more complex issue of forest resource tax policy. In a sense the untimely advancement of these amendments was unfortunate in that the bill prompted action on timber taxation in a manner where the focus on the forestland taxation is

secondary and the many issues were not given a fair hearing or even a comprehensive presentation to lawmakers or the public. The effort has brought to the forefront the tenacious position of the State assessor and local assessors across the state and the desire of local governments to increase their revenue base wherever possible. Additionally, members of your administration in the Department of Community and Regional Affairs have expressed concern during the session about the direction of these amendments. With respect to the timber tax exemption, we feel that the approach taken in the legislative process is certainly not the best approach to public policy making; however, for the short term the results preserve the opportunity to deal in a more comprehensive manner with forest resource taxation and its attendant issues.

The forest land exemption has been objected to as being so broad that a landowner with any amount of trees on their land could claim the exemption. This was not the intent of the exemption nor do we believe it could be reasonably interrupted to allow such a result. The exemption cited the definition of forest lands in the Forest Management Practice Act (AS 41.17) which only applies to large scale commercial timber operations and under reasonable statutory construction should apply to the exemption as well. (See AS 41.17.050) A classification of this interpretation could be accomplished by regulation.

The issue of taxation by the State or by the local government is an issue faced by citizens of other states such as Washington and Oregon. Our position in these matters is founded on the premise recognized in other States that timber resources are a matter of State concern based upon recognition and requirements in the following:

- o State Forest Practices Act
- o Coastal Zone Management Act
- o Environmental Protection Requirements
- o Fish and Game Laws

The use, development, regeneration and management of private forestlands is inherently intertwined with the State's interests in the economy, employment, fish and wildlife management and protection, coastal zone resource management, environmental protection and regeneration of future timber - all of which are held in the common interest under the State constitution. With all this in mind, our goal over the last few years has been to work to achieve a forest taxation implementation plan with the following features:

1.) to phase in the implementation of any tax program by the State government in order to 1) allow the start up period in the industry to move forward without any additional costs which would hinder early profitability and 2) to work to secure a reasonable studied program tailored to the Alaska timber industry. Timber is the only major natural resource in the State that does not have a

tax program laid out in the statutes.

2.) to assure that one entity, preferably the State, is the taxing and assessing agency in order to avoid the position of being taxed by multiple jurisdictions and by different programs without some sense of uniformity.


3.) to design in any taxation program tax credits as incentives, benefits or recognition of forest land owners and their agents both public and private, for investments made and incurred to meet environmental quality, forest practices, fish and game management and protection requirements and forest regeneration and silviculture - established by law on behalf of the public to enhance future resources.

4.) to establish a fair and equitable taxation program that would apply evenly to public timber as well as private timber resources. Presently, Federal timber in the Tongass and Chugach Forests pay monies in lieu of taxes as timber is harvested. A recognition of this approach in any tax program of other public and private timber resource development should be made in order to prevent unfair competition or inequities among timber producers.

In conclusion, I urge your support of HSCSSB 180 as passed by the legislature. We apologize for any inconvenience or awkwardness which may have occurred as a result of our efforts to deal with these tax exemptions. Our hope is that a comprehensive look will be made by public policy makers in the future. For our part, we are prepared to participate and actively contribute to such an effort.

Sincerely,

SEALASKA CORPORATION



Byron I. Mallott  
Chairman of the Board

cc: Southeast Village/Urban Corporations  
Chugach Regional Corporation  
Korlag, Inc.

LHI

AFN

Ginny Chittwood - Alaska Municipal League

Commissioner McAnerney

Richard Aks - DC&RA

Michael Chittick

Norm Staton

Robert W. Loescher

June 11, 1982

Honorable Jay S. Hammond  
Governor  
State of Alaska  
Pouch A  
Juneau, AK 99811

Re: HCS CSSB 180(Jud) am H --  
determining population for revenue sharing and municipal assessment, municipal tax exemptions

Dear Governor Hammond:

At your request, we have reviewed amendments 10 and 17 to HCS CSSB 180(Jud) am H (Revised Municipal Code). The amendments were adopted on the floor during second reading by the House.

Amendment 10

Amendment no. 10 rewrites the provisions which establish the method for determining population for revenue sharing, municipal assistance and oil and gas property tax assessment purposes. The amendment applies generally to all municipalities in the state. Under existing law, the Department of Community and Regional Affairs determines population by the official census or other reliable information. Under departmental regulations, the official census population figures can be increased if a local census is conducted. 19 AAC 30.041.

Interpretation of the meaning of the population amendment is difficult because the term "isolated job sites" is not defined. Webster's defines "isolate" as set apart from others; alone. The scope of this term is exceedingly broad. It is possible to provide additional definition of this term by adopting interpretive regulations under the Administrative Procedure Act (AS 44.62). Drafting Manual for Administrative Regulations, Dept. of Law, 1980, p. 17. Because benefits are conferred which directly affect the general fund of the state, a strict construction of this term should be implemented. SUTHERLAND STATUTORY CONSTRUCTION; § 63.02.

Amendment 17

Amendment 17 inserted provisions in the bill which establish two exemptions from general municipal property taxes. The first creates an exemption for forest land and the second incorporates by reference and defines terms used in a federal statute which exempts ANSCA land from state and municipal taxation.

Forest Land Exemption

This provision exempts forest land from general municipal property taxation. The definition of the term "forest land" enacted in AS 41.17.950(6) is incorporated by specific reference. That subparagraph provides:

"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;

We have reviewed an opinion of legislative counsel which interprets the meaning of of sec. 29.45.030(a)(7) added by amendment 17. Leg. Affairs Agency memo, June 1, 1982, T.B. Cook, legis. counsel. Legislative counsel concludes that the forest land exemption applies to "any land stocked with forest trees that is not developed for a nonforest use." Legislative counsel apparently is relying on the "plain-meaning" doctrine. She has not cited extrinsic evidence of legislative intent or used other canons of statutory construction. We agree with her rejection of the applicability of other sections in AS 41.17, which were not referred to. We reject any interpretation of the forest land exemption which leads to an absurd result. Sherman v. Holiday Constr. Co., 435 P.2d 16 (Alaska 1967).

Our research of the legislative history of amendment 17, has disclosed little evidence of the true intention of the legislature regarding this exemption. Under the canons of statutory construction, tax exemptions are to be strictly construed. McKee v. Evans, 490 P.2d 1226 (Alaska 1971). "The policy is firmly established that the burdens of taxation should be distributed equally and fairly among the members of society." SUTHERLAND STATUTORY CONSTRUCTION § 63.08. However, an ambiguous tax statute must be liberally construed in favor of the taxpayer. Union Oil Co. of Calif. v. Dept. of Revenue,

560 P.2d 21 (Alaska 1977).

There was considerable floor debate in both houses of the legislature concerning the meaning of the term "forest land." However, because no legislative history for the amendment was developed through the committee process, reliable extrinsic evidence of legislative intent does not exist. The conflicting opinions of legislators concerning the correct interpretation of the forest land exemption, expressed during floor debate, has been given little weight. See Auk Bay Salmon Canning Co. v. United States, 300 F. 907 (D. Alaska 1924). It is presumed that the intent of the legislature was to provide a valuable reduction of tax liability to owners of forest land. This intent is consistent with the practice implemented during the last two fiscal years of appropriating grants to municipalities. A review of the general appropriations act for fiscal year 1983 (SCSHB 148(Fin)) will disclose that appropriations are made directly from the general fund for municipal purposes. SCSHB 148(Fin), Twelfth AK State Legis., 2d Sess. It is reasonable to assume that the legislature intended to replace general property tax revenue lost by tax exemptions with general fund appropriations. There is no evidence that the legislature intended to reward property owners who retain their land in forest use. However, this exemption obviously will have that result.

Strict construction of the exemption to apply only to commercial forest land subject to regulation by the commissioner of natural resources under AS 41.17 has been urged. This construction requires the insertion and deletion of words based upon inferred or assumed legislative intent. See Terr. of Alaska v. Five Gallons of Alcohol, 10 Alaska 1 (D. Alaska 1940). The specific reference to AS 41.17.950(6) would be read "AS 41.17 and the regulations adopted under that chapter." This is an artificial interpretation which the weight of authority does not support.

When one statute adopts another by specific reference, only those parts of the statute referred to are incorporated. SUTHERLAND STATUTORY CONSTRUCTION sec. 51.08, n. 5 (4th Ed. 1974). There is some support for construing a specific reference to mean a general reference if it is evident from a reading of the referring statute that the legislature intended that result. Director, Office Workers Emp. v. Peabody Coal Co., 554 F.2d 310 (7th Cir. 1977). However, the municipal code does not contain other evidence that the legislature intended a general reference to the Forest Practices Act.

The adoption of regulations to interpret the new exemptions could be a method of restricting the application of these exemptions. Under article IX, section 3, of the Alaska Constitution, standards for assessment of property by a municipality must be established by law. Interpretive regulations of general application have the force of law but are not binding on a court if the issue is litigated. State v. O'Neill Investigations, Inc., 609 P.2d 529, 533, n. 49 (Alaska 1980). Additionally, under AS 29.53.020(f) (existing law) or sec. 29.45.-030(f) (Revised Municipal Code), exemptions must be applied for on forms prescribed by the state assessor, an employee of the Department of Community and Regional Affairs. The state assessor may strictly construe the phrase "not currently developed for a non forest use" to remove the temptation for tax evasion. To restrict the forest land exemption to only those landowners who make a living from forest products harvested from the land will result in litigation. Other landowners who dedicate land to legitimate forest uses other than logging, for example, erosion control and private woodlots, will have a strong case for receiving the exemption.

In summary, only a judicial interpretation will finally settle this issue. This exemption should become known popularly as the Landowners' Relief Act.

#### ANCSA Tax Exemption

The Alaska Native Claims Settlement Act imposed a tax exemption for undeveloped ANCSA land. 43 U.S.C. 1620(d). Amendment 17 contains provisions which attempt to define terms used in federal law. It is presumed that this definition by state law is proper under article IX, section 3, of the Alaska Constitution. It is questionable whether the provisions have clarified federal law or created more questions concerning the correct interpretation. For example, land is not developed unless it is in "a condition of gainful or productive present use without further substantial modification." The definition provisions clearly state that Native land is not considered "developed" when the owner is exploring it to determine if it should be developed and if certain improvements are made to the land which commonly are considered elements of development (constructing roads, subdivision into lots, and installation of utilities). One possible construction is that the legislature intended to exempt Native land from municipal property tax until the land can provide enough revenue to the owners to pay any tax assessed. However, we have no extrinsic evidence of legislative intent to support this construction. Reasonable men will differ over when land is productive for present use.

The developed land exemption poses an additional problem because Amendment 17 attempts to make this exemption and definition retroactive to December 31, 1980. The retroactive application of a tax exemption presents serious problems under the public purpose doctrine. Art. IX, § 6, Alaska Const. The retroactive application of a tax exemption to a tax liability incurred in earlier tax years without a clearly established moral obligation to do so is invalid. See Inf. Opin. Atty. Gen., Nov. 19, 1980 and Sept. 22, 1980.

Conclusion

A more detailed analysis of other provisions in the bill will follow this memorandum. We believe that each of the amendments discussed present significant problems of enforcement and potential litigation for municipalities. Of course, a veto would avoid these problems. If you decide against a veto, you should seriously consider allowing the bill to become law without your signature.

Sincerely yours,

WILSON L. CONDON  
ATTORNEY GENERAL

By: James L. Baldwin  
Assistant Attorney General

JLB/pjg

cc Robert W. Carter,  
Dir. CRA, Lodi  
St. Donoghue  
Dept of Labor  
Sue Luce  
Lodi Office

Av. Luce  
Sen. Stangor  
Sen. Lutzman  
Hon. Stator  
Seaside Corp

# MEMORANDUM

# State of Alaska

TO: Jay S. Hammond  
Governor

DATE June 21, 1982

FILE NO

TELEPHONE NO

FROM: Lee McInerney, Commissioner  
Community and Regional Affairs

SUBJECT Comments: SB180

1  
Senate Bill 180 is a comprehensive revision of the municipal code. This department has worked extensively over the last three years to achieve passage of the legislation. It has been the subject of extensive committee hearing and floor debate. Ten years of patchwork amendments have made Title 29 a confusing and often controversial mass of state law. This bill was meant to correct this situation and in the vast majority of its provisions it accomplishes just that purpose. Most of the changes in the bill are necessary and have been supported by this department. They are also supported by the Municipal League and most local governments.

2  
The discussion of this bill seems to have focused not on the enormous positive changes that were made but on three specific amendments which were made either on the floor or in committee. There are some members of this department who feel these amendments are so onerous that I should recommend a veto to you. I firmly disagree. I will review the amendments together with the arguments that have been made against them and indicate to you why I feel as I do.

3  
There are basically three amendments that have become the subject of concern. The first prohibits municipalities from enacting non-control legislation. The second permits municipalities for purposes of revenue sharing and taxation to include in the definition of "population" not only military personnel who have been included in the definition for years but also workers at "isolated job sites" as determined by population counts made on July 1st each year. The final amendment exempts from municipal taxation all "forest land" that land is defined in AS 41.17.9-011.

4  
The first amendment is easily disposed of. I personally disagree with any territorialism that would take from the municipalities their power to legislate on an issue -- particularly one as sensitive as gun control. In all instances, however, knowing the overwhelming feeling in Alaska on this issue, it would make no sense to veto a bill on the basis that the legislature has taken away from municipalities the power to do some thing that none of them are even remotely considering doing. There is one

municipality in the State that has adopted ordinances relating to the use of firearms. However, a letter of intent adopted by the Senate on June 1 makes clear that such ordinances may remain in effect if SB180 becomes law. There are some who are afraid a precedent will be set by this amendment but I sincerely doubt it. It appears to me that this amendment is simply a temporary legislative reaction to some of the ordinances adopted in other communities across the country. Should feelings change on the issue in Alaska or should municipalities consider this a serious matter at the present time, they can press for change and my personal hope is that they achieve it; but it is certainly not worth considering a veto on the basis of this matter alone.

5  
The second amendment has to do with the definition of "population" and permits local government to count in their population figures for revenue sharing (and taxation in one instance) workers at "isolated job sites." I should make it clear that my department supported this amendment in slightly different form before the House Finance Committee and I support it now. The issue quite simply is this: should municipalities which have to cope with numbers of nonresidents who live where they work in the municipality but are not residents of the municipality, receive revenue sharing to help them cope with the nonresident population, and have the right to impose taxes to help raise the money for services to that population? In the Bristol Bay Borough for instance, during the summer the borough must provide services (police, fire, sewage, etc.) for large numbers of nonresident cannery workers. Facilities have to be constructed to provide these services. It makes no difference to the municipality whether the residents are permanent residents of the municipality or not. They create a "peak" load for municipal services and somehow the money has to be available to deal with them.

6  
Much of the concern over this amendment seems to come from the belief that the provision only has application to the North Slope Borough and that it is "special legislation" for them. That is not the case. The amendment was triggered by an Attorney General's Opinion issued several years ago by Ed Pequeo who concluded that revenue sharing should not be allocated on the basis of permanent residents, but rather on the basis of the population that required services within the borough. The issue admittedly arose over population counts in the North Slope Borough but the problem he dealt with is of statewide application to any one borough and, in fact, will benefit all boroughs where a seasonal influx of workers increases the need for municipal services. The Department of Law will, of course, advise you as to whether my opinion on the general application of the language is correct. But, in my view, this is not and was not intended to be "special legislation" and should not be treated as such.

7  
The term "isolated job site" is not defined in the bill. If the bill becomes law, this Department, in conjunction with the Department of Law, will immediately start the process to adopt regulations to define the phrase. The regulations will be done by next session of the legislature. If the legislature finds those regulations unacceptable, it is free to amend the bill at that time.

8  
The final objection to this provision is that it complicates census counts in Alaska by using different standards for state revenue sharing than are employed by the federal government. I frankly do not understand what difference this makes. The counts that we use will include "permanent residents" of a borough as that term is employed in the federal census. We will also include others but there is nothing which prevents us from assisting or for that matter challenging federal census data using the criteria imposed by the federal government and using our own criteria for different purposes.

9  
The amendment on population counts is not perfect by any means and the adoption of regulations will be difficult and time consuming. The basic approach of the amendment, however, is sound and does not warrant a veto of the legislation.

10  
The final amendment which has caused controversy is that which exempts "forest land" from municipal taxation. There are two major issues which concern this exemption, only one of which has caused any real controversy. There is very little being said about the fact that the legislature has made a policy choice to treat timber like oil -- as a statewide resource subject to state rather than local taxation. I gather there is no fundamental opposition to this policy decision.

11  
The only real controversy has come over the scope of the amendment. The authors contend that the amendment was only meant to apply to commercially viable timber stands. The opponents say that the language "forest lands" could include every piece of real property with trees on it, effectively exempting from municipal taxation large amounts of property which were never meant to be exempted.

12  
The Department of Law will have to give you their advice as to the meaning of the amendment and the legal problems it will cause. There certainly are some problems but in dealing with those problems there are a few facts that should be kept in mind.

13  
First, the vast majority of commercial timber land is currently exempt from municipal taxation and will remain so whatever is done by the legislature. Most of the high quality commercial timber land in Alaska lies outside

municipal boundaries. Federal, state, and Native corporation timber lands that are within municipal boundaries are not subject to property tax until they are developed or leased for timber harvesting purposes. Thus, the short term effect of the amendment should be relatively minimal.

14

Second, whatever the meaning of the exemption, it will have no effect this year. Value for property taxes was set on January 1 and appeals through the administrative process have long since expired. There is, of course, the possibility of a law suit either this year or in subsequent years, but that will require first, the claim of an exemption and second, the prosecution of the claim through the courts against an obviously antagonistic local government. I think very few people will attempt to claim this exemption for their house and a few trees. 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 law suit against local government would be heavy, the benefits slight, and in my view, the chance of success minimal.

15

As I said earlier, the Department of Law will give you their assessment on the meaning of the amendment. But one thing seems fairly obvious to me. If the legislature had intended to exempt all local property with trees on it, it would have effectively left no taxes just downtown areas of urban centers. A basic change in the municipal taxing structure would certainly not have been done in this way and I cannot believe that any judge is ever going to conclude that the amendment has the kind of sweeping effect that some fear. If absolutely worst came to worse and for the people claiming the exemption, the Alaska Supreme Court ruled that the legislature really did intend the absurd result suggested, the state could always as a last resort compensate those municipalities who had lost revenue because of the court decision through a special revenue sharing appropriation. I do not expect that would happen. I also believe, though, that because of the concern, legislation should be introduced early next session to clarify the intent of the amendment.

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In the end, the question on this bill comes down to this: whether you should permit this measure bill to become law and then recommend introduction of language next session to clear up those problems that have been raised by various affected parties, or whether you should vote this result off years of work because of those isolated problems and then reintroduce the whole municipal code bill again in a new legislature. On balance, having reviewed the argument pro and con raised by people in this department and having

considered it myself at some length, I recommend enactment of this legislation. I do not recommend veto.

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For your information and review, I am attaching memoranda from the Deputy Commissioner, the Division of Local Government Assistance and the Division of Community planning which set forth additional viewpoints on this legislation.

# MEMORANDUM

# State of Alaska

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS


TO Lee McAnerney  
Commissioner

DATE June 16, 1982

Dept. of Community & Regional Affairs

FILE NO

TELEPHONE NO 465-4705

FROM Richard Aks   
Deputy Commissioner  
Dept. of Community & Regional Affairs

SUBJECT SB 180

I have given long and careful consideration to the issues which affect formulation of a Department position on SB 180 and offer the following comments:

1. The original purpose of SB 180 was to simplify administration of Title 29 for all municipalities. This goal has been largely accomplished in the legislation awaiting action by the Governor. Certain powers and responsibilities of local governments have been clarified, particularly in the areas of extraterritoriality and land disposal. Other portions of the bill create new flexibility for local communities, particularly in the areas of reclassification, home rule and zoning. Some changes are of great benefit to the Department in its administration of programs, such as revenue sharing for unincorporated communities. These are all worthwhile changes that argue in favor of approval of the bill.

2. Other portions of the bill which have now become matters of major public concern are not consistent with the original purpose of SB 180 and, in fact, perpetuate uncertainty and reliance on regulatory mechanisms to clarify legislative intent. In particular I am referring to the population issue, the forest lands issue and the gun control issue.

## Population Issue

The population issue is largely the result of failed communications. As you know, current law allows the Department to utilize census counts "or other reliable data" in determining population. Prior to 1981, that other "data" included information about extraordinary population impacts such as those experienced by the North Slope Borough and other communities around the State. In an effort to develop a uniform census program and gain federal approval of State population counts, IGAD, in conjunction with Department of Labor, created a population program that requires census quality data. At the beginning of the 1982 legislative session the Governor introduced legislation to remove any reference to "other reliable data" and formalize into law the new population program.

Lee McAnerney, Commissioner  
June 16, 1982  
Page 2

At no time during this process has the Governor directed the Department to count seasonal or temporary workers in population counts nor has he been made fully aware of the implications of legislation he introduced this session. At the same time, LGAD has proceeded with the population program in the belief that the public interest is best served by a sound census count.

I believe there is a need for a census program such as the one mandated by LGAD's regulations. I also am aware that the Governor would prefer a population count that includes seasonal, temporary and isolated workers. The supreme irony in this issue is that both purposes may be accomplished by regulations under existing law. Assistant Attorney General Peques has already indicated that population counts for the purpose of Revenue Sharing should be based on "persons who are physically present for any length of time notwithstanding that their permanent residence is elsewhere". I believe that current law allows the Department to require a census count and to consider other information related to seasonal or temporary workers based on standards that will require uniform counting around the State.

I also believe that the amendment related to population is fundamentally flawed not because it requires a count of workers at "isolated job sites" but because it removes any reference to the population counts of the "U.S. Bureau of Census or other reliable data". This has the effect of prohibiting the Department from requiring a population count acceptable to the U.S. Census Bureau. Both the census count and a count of seasonal and temporary workers are important for any municipality.

#### Forest Lands Issue

On the surface the forest lands issue poses the question of competing State interests concerning renewable resources and local government. There may be a concrete State interest in developing a state-wide system of taxation for a major renewable resource of the State with appropriate compensation to local governments for loss of tax base and ancillary impacts of development. The current system of local property taxation may well be inappropriate for a renewable resource with a long growth period such as timber. At the same time, there is a definite State interest in broadening local tax bases to encourage greater local accountability for expenditures and reduce reliance on State appropriated funds for local operations.

These competing State interests are not balanced to produce good public policy in S 110. While S 110 purports to bring certainty and uniformity to the municipal code, the forest lands amendment

Lee McAnerney, Commissioner  
June 16, 1982  
Page 3

does precisely the opposite. It requires implementing regulations that will be quite different from the plain language of the statute and invites litigation on that basis. Even if that litigation is relatively minor in terms of number of suits and the ultimate revenue loss is small, there will no doubt be considerable uncertainty for local assessors because of the threat of litigation.

I am also convinced that it is foolish to believe the Administration is in a position to prepare comprehensive legislation to address this issue in the next several months and foolish to believe that the Legislature will address this issue early in the session. It will be a new Legislature. There may be leadership struggles and lack of familiarity with many issues. There will be additional uncertainty as local governments wait for a legislative pronouncement while at the same time undertaking 1983 assessments beginning in January.

On balance, I believe this legislation is contrary to the general purpose of SB 180 and contrary to general Department policy to encourage growth and independence on the part of local governments and to insure predictability in the administration of State laws affecting local governments.

#### Gun Control Issue

The Legislature approved the anti-gun control amendment because the issue is a political sacred cow in Alaska. There is significant uncertainty about the impact of the amendment on existing ordinances in Anchorage which the Anchorage Police Department considers critical to successful law enforcement in a city suffering a perceived crime problem. This amendment flies in the face of the entire purpose of SB 180 which is to insure uniformity and consistency in Title 29 and certainly will be the subject of litigation because of the anti-gun control nature of Alaska's population. It is inappropriate to impose this litigation burden on a municipality without further thought.

1. The Department has always encouraged growth and development of local governments. SB 180 was intended to be part of that effort by simplifying administration of Title 29 and expanding certain local government powers. While the issues surrounding SB 180 may be clouded by rhetoric, there is no doubt that such rhetoric has already taken a toll on the Department's credibility and the future growth of local government in Alaska. I believe it would be inconsistent with the original intent of SB 180 and the Department's general goals to recommend approval of the bill on the Governor's desk. In addition, I have no doubt that Title 29 revisions may be

Lee McAnerney, Commissioner  
June 16, 1982  
Page 4

reenacted at a later date with less controversy and in a manner that is perceived as a victory for local government in Alaska rather than a defeat.

4. In light of these comments, I recommend the Department adopt the following position:

1. Because of the uncertainty contained in a variety of amendments and the lack of certainty about implementation and future corrective legislation, the Department recommends veto of SB 180.

2. In order to accommodate the Governor's interest with regard to population counting, the Governor should direct the Department to revise existing regulations to require 2 population counts. The first count should be based on U.S. Census Bureau Standards. The second count should include seasonal, temporary or isolated population impacts counted on a uniform basis throughout the State. Both counts could be accomplished under existing law.

3. The Governor should immediately convene a Cabinet Task Force to develop a recommendation on future taxation of forest lands.

I strongly believe a veto with these conditions will serve the public interest, the Department's interest in seeing growth of local government and the Governor's interest in seeing a population count that accommodates unusual impacts.

I'd be pleased to discuss this with you at your convenience.

# MEMORANDUM

# State of Alaska

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

TO: Richard Aks  
Deputy Commissioner

DATE: June 8, 1982

THRU: Lawrence W. Kimball, Jr.  
Director  
Division of Community Planning

FILE NO:

TELEPHONE NO: 465-4750

SUBJECT: HCS CFSB 180 (L) am H  
(Title 29 Revisions)

FROM: James M. Kohler  
Deputy Director  
Division of Community Planning

Per your request of June 7, the Division has reviewed the provisions of the subject legislation as passed by the second session of the twelfth Alaska State Legislature. This legislation provides for substantial changes to AS 29, both of a general and a specific nature. Our comments delineate the more significant changes provided for by this legislation with particular attention paid to those changes which have program implication for the Division of Community Planning. After reviewing both the positive and negative elements of these revisions we conclude with a recommendation that a Governor's veto of the subject legislation be sought.

The revisions to Title 29 of Alaska Statutes are two-fold in nature. Changes have been incorporated which would modify both the general organization of the statutes, with a corresponding clarification and simplification of language, as well as specific provisions within the statutes.

Form and language changes have been effected which provide a more logical organization, simplify and clarify the language of the statutes.

With existing statutes it is difficult to determine which statute applies in any given situation. The proposed changes would apply to all provisions of the statutes and would clarify the language of the statutes. The subject provisions are contained in AS 29.01, AS 29.02, AS 29.03, AS 29.04, AS 29.05, AS 29.06, AS 29.07, AS 29.08, AS 29.09, AS 29.10, AS 29.11, AS 29.12, AS 29.13, AS 29.14, AS 29.15, AS 29.16, AS 29.17, AS 29.18, AS 29.19, AS 29.20, AS 29.21, AS 29.22, AS 29.23, AS 29.24, AS 29.25, AS 29.26, AS 29.27, AS 29.28, AS 29.29, AS 29.30, AS 29.31, AS 29.32, AS 29.33, AS 29.34, AS 29.35, AS 29.36, AS 29.37, AS 29.38, AS 29.39, AS 29.40, AS 29.41, AS 29.42, AS 29.43, AS 29.44, AS 29.45, AS 29.46, AS 29.47, AS 29.48, AS 29.49, AS 29.50, AS 29.51, AS 29.52, AS 29.53, AS 29.54, AS 29.55, AS 29.56, AS 29.57, AS 29.58, AS 29.59, AS 29.60, AS 29.61, AS 29.62, AS 29.63, AS 29.64, AS 29.65, AS 29.66, AS 29.67, AS 29.68, AS 29.69, AS 29.70, AS 29.71, AS 29.72, AS 29.73, AS 29.74, AS 29.75, AS 29.76, AS 29.77, AS 29.78, AS 29.79, AS 29.80, AS 29.81, AS 29.82, AS 29.83, AS 29.84, AS 29.85, AS 29.86, AS 29.87, AS 29.88, AS 29.89, AS 29.90, AS 29.91, AS 29.92, AS 29.93, AS 29.94, AS 29.95, AS 29.96, AS 29.97, AS 29.98, AS 29.99, AS 29.100.

Recommendation: Suggest that the Governor's veto be sought on the subject legislation. The subject legislation is a significant change to the statutes and should be carefully reviewed. The subject provisions are contained in AS 29.01, AS 29.02, AS 29.03, AS 29.04, AS 29.05, AS 29.06, AS 29.07, AS 29.08, AS 29.09, AS 29.10, AS 29.11, AS 29.12, AS 29.13, AS 29.14, AS 29.15, AS 29.16, AS 29.17, AS 29.18, AS 29.19, AS 29.20, AS 29.21, AS 29.22, AS 29.23, AS 29.24, AS 29.25, AS 29.26, AS 29.27, AS 29.28, AS 29.29, AS 29.30, AS 29.31, AS 29.32, AS 29.33, AS 29.34, AS 29.35, AS 29.36, AS 29.37, AS 29.38, AS 29.39, AS 29.40, AS 29.41, AS 29.42, AS 29.43, AS 29.44, AS 29.45, AS 29.46, AS 29.47, AS 29.48, AS 29.49, AS 29.50, AS 29.51, AS 29.52, AS 29.53, AS 29.54, AS 29.55, AS 29.56, AS 29.57, AS 29.58, AS 29.59, AS 29.60, AS 29.61, AS 29.62, AS 29.63, AS 29.64, AS 29.65, AS 29.66, AS 29.67, AS 29.68, AS 29.69, AS 29.70, AS 29.71, AS 29.72, AS 29.73, AS 29.74, AS 29.75, AS 29.76, AS 29.77, AS 29.78, AS 29.79, AS 29.80, AS 29.81, AS 29.82, AS 29.83, AS 29.84, AS 29.85, AS 29.86, AS 29.87, AS 29.88, AS 29.89, AS 29.90, AS 29.91, AS 29.92, AS 29.93, AS 29.94, AS 29.95, AS 29.96, AS 29.97, AS 29.98, AS 29.99, AS 29.100.

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In addition to these general organizational features of Title 29, the revisions provide for changes to specific sections. Many of these changes would directly impact the Division of Community Planning as they modify both directly and indirectly, the specific authority and systems of local governments which enable the control of local growth and development. We have restricted our comments to those modifications.

SB 180 provides for second class municipalities to reclassify directly to home rule governments. Existing statutes restrict this reclassification to municipalities of at least the first class. As discussed in both the DCRA UOB report and the recent "Overview of Local Government Issues in Rural Alaska" published by the Cooperative Extension Service, this flexibility is a key factor in enabling local governments to more readily develop the local government systems and infrastructure dictated by their unique local circumstances.

Both general and specific powers of municipalities are less restrictive in nature including the following:

- Municipal home rule limitations have been eliminated including sections pertaining to the election and term of mayor, expenditure of territory revenues, and capital indebtedness for public construction.
- Extrajurisdictional power for all municipalities has been expanded to allow for the operation of governmental facilities outside municipal boundaries, including solid and septic water facilities, waste water treatment and other similar facilities.
- A municipality which provides a facility outside its boundaries may provide for the operation of that facility within its jurisdiction. Other existing statutes may apply to provide a remedy when there is a violation of facility jurisdiction.
- The power to levy a tax to fund the operation of facility is extended to municipalities.
- Municipalities are provided with new powers regarding the ability to provide for the operation of facility outside of municipal boundaries.
- A new law regarding the operation of facility outside of municipal boundaries is provided.

SB 180 also provides for the reclassification of municipalities to home rule governments.

However, two provisions within the legislation, both the results of late amendments by the house, have serious consequences for municipalities across the State. When compared to the positive features of this legislation the net effect of these two amendments is to render the overall impact of the revisions negative and detrimental to local governments in Alaska.

SB 180 provides for changes in defining how population is defined and counted. Since these population counts serve as the principle variable in formulas for State revenue sharing distribution, any change in variable definition will significantly alter municipal revenues and, consequently, significantly impact the existence and nature of locally provided government services and programs.

The changes in SB 180 redefine population to include permanent residents as well as military personnel and employees and all workers at "isolated job sites."

This Division has long supported regulatory or statutory changes which more accurately represent the local population for which local municipalities are required to provide services. Many Alaska communities experience transient population increases during the course of a year due to either the seasonal nature of their economy or due to a new resource development project requiring labor force that cannot be satisfied by local permanent residents.

While the Division supports the intent behind the amendments regarding population counts, the specific amendments as drafted appear to be flawed. The Statewide 1980 Census indicates that local government income tax revenue is \$4.4 billion while the Statewide population is 400,000. The Statewide population is roughly double that of all other states. The Statewide population is 2.4 times that of the entire United States population.

There is a concern that the amendments will increase the population count for local government revenue purposes. The amendments will include military personnel and employees and all workers at "isolated job sites." The amendments will also include permanent residents. The amendments will also include seasonal workers. The amendments will also include transient workers. The amendments will also include all workers at "isolated job sites." The amendments will also include military personnel and employees. The amendments will also include permanent residents. The amendments will also include seasonal workers. The amendments will also include transient workers.

Divisional concerns regarding the amendments are as follows: 1. The amendments will increase the population count for local government revenue purposes. 2. The amendments will include military personnel and employees. 3. The amendments will include permanent residents. 4. The amendments will include seasonal workers. 5. The amendments will include transient workers. 6. The amendments will include all workers at "isolated job sites."

The second provision in SB 180 which underlines the positive impact of the legislation is the inclusion of forest lands in the list of mandated exemptions from local property tax assessments.

If a local community is to responsibly and effectively plan and provide for local services and programs it must base these services and programs, in part, on the capability of local resources to pay for them. The forest lands tax exemption in SB 180 takes a significant resource away from many local communities upon which both present and future community needs are dependent for funding. Many communities in Alaska, particularly those in S.E. Alaska are dependent on their forest resources for their very existence. Without being allowed to tax this resource many communities are left without a local industrial base to support needed community services and programs.

This Division does not agree that a property tax system for local government be permitted which singles out or places an undue burden on particular facets of a local resource or industry. However, for the same reason, this Division cannot support a local property tax system which allows one industry, or any particular industry, to be singled out as a resource for revenue to support local government services and programs.

The Department of Revenue is currently reviewing the impact of the proposed legislation on local government revenue and will report to the Governor and Legislature.

Very truly yours,  
Richard Aks  
Assistant Secretary

# MEMORANDUM

# State of Alaska

To: **Yuse McAnerney**  
Commissioner  
Community and Regional Affairs

DATE: June 16, 1982

FILE NO

TELEPHONE NO

SUBJECT

FROM  
*for*

**Palmer J. McCartel, Director**  
Local Government Assistance  
Community and Regional Affairs

**HCSRSSR180 (Jud) amf**

Substantive effects of the bill include:

1. Reorganizes, amends, and clarifies Title 29 of the Alaska Statutes (Original intent of bill).
2. Expands the State Revenue Sharing Program to make all unincorporated municipalities eligible and clarifies the conditions under which the Department may contract with Native Village Councils.
3. Prohibits municipalities from regulating or taxing firearms.
4. Increases the optional property tax exemptions a municipality may allow on any one piece of residential property from \$10,000 to \$25,000.
5. Expands the definition of "population" to include "all persons working at regulated job sites in a municipality".
6. Increases the tax on real estate that are taxed based upon a town or village.
7. Exempts 10% of low cost housing from municipality of property tax.
8. Revised definitions of "municipality" and "reference" to include "unincorporated village" and "Native Village Councils".

Division of Local Government Assistance Initiatives:

This division supported this bill from the time it was introduced to and through the legislative process. It was the only division that provided technical assistance to the bill's author and provided technical assistance to the bill's author and provided technical assistance to the bill's author.

The original intent of the bill was to provide ten years of protection against Title 29's amendments and clarifications and clarify Title 29's provisions. The bill was introduced to clarify Title 29's provisions and provide technical assistance to the bill's author and provide technical assistance to the bill's author.

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In our opinion, this amendment is unfair and administratively difficult to administer, and represents a special interest enrichment to the detriment of the balance of the State.

The Division has been working on this legislation to rewrite Title 29 of the Alaska Statutes for three years and, therefore, the request for veto is not lightly recommended. It is unfortunate that a bill that has received the amount of work and study that this one has received can be so severely damaged by the amendments cited that obviously received little, if any, study and analysis. SB 180, as amended on the House Floor and concurred in by the Senate during the last week of the session is a classic example of "end of the session" action which takes what was basically a well-studied issue and a desirable piece of legislation and, in last minute maneuverings, produces un-fit legislation.

A veto by the Governor is strongly recommended and, in our opinion and that of an overwhelming majority of the municipalities we serve, definitely justified.

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

Municipality	Value Loss	Revenue Loss	% of tax base loss
Anchorage	\$458,415,224	\$4,056,975	7%
Fairbanks	303,825,000	2,278,688	22%
Juneau	69,176,160	342,422	10%
Kenai	474,041,744	1,597,561	27%
Mat-Su	469,397,469	3,670,638	53%
Ketchikan	55,798,245	97,647	13%
Sitka	45,166,945	135,506	14%
Haines	20,995,620	88,811	36%
Total	\$1,896,816,407	\$12,268,298	

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.

12/11/09

# MEMORANDUM

State of Alaska

TO: Richard Ahs, Deputy Commissioner  
Community & Regional Affairs

DATE: April 20, 1982

FILE NO:

TELEPHONE NO: 465-2784

FROM: David Swanson, State Demographer  
Research & Analysis  
Department of Labor

SUBJECT: Critique of Proposed  
Amendment to CSSB180

In response to your request, I am providing a critical review of the proposed amendment to CSSB180 (a copy of the amendment is attached) that would provide for a revised definition of population in AS 29.45.080.1/

The amendment uses the term "permanent resident," which 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. For example, the following types of persons can be clearly classified into a "resident" and "nonresident" status under the rules of residency used by the state and the U. S. Bureau of the Census; where would these types of persons be placed under the amendment's "permanent resident?"

1. A person with no usual place of residence.
2. A dependent who is living with a member of the military.
3. A person attending a boarding school.
4. A person attending college, who is living
  - a. at home
  - b. away at school
5. A citizen of a foreign country who is studying or working temporarily in the United States.
6. An officer or crew member of an American Merchant ship engaged in
  - a. coastal transportation
  - b. foreign transportation
7. A person who has more than one home and travels between them.

- 8. A person who routinely spends extended periods of time away from home at a work site.
- 9. A person who lives in Household "A" during the day (a housekeeper or babysitter) but sleeps in Household "B" at night and on days off.
- 10. An American citizen abroad for a short time in connection with:
  - a. private work
  - b. government employment
- 11. A person who usually resides in Household "A" but is currently in:
  - a. a general hospital
  - b. jail
  - c. a TB ward
  - d. psychiatric institute
  - e. VA hospital
- 12. A newborn baby who has not yet been brought home from the hospital.
- 13. A member of the Armed Forces who:
  - a. lives on the installation
  - b. is stationed at a nearby installation but lives off post
  - c. is assigned to a military vessel and is:
    - 1. living on board
    - 2. living ashore

By introducing the possibility of detaining a different "population" than the "population" defined by the AFY Bureau of the Census, the amendment would lead to the following possibility:

1. It will seriously weaken the state's position in arguing to an alien for local government in dealing with the AFY Bureau of the Census in regard to the estimated tax liability of aliens working in other capacities. Currently, the AFY Bureau of the Census will accept any income tax return that is submitted. By changing the definition of who is an AFY alien, the AFY Bureau will not be bound by the AFY Bureau of the Census for federal revenue sharing. In addition, by changing the definition of residence, the AFY will not be bound by the AFY Bureau of the Census for federal revenue sharing. This will result in a significant loss of federal tax revenue.

- 2. Comparability, trend evaluation and other forms of analysis will be severely restricted. For example, many health related programs are initiated on the basis of information concerning the levels of a particular "rate" for a population. If the definition of a "death" remains constant but the definition of the population at risk is changed, comparison and trends are impossible to determine. Similar problems will be found in measures of rates of employment and unemployment.

In order to maintain comparability within Alaska and outside of Alaska, two sets of population figures would have to be produced, one using the census definition and one using the amendment's "definition." This would be a clear case of inefficiency and, further, would create confusion among many data users.

By forcing the production of two sets of numbers, the amendment will have a fiscal impact both on the state agencies responsible for population determinations and the local governments providing the data needed for the determinations. Current funding levels are not sufficient.

Other problems with the amendment include:

- 1. The provision to include military personnel is one that is already included by the definition of "resident."

- 2. The provision to include "the number of persons working at isolated sites" is a particularly vague one. For example, would it include "one job" the day of the week, full-time, or a part-time job that has a one-day job in the field, a part-time job that has a part-time job in the office, a part-time job that has a part-time job in the office, a part-time job that has a part-time job in the office, and a part-time job that has a part-time job in the office?

None of the "persons working at isolated sites" are currently included in the definition of "resident." In this case, it would be a case of double counting, since persons who are currently included in the definition of "resident" would also be included in the definition of "persons working at isolated sites."

If there are to be "isolated sites," how are they to be defined?

In summary, the proposed amendment will encourage duplication, inefficiency, and confusion. The state of Alaska already receives sufficient criticism in these areas. Why provide a legislative mandate that encourages the state to regress in a program where significant gains toward nonduplication, efficiency, and clarity have just been made?

Footnote

- 1/ This memo assumes that the amendment will only apply to AS 29.45.080. If it is applied to the state revenue-sharing program (AS 29.88.015 & AS 29.89.060), its unequal definitions will lead to inequalities in the revenue-sharing program where the few municipalities with "isolated job sites" will be taking funds away from municipalities without "isolated job sites." Virtually every municipality in the state is impacted by some type of special population - workers at isolated job sites, seasonal workers, tourists, and commuters, why should the impact of "workers at isolated job sites" be more important than the impact of the other types of population?

cc: John Post  
Grace Caldwell

W. W.

Proposed Amendment:

Page 107, line 21 after "and" insert:

Page 148, Line 8 after "is reliable" insert:

"shall include permanent residents and military personnel or employees of a military reservation located in the municipality. Population shall also include the number of persons working at isolated job sites in a municipality. The Commissioner of Community and Regional Affairs shall determine the number of persons working at isolated sites from information supplied by employers which show the number of persons employed on the sites as of July 31 of each year.

29,45,080?

## QUESTIONS ON SB 180

1. If SB 180 floor amendments are not so harmful as opponents say, why are the sources who have worked hard on the Title 29 revisions contained in SB 180 for three years (except Commissioner McAnerney) now recommending a veto?
2. What are the specific services required in North Slope Borough for full-time persons? How do they provide those services (number of staff, facilities, etc.)? What is the cost to the North Slope Borough?
3. Is it possible to develop an impact program separate from the revenue sharing, which depends on census and population definitions, in order to help the community with legitimate evidence of impact? What features might be considered in determining how one measures the impact?
4. Which policy should prevail - statewide resource tax on timber or local taxation on these resources? What is in the State's best interest in the long run? How does this compare with the oil/gas tax policies? Any consistency of philosophy, etc.?
5. If the municipal tax exemption is approved, how does the local government best recover the lost revenues?

# Alaska MUNICIPAL League

TELEPHONE  
007 586 1125  
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204 N. BRADLEY ST.  
JUNEAU, ALASKA 99801

June 21, 1967

The Honorable Jay S. Hammond  
Office of the Governor  
Pouch A  
Juneau, Alaska 99811

Dear Governor Hammond:

The Alaska Municipal League urges you to veto S.B. 196 (S.B. 196) as it is held harmful. At a special conference call meeting on June 10, 1967, the Board of Directors voted to request a gubernatorial veto unless their resolution was opposed by a majority of all members. Only four municipal officials requested approval to a veto.

The decision to request a veto was not an easy one to make. The League has worked long and hard for a revision of Title 18 and is happy with almost all of the provisions of the present law. However, the provisions of S.B. 196, which would put the provisions of the new law into effect, were considered to be a "back door" method of amending the law. The latter provisions of the bill would be more harmful than the current Title 18.

Several provisions of S.B. 196 are of the "back door" type and will be harmful to the municipalities. The provisions of the bill are so many that the rest of the bill is almost completely irrelevant. It is recommended that you veto the bill.

The rest of the bill is a "back door" method of amending the law. In general, the League is opposed to any change in the law. However, the provisions of the bill are so many that the rest of the bill is almost completely irrelevant. It is recommended that you veto the bill.

The prohibition of firearms ownership and possession regulation is also opposed by the League. While it is hard to imagine that local officials in any Alaskan community would want to ban ownership of firearms, some have adopted possession regulations. This restriction limits the ability of municipalities to respond to the wishes of their constituents and clearly is counter to the "maximum local self-government" directive in the Alaska Constitution.

Another amendment that is opposed by the League is the change in the method of determining population to include isolated job site workers and to specify July 1 as the date for the determination. The League believes that the total appropriations for revenue sharing and municipal assistance should be increased when specific recipients receive increases in order to avoid prostrating other municipalities' entitlements. Additionally, many coastal communities fear a decrease in their share of July 1 wages because many of their residents are out fishing at that time and away from the municipality.

Most of the last minute problems with SB 180 could have been corrected through conference committee. Unfortunately, the bill did not go that route. The League believes the negative aspects of the bill outweigh the good points and urges support for House Bill 180 (and) am B (old SB 180).

Sincerely,



Gary Chittenden  
Executive Director

ALASKA LEGISLATURE  
OFFICE OF THE CLERK  
JUNE 21, 1982

AML BOARD DIRECTORS  
SPECIAL MEETING  
June 10, 1982

Call to Order: First Vice President Harry Aase called the conference call meeting to order at 9:30 a.m. ADT (8:30 a.m. BDT/11:30 a.m. PDT).

Roll Call: Board members in attendance: First Vice President - Harry Aase; Second Vice President - Betty Glick; Directors - Ron Larson, Nate Clemaun, Leo Rasmussen, Mike Ribar, and Don Smith; Immediate Past President - Ted Lehner; and Past Presidents - John Carlson, Carroll Fader, and Dave Walsh. Board members absent: President - Jack Foster and Directors - Jen Halliwill (not contacted by the conference call operator at the meeting time) and Stephen McAlpine. Also participating were Legislative Committee Chair - Marilyn Dammick and Executive Director - Ginny Chitwood.

SB 180 - Municipal Code: The purpose of the meeting was to determine whether to ask the Governor to veto HCS CSSB 180 (Jud) as it is (old failed). Chitwood summarized the controversial amendments to the bill that are further explained in Legislative Bulletin #15, dated June 4, 1982. She said that the Governor has asked for legal opinions from the Department of Law, but those opinions are still in draft form and will not be public until next week. Based on internal discussions, she believes the legal opinions will indicate that problems which might develop from the population determination amendment probably can be handled by regulation, but the forest land exemption problems cannot. It is anticipated that the courts will have to define what "forest land" means and will follow the Supreme Court's "rule of construction" which is weighted in favor of the taxpayer.

Chitwood reported a request from Lynn Hoffman, Bethel City Manager, that the Board poll the AML members before taking action. Later moved that the Board take action at this time. Smith seconded. Walsh supported by advising the members of the Board's position by telegram, explaining that the position will be forwarded to the Governor unless a majority of AML members disagree with the position. There was no objection to that procedure and the motion passed.

Walsh moved that the AML Board request the Governor to veto SB 180. Motion seconded.

Under discussion, Walsh pointed out that even if the "affirmative" position was favorable on the forest lands exemption, more legislation would have to spend a lot of time and money defending that position in court. He stated that the forest land exemption and the taxpayer liability and recovery of AML funds are unfair impositions by the State onto the citizens of rural communities.

Larson, a member of the Public Review Committee, spoke in favor of the motion. He stated that he was not anxious to see all the committee's work on SB 180, but opposed the contract amendments added to the bill. He said that the committee had decided against dealing with contract amendments in the bill.

Fader supported the motion. Although he didn't serve on the Title 29 Committee, Ketchikan Attorney Russ Walker did and agreed with the veto request. They both opposed the legislature adopting floor amendments without the necessary background to make informed decisions.

Dimmick, who also served on the Committee, asked what would happen to all the Committee's work if the Governor vetoes SB 180. Clitwood remarked that Senators Gilman and Stursulewski plan to profile a revised bill for the next legislative session if SB 180 is vetoed.

Aase and Easmussen both stated that they believed the Board should wait for the legal opinions before acting, since the Governor has 20 days to sign the bill after he receives it and it hasn't been transmitted to him yet.

Smith urged immediate action because the Governor can sign as soon as he gets the bill; he doesn't have to wait the full 20 days.

Fader mentioned a potential problem with the population determination amendment, suggesting that municipalities with a high percentage of fishermen might lose a lot of their population count since the official determination would be made on July 1 when their residents would be out fishing.

There being no further discussion, a roll call vote was taken on the motion.

Yes	No
Clitwood	Easmussen
Dimmick	Fader
Harmon	
Smith	
Walker	

The motion carried.

Fader moved that the meeting be adjourned. The motion carried.

# Alaska



## STATE CHAMBER of COMMERCE

310 Second Street  
Juneau, Alaska 99801  
Phone 586-2323

RECEIVED

June 21, 1982

LEGISLATION  
COMMITTEE

Honorable Jay S. Hammond  
Governor  
State of Alaska  
P.O. Box 1  
Juneau, Alaska 99811

Dear Governor Hammond:

On Wednesday, June 16, 1982, the Executive Committee of the Alaska State Chamber of Commerce voted unanimously to ask you to veto House Bill 17 and Senate Bill 151.

During public time was devoted to discussion of the bill. Our members believe there are many positive aspects of the bill and wish it were possible to delete only the objectionable ones but of course, this is not possible.

Our main concern is amendment number 17 requiring mandatory exemption of "forest lands" from general taxation. We have reviewed the proposed tax projections under this amendment as estimated by local assessors and the interpretation of that amendment provided by the Legislative Council to Senator Gilliam as well as Senator Sturlewski's letter to you of June 4, 1982.

After several days of discussion and several conversations with Senator Sturlewski it is evident that under existing interpretation the revenue loss to municipalities would be substantial. It is also clear that revenue must be made up and it is apparent that property owners would bear a large portion of this burden in form of taxation.

A substantial portion of this property holders will be small business owners who already carry a heavy tax burden.