2167 HCRA HB 172 (FILE 1) - (FILE 2)

2167

PHONE MEMO

TO Shirley
FROM Mollie O'Brien
OF Houston, AK
DATE 2/29
TIME 2:00 AM PM
AREA CODE 279
NUMBER [illegible]
EXTENSION

MESSAGE

would like to talk w/you about fiscal impact, etc. of Amendment in HB 172. She is the City Clerk for Houston, also on the Legislative Committee for the Alaska Municipal League. Please call her back tomorrow morning. 892-6591.

Dorothy Jones
Box 109
TALKEETNA 99676

SIGNED

PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

AICO FORM NO. 50-176

MSNG 17007 MARY/MATSU

TO. REP. M. W. MILLER

892-6638
6869
6591

FR: ELSIE O'BRYAN
MEMBER, LEGISLATIVE COMMITTEE - ALASKA MUNICIPAL LEAGUE
P O BOX 24
HOUSTON 99694

RE: HB 172 - TITLE 29 REVISION

HAVE BEEN INFORMED THAT H. C&RA HAS REQUESTED A LEGAL OPINION ON HB 172. RESULTS NOT SCHEDULED TO BE AVAILABLE UNTIL MIDMARCH. CONSIDERING THE LEGISLATURE'S TIME SCHEDULE OF 120 DAYS, MARCH DATE MAY JEOPARDIZE PASSAGE OF THIS MUCH NEEDED LEGISLATION.

****

called lady 2/31/84
explained about bill -
she is anticipated to
have us handle bill

MSG 84-00019924 PRTY 1 03/02/84 08:48:13 ORIG: LM00 IN= 0006 OUT= 0019
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJHK SUBJ: P O M 8

TO: REPS. M.W. MILLER, CATO, HURLBURT, LACHER, PHILLIPS, LINDAUER, MCBRIDE

FR: DOROTHY JONES
ELSIE O'BRYAN
MEMBERS OF THE ALASKA MUNICIPAL LEAGUE LEGISLATIVE COMMITTEE
P O BOX 24
HOUSTON 99694

RE: HB 172 - MUNICIPAL GOVERNMENT

THANK YOU FOR RESCINDING THE VOTE ON THE AMENDMENT WHICH WAS OFFERED BY COMMISSION NOTTI. WE UNDERSTAND IT IS THE COMMITTEE'S INTENT TO EXPEDITE PASSAGE OF THIS LEGISLATION WITHOUT ADDITION CHANGES. THIS PASSAGE COMPLIES WITH THE INTENT OF WHAT THE ALASKA MUNICIPAL LEAGUE HAS IDENTIFIED AS A MAJOR PRIORITY OF HAVING THIS BILL PASSED.

Contact

279-1441

452-1527

Anchorage, FAIRBANKS,

586-5210

Juneau P.O.'s

for Position PAPERS

on HB 562.

B.B. KAUER.

Nome - 443-5262

Valdez - 835-4560 pat Skelly

Palmer - 745-4811 McKiven

Ruth Rockwell

733-2395

Dorothy Jones
Box 109
Talkeetna
99676

TITLE 29 FACT SHEET

SUMMARY OF HB 172/SB 1 - TITLE 29 (MUNICIPAL CODE)

HB 172 and SB 1 are comprehensive bills that reorganize and clarify Title 29 (Municipal Code), but do not substantially change that part of the state statutes that direct the operation of local government in Alaska.

History: The current Title 29, last revised in 1972, is a hodgepodge of 13 years worth of amendments. It is very difficult for the average citizen to read and understand.

Recognizing the problem, the Legislature adopted SCR 66 in 1980, directing the rewrite of Title 29. A broadly representative policy committee, with the assistance of a technical committee, prepared a revised code after an exhaustive series of meetings, hearings, and public presentations.

HB 170 and SB 180 were introduced in 1981. More hearings were held during the 1981 legislative session, during the interim, and continuing through the 1982 session. SB 180 passed the legislature, but because of controversial floor amendments, Governor Hammond vetoed the bill.

In 1983, SB 1 was introduced by Senators Sturgulewski and Gilman; HB 172, by Governor Sheffield. Both bills are basically the same as the bill that had passed the previous year minus the controversial amendments. More committee work was done in both the House and Senate on the 204 page bill.

Changes: For the most part, these bills reorganize and reword Title 29 for clarity and flexibility. Policy changes of any substance are very few. The main changes are:

Third Class Boroughs: The existing third class borough, Haines Borough, continues in existence, but there is no provision for incorporating new third class boroughs in the future.

Home Rule Status: Second class cities and unincorporated areas are authorized to adopt home rule charters, which must be ratified by a vote of the people.

Municipal Powers: A general grant of municipal powers is given to municipalities, instead of a long list of enumerated powers. The difference is more semantic than actual, since the list includes almost every conceivable municipal power. There is no change in the manner in which boroughs acquire powers.

Organizational Grants/Feasibility Studies: The organizational grants are increased and expanded, depending on the category of local government. Studies for the feasibility of local government are authorized.

Incorporation Requirements: The minimum number of people required for incorporation as either a first class or home rule city is increased from 400 to 600.

Ordinance Violation: Penalties for ordinance violations are increased from a maximum $500 and 30-days to class B misdemeanor penalties, which are a maximum of $1000 and 90-days.

Extraterritorial Jurisdiction: Solid and septic waste disposal, utility services, wharves, harbors, and other marine services are added to the list of powers that may be exercised outside the boundaries of the municipality, if the municipality has the authority to exercise the power inside its boundaries.

Economic Development: Allow economic development as a non-areawide power for second class

boroughs, without requiring a vote of the people to exercise it.

Franchise: Requires a vote on franchises of more than 5 years; current law requires a vote on all franchises.

Eminent Domain: Removes the requirement that second class cities get permission from the Department of Community and Regional Affairs and the voters before exercising the power of eminent domain.

Planning, Platting, and Land Use: Updates the language, changing "zoning" to "land use".

Run-Off Elections: Allows run-off election procedures and requirements to be changed by ordinance.

Personal Property: Allows exemption of personal property from taxation.

Taxation of Boats: Removes the $5 and $15 property tax limit on boats if assessed on the basis of net tonnage.

Penalties and Interest: Increases the maximum penalty on delinquent property and sales tax from 10% to 20% and interest from 8% to 15%.

Revenue Bonds: Authorizes revenue bonds to be payable solely from the revenue and property of the project.

Municipal Assistance Fund: Moves the administration of the Municipal Assistance Fund from the Department of Revenue to the Department of Community & Regional Affairs.

Municipal Property Disposal: Requires municipalities to adopt formal procedures by ordinance; current law sets out procedures including requiring an election on the disposal of any property valued at more than $25,000.

The substantive differences between SB 1 and HB 172 are:

Hospital Definition: Proposed CSHB 172 (CRA) adds "special" hospitals to the definition section for revenue sharing eligibility.

Farm Use Greenhouses: Senate CRA amendment to SB 1 provides for the assessing of farm use greenhouses on the basis of full and true value for farm use.

Annexation and Detachment: Senate CRA amendment to SB 1 adds detachment language to the annexation sections and establishes a time deadline for Local Boundary Commission action.

Education Powers: Senate CRA recommends amending the powers section to provide for a double majority vote before a second class city or an unincorporated area in an REAA can assume the education power when incorporating as a first class or home rule city. The vote would be both in the proposed incorporating area and the rest of the REAA.

Alaska Municipal League
Prepared February 23, 1984

AMENDMENT TO CSHB 172:

Add in AS 29.60.140 after the word borough "or within an organized borough"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M March 1, 1984

SUBJECT: Proposed amendment to the municipal code revision bill (CSHB 172 C&RA))

TO: Representative Mike W. Miller
Chairman
House Community and Regional Affairs

FROM: Tamara Brandt Cook TBC
Deputy Director
Division of Legal Services

You have asked what the legal effect would be of adding language to Sec. 29.60.140(b) in CSHB 172 (C&RA) so that the subsection would read:

> (b) In this section "unincorporated community" means a place in the unorganized borough or within an organized borough that is not incorporated as a city and in which 25 or more persons reside as a social unit. (New language underlined)

That section provides for aid to unincorporated communities. It replaces the current program of aid to Native village governments contained in AS 29.89.050 to reflect the way the program has actually been administered. Under sec. 29.60.140 each unincorporated community in the unorganized borough may receive an annual entitlement of $25,000 if there is a qualified entity in the community to receive and spend the money. The amendment changes the definition of "unincorporated community" to include communities in boroughs as well as communities outside of boroughs. Under this amendment, an unincorporated community, no matter where it is located in the state, can qualify to receive a grant.

You have also asked whether this amendment would have any fiscal impact. Since under the section as it now appears, only certain communities may receive a grant (those in the unorganized borough), and since the amendment would have the effect of increasing the number of communities that would

qualify for a grant by including communities in all the organized boroughs, it seems that the number of grants awarded under the section could increase substantially. Assuming an effort is made to fully fund the program, the program as amended will probably be significantly more expensive than it would have been under the original section. I have no way to determine how much additional money would be needed to fully fund the program.

You have also asked whether this amendment will encourage the formation of municipalities. I can think of no legal reason that this amendment would have that effect. Granting money to communities would not remove the limitation on incorporation of a cities under sec. 29.05.020 of the bill. In addition, some communities that would qualify for a grant on the basis of population would not be able to incorporate as a city for lack of 25 voters required to sign an incorporation petition. This is the minimum number of voters necessary for incorporation of a city. (See 29.05.060 (12)). To receive a grant, all that is needed is 25 residents, including children and others who might not be voters.

TBC:ojb
J4/029

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

Amend #1

TO: House C & R A Committee

FROM: Staff

SUBJECT: Difference between CSSB 1 and HB 172

DATE: March 22, 1983

HB 172 amendments needed to make it the same as CSSB 1:

p. 33, after line 28, insert new line (26) 29.35.060 (franchise and permits) and renumber following paragraphs accordingly.

p. 77, after line 6, add a new subsection
(c) this section applies to home rule and general law municipalities.

p. 77, line 9, after "regulate" delete [,] and add a utility service and"

p. 77, line 12 after "is" delete [not]
after AS 42.05, delete [and] and add "or"

p. 77, line 14 delete [(2)...law.] and add (2) municipal regulation is prohibited by AS 42.05.711 (k) or other law.

p. 77, line 17 -20, delete subsection (c) and add a new subsection
(c) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose, the municipality may acquire, maintain, and operate utility facilities together with necessary interests in real property outside its municipal boundaries.

p. 77, lines 21-22, delete subsection (d) and add a new subsection
(d) Unless a utility is owned by the municipality that is regulating it, all rates, charges, and regulations shall be established by the municipality in accordance with an ordinance that provides procedures for regulating service and establishing and changing rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges

do not adopt

Rep. Lacher's copy

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: House C & R A Committee

FROM: Staff

SUBJECT: Difference between CSSB 1 and HB 172

DATE: March 22, 1983

HB 172 amendments needed to make it the same as CSSB 1:

p. 33, after line 28, insert new line (26) 29.35.060 (franchise and permits) and renumber following paragraphs accordingly.

p. 77, after line 6, add a new subsection
(c) this section applies to home rule and general law municipalities.

p. 77, line 9, after "regulate" delete [,] and add a utility service and"

p. 77, line 12 after "is" delete [not]
after AS 42.05, delete [and] and add "or"

p. 77, line 14 delete [(2)...law.] and add (2) municipal regulation is prohibited by AS 42.05.711 (k) or other law.

Enabled if Amendment #9

p. 77, line 17 -20, delete subsection (c) and add a new subsection
(c) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose, the municipality may acquire, maintain, and operate utility facilities together with necessary interests in real property outside its municipal boundaries.

p. 77, lines 21-22, delete subsection (d) and add a new subsection
(d) Unless a utility is owned by the municipality that is regulating it, all rates, charges, and regulations shall be established by the municipality in accordance with an ordinance that provides procedures for regulating service and establishing and changing rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges

established under this section shall be reasonable and permit a fair return on invested capital. p. 77, Sec. 29.35.070, add new subsection (e) A dispute involving a utility certificated under AS 42.05 as to the reasonableness of the fees or the terms, conditions, or exceptions to a permit to use municipal streets shall be decided under AS 42.05.251.

p. 77, Sec. 29.35.070, add a new subsection

(f) In case of a conflict between the provisions of this section and AS 42.05 or concerning an action taken under this section or AS 42.05 involving the regulation of service or the rates or charges of a utility certificated under AS 42.05, the provisions of AS 42.05.641 apply.

p. 77, Sec. 29.35.070, add a new subsection
(g) This section applies to home rule and general law municipalities.

p. 195, line 22, add
*Sec. 62. AS 42.05.711 is amended by adding a new subsection (k) A public utility that is exempt or partially exempt under this section from the provisions of AS 42.05.010 - 42.05.721 may not be regulated by a municipality. This subsection does not apply to a public utility exempt under (b) of this section.

Renumber following sections accordingly.

1. p. 107, line 29, after "borough" delete [including...period;]

2. p. 61, line 10, after "(3) delete [is] and add "has been
after "elections" add for at least 30 days immediately preceeding the municipal election; and

3. p. 14, lines 17-26, after "action." add The standards and procedures established under this subsection that apply to detachment shall be the same as the standards and procedures that apply to annexation, except that the standards and procedures that apply to detachment must include provisions for equitable prorated payment of debts acquired by the municipality before the detachment.

p. 14, line 19 after (1) add, subject to (2) and (3) of this subsection,

p. 14, line 23 after "annexed" delete [by ordinance ...approval] and add or detached by ordinance without an election;

p. 14, line 24 after "annexed" add or detached

p. 14, after subsection (3) add a new subsection
(4) within 90 days after receipt of a petition for annexation or detachment, the Local Boundary Commission shall make a decision on the petition.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 1

Page 35, line 4:
After "request" insert "by a member of the governing body"

Page 35, line 5:
Delete "and"

Page 35, line 6:
After "request" insert "by a member of the governing body"

Page 35, line 8:
Delete "." insert ";"

Page 35, after line 8:
Insert "(4) a municipal employee or official, other than a member of the governing body, may not participate in any official action in which the employee or official has a substantial financial interest.

(b) If a municipality fails to adopt a conflict of interest ordinance within 180 days after July 1, 1983, the conflict of interest provision of this section is automatically applicable to and binding upon that municipality."

Page 35, line 9:
Delete "(b)" and insert "(c)"

Page 163, line 24:
Delete "allocable" insert "allocatable"

Amendment #1

All housekeeping changes, except for the two which are starred.

*1 - The muni. must adopt a conflict of interest ordinance that provides that (read #1)

*2 - If the muni. doesn't adopt a conflict of interest ordinance w/in 180 days after

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 2

Randy Phillips, Mike Szymanski

The following changes are proposed by ~~Ginny Chitwood, Alaska Municipal League.~~

1. Page 68, lines 5-7:
Delete section 29.26.250.

2. Page 68, line 15:
Delete "grounds of", insert "reasons for".

3. Page 68, line 24:
Delete "grounds" insert "reasons".

4. Page 69, lines 20,24:
Delete "25", insert "35".

5. Page 71, line 18:
Delete "grounds of" insert "reasons for".

Explanation: The issue of determining the sufficiency of grounds for a recall election was discussed by the committee. It appeared that a concensus was reached to eliminate the requirement for providing legal grounds to conduct a recall election and to increase signatory requirements for the petitioners.

Amendment #2

#s 1, 2, 3, & 5 eliminate the specified "grounds for recall" which are: misconduct in office, incompetence, or failure to perform prescribed duties.

#4 increases the signatory requirements for petitioners from 25% to 35%.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU ALASKA 9981[illegible]
907-465 3800

MEMORANDUM February 24, 1983

SUBJECT: Recall of municipal officials
(Work Order No. 13-0837)

TO: Representative Barbara Lacher

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked what the responsibility of the clerk is in reviewing recall petitions for sufficiency.

What a recall petition must contain and the method of determining the sufficiency of a petition depends on the specific statute involved and these types of laws vary from state to state. Some statutes require only a general statement of the grounds for recall and an official may be recalled for purely political reasons. However, other statutes require grounds for recall that are more than simple disagreement with matters of policy and the grounds stated must actually constitute misfeasance, malfeasance or nonfeasance in office. McQuillan, Municipal Corporations, vol. 4, sec. 12.251b: Noel v. Oakland County Clerk, 284 N.W.2d 761 (Michigan 1979); Bent v. Ballantyne, 368 S.2d 351 (Florida 1979); Tolar v. Johns, 147 S.2d 196 (Florida 1962); Jacobsen v. Nagel, 96 N.W.2d 569 (Minnesota 1959).

Where petitioners are required to state only general grounds, the recall petition need not state the cause for removal with the same particularity as where the requirement is that reasons for removal be stated clearly. The purpose of a general statement of grounds is to furnish information to electors upon which a political and not a legal issue may be raised. Under statutes providing that a statement of grounds for recall is for the information of the electors, the question of the sufficiency of those grounds is also for the electors, but under provisions authorizing recall for malfeasance or similar language, the sufficiency of the grounds provided is a legal question. 63 Am. Jur.2d, Public

Officers and Employees, sec. 245; Pybus v. Smith, 141 P. 203 (Washington 1914).

Statutory provisions as to recall are to be liberally construed in favor of the electorate's right to exercise recall. Hazelwood v. Saul, 619 P.2d 199 (Colorado 1980). Under this principle and in the absence of statutory language limiting the recall to specific, indicated reasons, the adequacy of grounds stated in a petition is treated as a political matter and courts refuse to enjoin recall petitions on complaints that charges are insufficient. However, where recall is limited to specified grounds of malfeasance or similar language it is generally held that

> . . . petitions are inadequate when they indicate only disagreement on matters of policy or political criticism. Antieau, Municipal Corporation Law, sec. 22.200, pages 22-304 - 22-305.

The officer designated to ascertain the sufficiency of a petition in a particular statute may be required to determine legal sufficiency rather than matters of form only. Unless an appeal is specifically provided for, the officer's determination as to sufficiency of a recall petition is final and subject only to judicial correction if the determination is capricious, arbitrary, or plainly erroneous as a matter of law. McQuillan, supra., vol. 4, sec. 12.251(d); Hold v. Trantham, 575 S.W.2d 83 (Texas 1979).

Article XI, section 8 of the Constitution of the State of Alaska provides:

> All elected public officials, in the State, except judicial officers, are subject to recall by the voters of the State or political subdivision from which elected. Procedure and grounds for recall shall be prescribed by the legislature. (Emphasis added)

In carrying out this constitutional responsibility the legislature has provided under AS 29.28.140 that misconduct in office, incompetence, and failure to perform prescribed duties are the grounds for recall. In addition, under AS 29.28.150(a)(3), a petition for recall must contain ". . . a statement of the grounds of the recall stated with particularity as to specific instances". (Emphasis added)

The municipal clerk is required to review the petition ". . . for content and signatures . . ." under AS 29.28.160.

These statutory provisions dealing with recall have not been judicially construed by the Supreme Court in this state, so it cannot be determine with certainty whether the clerk is required to review the petition for signatures and form only or whether the clerk must determine as a legal matter whether the specific instances set out in a petition, if true, constitute misconduct in office, incompetence or failure to perform prescribed duties. Under the principles set out previously in this memorandum it appears that the clerk is required to determine whether the specific instances set out support a claim of misconduct in office, incompetence or failure to perform prescribed duties because AS 29.28.150 demands more than just a general statement of the grounds for recall and does not specifically indicate that the stated grounds are for the information of the voters only.

Under both versions of the bill revising Title 29, SB 1 and HB 172, the grounds for recall remain unchanged although the procedure for recall has been substantially changed. Nevertheless, an applicant for a recall petition under Sec. 29.26.260(a)(3) is still required to set out the grounds ". . . with particularity". The clerk must prepare a recall petition only if the clerk determines that the application for the petition meets the requirements of AS 29.26.260, including the requirement that grounds be ". . . stated with particularity" (Sec. 29.26.280). After a petition is filed the clerk must again determine whether the petition is sufficient and, if insufficient, ". . . identify the insufficiency and notify the sponsors. . ." (Sec. 29.-26.290). It seems clear that since the clerk must identify the insufficiency, a determination of sufficiency is not limited to review of signatures, even though (b) and (c) of the section only provide for correcting a petition insufficient for lack of signatures. It appears under these sections that the clerk would still be required to determine whether the grounds stated, if true, actually constitute misconduct in office, incompetence, or failure to perform prescribed duties.

I believe that this interpretation conforms to the intent of the policy committee that produced the original version of a Title 29 revision bill. There was considerable discussion of the recall provisions by that committee and at one point

the committee considered requiring only a general statement of reasons for recall and allowing recall to proceed upon purely political grounds. It was even suggested that grounds for recall be eliminated entirely. That approach was specifically rejected by the committee. Consequently, I would recommend that HB 172 be amended to clearly reflect the fact that the clerk is to review a recall petition for form and signatures only, and not to determine whether grounds stated actually constitute misconduct in office, incompetence, or failure to perform prescribed duties, if that is the result intended by the legislature.

TBC:ljb

NOTES APPLICABLE TO FOLLOWING IMAGE

Editorial Comments

Amendments on this subject should be:

1) Pg. 75, delete lines 19-21.
2) Pg. 75, delete lines 27-29

> These sections give the municipality the Authority to REQUIRE inaividuals to use the govt. provided garbage collection service rather than another method.

Boy, That's some "free market" when the government is allowed to come in & force A garbage collection company out of business & buy them out at a government-determined price!!

Amendment #3

This would clarify exactly what eminent domain is used for: (to acquire the certificate, equipment & facilities of the carrier, or that portion of the certificate that would be affected).

Enid's suggested amendment

Pg. 76, lines 18-20, Delete "A municipality may exercise the right of eminent domain to determine fair market value."

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 3

Page 76, lines 19 and 20:
Delete "determine fair market value" insert "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Explanation: The right of eminent domain is not used to determine fair market value. The determination of fair market value is a step in the process of exercising eminent domain. As written, the statement may not meet the intent of allowing municipalities to excercise the right of eminent domain to acquire certificates or property.

Passed
I objected,
voted no

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 4

Page 126, line 3:
Delete "$100,000.00" insert "$20,000.00".

Explanation: During Committee review of House Bill 172, there appeared to be a concessus of the committee that the minimum value of property to be foreclosed upon without notification to the owner by certified mail is too high ($100,000.00).

Amendment #4

The bill currently requires notice to all holders of a mortgage or lien on property only if the assessed value is $100,000 or more. This would reduce the minimum to $20,000.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 5

Passed

Page 204, lines 7 and 8:
Recommend change to read:

Sec. 85. AS 29.45 "as enacted in Sec. 11 of this Act is effective on January 1 of the year following enactment.

Explanation: HB 172 may be enacted into law in 1983 or 1984, depending on legislative action. The amendment will avoid the possibility of a "split" tax year and will provide time for municipal planning purposes.

Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE OR FEDERAL AGENCIES. (a) Ordinances, regulations, permit decisions, coastal management or other land use plans adopted or promulgated under AS 29.35.180, AS 29.40 or AS 46.40 may not preclude or otherwise impede a hydrocarbon, mineral or geothermal exploration, development or production activity or project conducted pursuant to a lease, license, permit or other authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity or project.

(b) The provisions of this section apply to home rule and general home rule and general law municipalities.

AMENDMENT #1

SENATE AMENDMENT

MAR 15 1983

BY Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 33 LINE: 27

Insert "(26) 29.35.060 (franchise and permits)". Renumber following paragraphs accordingly.

Page 33, line 29, insert:

"(28) 29.35.075 (disputes and conflicts with state certificated utilities)"

Page 77, after line 3, insert:

"(c) This section applies to home rule and general law municipalities."

Page 77, line 4-19, delete Section 29.35.070 and insert:

"Sec. 29.35.070. PUBLIC UTILITIES. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate the service, and may fix, establish, and change the rates and the charges imposed for a utility service provided to the municipality or its inhabitants by a utility except to the extent

(1) the utility is subject to regulation under AS 42.05; or

(2) municipal regulation is prohibited by AS 42.05.711(k) or otherwise specifically prohibited by law.

(b) The municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality that is regulating it, all rates, charges and regulations established under this section shall be established as provided by an ordinance of the municipality establishing

the procedures for regulating service and procedures for establishing and changing the rates and charges of the utility. The ordinance shall provide for notice, hearing and other procedures necessary to guarantee due process. The rates and charges established shall be reasonable and shall permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities.

Page 77, after line 19, insert:

"Sec. 29.35.075. DISPUTES AND CONFLICTS WITH STATE CERTIFICATED UTILITIES. (a) A dispute as to the reasonableness of the fees for or the terms, conditions, or exceptions to a permit for a utility certificated under AS 42.05 to use municipal streets, alleys or other public ways of the municipality shall be decided under AS 42.05.251.

(b) In case of a conflict between the provisions of AS 29.35.070 or AS 42.05 or an action taken under either as to the regulation of service rates or charges of a utility, the provisions of AS 42.05.641 apply.

(c) This section applies to home rule and general law municipalities.

Page 195, after line 19, insert:

"*Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) Except for municipally owned and operated utilities subject to (b) of this section, municipalities may not regulate utility services, including but not limited to rates, terms and conditions of services, provided by a person, utility or cooperative that is exempt from regulation under AS 42.05.711."

Renumber following sections accordingly.

SENATE AMENDMENT

BY Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 74 LINE: 9

Delete "utility services,"

Page 77, after line 17, insert:

"(d) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary interests in real property outside its municipal boundaries."

Page 77, line 18, delete:

"(d)" and insert "(e)"

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

TO: Representative Milo H. Fritz
FROM: David Schade, Staff
DATE: August 16, 1983
RE: C&RA Interim Proposal

The House Community and Regional Affairs Committee has 25 Bills and Resolutions in committee at this time. 15 of these bills and resolutions can be researched and prepared for commitee hearings in Juneau. 7 of these Bills are no longer valid and 3 Bills will require extensive research.

HB 92 Repeal AK Coastal Management Program by Bettisworth would require extensive research and public hearings. There seems to be much opposition to this bill by Boroughs and Cities around the state, and I do not know if the House Majority Coalition is in favor of this bill.

HB 172 RE: Municiple Government by Rules has had its hearings and is ready to be passed out of committee. I would suggest that staff prepare a report explaining how the different issues have been solved. As we discussed it will be important that the bill is not amended by poorly informed legislators after the bill is passed out of committee.

HB 317 RE: State Revenue Sharing/Municipal Assistance by Rules by request of the Governor is a complex bill. This bill was designed to combine existing revenue sharing and municipal assistance programs into a single program. It would also give increased minimum entitlements for local governments. According to Representative Lachers' Interim Proposal "... the legislation is deficient in equity and may cause unnecessary administrative burdens." It would seem to be beneficial to have public hearings around the state on this bill before session and to have researched and defined the problem areas.

Representative Lacher also proposed to hold public hearings and develop legislation to assist the unincorporated boroughs in the organization process. This was recommended by the Local BoundaryCommission, but I do not know anything about this issue.

As you can see there is more work for the committee to do than time available. With only 4½ months before we return to Juneau it will be important to identify the projects that the coalition wants pursued, and allocate our time accordingly.

The following amendment is the differences between House Bill 172 and CS Senate Bill 1 at present. If adopted, both bills would be in line.

AMENDMENT #12 - page 33, after line 28, insert new line (26) 29.3-5.060 (franchise and permits) and renumber following paragraphs accordingly.

page 77, after line 6, add a new subsection - (c) this section applies to home rule and general law municipalities.

page 77, line 9, after "regulate" delete [,] and add a utility service and"

page 77, line 12 after "is" delete [not] and after AS 42.05, delete [and] and add "or"

page 77, line 14 delete [(2)...law.] and add (2) municipal regulat... is prohibited by AS 42.05.711 (k) or other law.

page 77, line 17-20, delete subsection (c) and add a new subsection (c) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose, the municipality may acquire, maintain, and operate utility facilities together with necessary interests in real property outside its municipal boundaries.

page 77, lines 21-22, delete subsection (d) and add a new subsection (d) Unless a utility is owned by the municipality that is regulating it, all rates, charges, and regulations shall be established by the municipality in accordance with an ordinance that provides procedures for regulating service and establishing and changing rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges established under this section shall be reasonable and permit a fair return on invested capital.

not introduced — should not be — might be bargaining tool for Senate!

page 77, Sec. 29.35.070, add new subsection (e) A dispute involving a utility certificated under AS 42.05 as to the reasonableness of the fees or the terms, conditions, or exceptions to a permit to use municipal streets shall be decided under AS 42.05.251.

page 77, Sec. 29.35.070, add a new subsection (f) In case of a conflict between the provisions of this section and AS 42.05 or concerning an action taken under this section or AS 42.05 involving the regulation of service or the rates or charges of a utility certificated under AS 42.05, the provisions of AS 42.05.641 apply.

page 77, Sec. 29.35.070, add a new subsection (g) This section applies to home rule and general law municipalities.

page 195, line 22, add Sec. 62. AS 42.05.711 is amended by adding a new subsection (k) A public utility that is exempt or partially exempt under this section from the provisions of AS 42.05.010 - 42.05.721 may not be regulated by a municipality. This subsection does not apply to a public utility exempt under (b) of this section.

Renumber the following sections accordingly.

page 107, line 29, after "borough" delete [including...period;]

page 61, line 10, after "(3) delete [is] and add "has been
after "elections" add for at least 30 days immediately preceding the municipal election; and

page 14, lines 17-26, after "action." add The standards and procedures established under this subsection that apply to detachment shall be the same as the standards and procedures that apply to annexation, except that the standards and procedures that apply to detachment must include provisions for equitable prorated payment of debts acquired by the municipality before the detachment.

page 14, line 19 after (1) add, subject to (2) and (3) of this subsection,

page 14, line 23 after "annexed" delete [by ordinance ...approval] and add or detached by ordinance without an election;

page 14, line 24 after "annexed" add or detached

page 14, after subsection (3) add a new subsection (4) within 90 days after receipt of a petition for annexation or detachment, the Local Boundary Commission shall make a decision on the petition. (S.D.#20)

~~AMENDMENT #13 - Change effective dates to present year.~~

~~END~~

TO: House C & R A Committee

FROM: Staff

SUBJ: HB172 - Amendment #11

DATE: February 9, 1984

The following change is proposed in the definition section of Article 15, General Provisions, Section 29.60.800(2):

(2) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general OR SPECIAL hospital; the term excludes a facility operated or wholly supported by the state or the federal government.

adopt

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

March 17, 1983

The Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Subject: Senate Bill 1

Dear Senator Ray:

You have before you SB 1, the municipal code revision which includes in it revisions to the existing law, AS 29.89, state aid to municipalities and other eligible recipients for health facilities and hospitals.

That section as currently drafted, AS 29.60.120 in SB 1, continues to discriminate against the Juneau Regional Rehabilitation Hospital by excluding it from hospital revenue sharing. This, inspite of the fact that the facility was required to be built to acute hospital standards and functions as an acute facility with a specialty license. The specific problem is caused in the definition section of Article 15, General Provisions, Section 29.60.800(2). This should be changed to read as follows:

> (2) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general or special hospital; the term excludes a facility operated or wholly supported by the state or the federal government.

Your assistance in securing this amendment would be greatly appreciated.

Sincerely,

Dennis L. DeWitt
President

cc: Representative Mike Miller
Matthew Felix

TO: House Community and Regional Affairs Committee

FROM: Staff

SUBJ: HB172 - Amendment #13

DATE: February 8, 1984

All effective dates should be changed to the present year.

needs introduction + adoption

TO: House C & R A Committee

FROM: Staff

SUBJ: HB172 - Amendment #11

DATE: February 9, 1984

The following change is proposed in the definition section of Article 15, General Provisions, Section 29.60.800(2):

(2) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general OR SPECIAL hospital; the term excludes a facility operated or wholly supported by the state or the federal government.

needs introduction + adoption

alaska state hospital association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

March 17, 1983

The Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Subject: Senate Bill 1

Dear Senator Ray:

You have before you SB 1, the municipal code revision which includes in it revisions to the existing law, AS 29.89, state aid to municipalities and other eligible recipients for health facilities and hospitals.

That section as currently drafted, AS 29.60.120 in SB 1, continues to discriminate against the Juneau Regional Rehabilitation Hospital by excluding it from hospital revenue sharing. This, inspite of the fact that the facility was required to be built to acute hospital standards and functions as an acute facility with a specialty license. The specific problem is caused in the definition section of Article 15, General Provisions, Section 29.60.800(2). This should be changed to read as follows:

> (2) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general or special hospital; the term excludes a facility operated or wholly supported by the state or the federal government.

Your assistance in securing this amendment would be greatly appreciated.

Sincerely,

Dennis L. DeWitt
President

cc: Representative Mike Miller
Matthew Felix

AMENDMENTS

The following is a list that presents a brief explanation of the amendments that were discussed and that received approval from the House Committee on Community and Regional Affairs during the 1983 legislative session. The following amendments 1 through 10, cover the concerns brought out from the proposals previously conducted by the Hammond Administration as well as progressively bringing further clarity and flexibility to Title 29.

passed

AMENDMENT #1 - clarifies the participation of a municipal employee or official in instances where the employee or official has substantial financial interest that may constitute a conflict of interest. Other items on the amendment are grammatical changes and general house keeping changes to further clarify the language (S.D.#9).

delete

AMENDMENT #2 - removes the requirement of determining the "sufficiency of grounds" for a recall election. It replaces "providing legal grounds" with "providing reasons for" and amends the percentage amount of signatures required to constitute a recall election from 25% to 35% (S.D.#10).

passed

AMENDMENT #3 - defines the intent of eminent domain process. As written, the statement may have not met the intent of allowing municipalities to exercise the right of eminent domain to acquire specific certificates or properties (S.D.#11).

passed

AMENDMENT #4 - lowers the minimum value of property to be foreclosed upon without notification to the owner by certified mail to $20,000.00 from the proposed limit of $100,000.00 (S.D.#12). Presently, property of any value must be notified.

passed

AMENDMENT #5 - specifies the date that Chapter 45 of Title 29 as written in House Bill 172 will go into effect. The amendment will avoid the possibility of a split tax year and will provide lead time for municipal planning and department assistance for mandated state and federal programs (S.D.#13).

AMENDMENTS

The following is a list that presents a brief explanation of the amendments that were discussed and that received approval from the House Committee on Community and Regional Affairs during the 1983 legislative session. The following amendments 1 through 10, cover the concerns brought out from the proposals previouslv conducted by the Hammond Administration as well as progressively bringing further clarity and flexibility to Title 29.

AMENDMENT #1 - clarifies the participation of a municipal employee or official in instances where the employee or official has substantial financial interest that may constitute a conflict of interest. Other items on the amendment are grammatical changes and general house keeping changes to further clarify the language (S.D.#9).

AMENDMENT #2 - removes the requirement of determining the "sufficiency of grounds" for a recall election. It replaces "providing legal grounds" with "providing reasons for" and amends the percentage amount of signatures required to constitute a recall election from 25% to 35% (S.D.#10).

AMENDMENT #3 - defines the intent of eminent domain process. As written, the statement may have not met the intent of allowing municipalities to exercise the right of eminent domain to acquire specific certificates or properties (S.D.#11).

AMENDMENT #4 - lowers the minimum value of property to be foreclosed upon without notification to the owner by certified mail to $20,000.00 from the proposed limit of $100,000.00 (S.D.#12). Presently, property of $10,000 value must be notified.

AMENDMENT #5 - specifies the date that Chapter 45 of Title 29 as written in House Bill 172 will go into effect. The amendment will avoid the possibility of a split tax year and will provide lead time for municipal planning and department assistance for mandated state and federal programs (S.D.#13).

failed

AMENDMENT #6 - This amendment did not receive committee approval (S.D. #14).

delete

AMENDMENT #7 - deletes "greenhouses" from being considered under a special lower assessment for property taxes on farm use land. The special taxing provisions for farm use land is designed to help farmers resist pressures to sub-divide their land (S.D.#15).

not voted on motion for delete

AMENDMENT #8 - deals with required tax exemptions which contain new language that defines "developed" for the implementation of a required federal tax program. This concern was addressed and resolved in Senate Bill 260 (S.D.#16).

not voted on motion delete

AMENDMENT #9 - relates to the Alaska Public Utilities Commission. The net effect of the amendment is to prohibit municipalities from regulating utilities unless the type of regulation proposed or the particular utility is not subject to regulation by the Alaska Public Utilities Commission (S.D.#17). Please review HB274 (S.D.#5) which dealt with this issue.

PROPOSED AMENDMENTS FOR CONSIDERATION DURING 1984 SESSION

adopt

AMENDMENT #10 - Legal Services is preparing this amendment, by request of the Chairman, to be considered by the Committee on Community and Regional Affairs during the 1984 legislative session. It will encompass all legislation that was signed into law during the 1983 session that pertains to Title 29. This action is necessary in order to reflect changes made to Title 29 that are not now incorporated in the revision bill.

Three separate pieces of legislation became law. SB85 relates to the certificate of need program and construction funding for health facilities (S.D.#18).

Senate Bill 260 which provides for the definition of "developed" as it relates to lands that are exempt from taxation as stated by federal law (S.D.#4). House Bill 274 would exempt a utility which furnishes cable television from the provisions of the Alaska Public Utilities Commission Act (AS 42.05.010 thru AS 42.05.721) with the exception of provisions requiring a certificate of public convenience and necessity (AS 42.05.221 thru AS 42.05.281), unless 25 percent of the subscribers petition the commission for regulation (S.D.#5).

adopt

AMENDMENT #11 - "special hospitals" to be included in definition of health facilities - AS 29.60.800(2), page 169, line 3 of House Bill 172. That section as currently drafted discriminates against special hospitals by excluding them from hospital revenue sharing. Since these facilities are required to be built to acute hospital standards and function as an acute facility with a specialty license, language to resolve this discrepancy may read as follows:

> AS 29.60.800(2),
> "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general or special hospital; the term excludes a facility operated or wholly supported by the state of the federal government (S.D.#19).

The following amendment is the differences between House Bill 172 and CS Senate Bill 1 at present. If adopted, both bills would be in line.

AMENDMENT #12 - page 33, after line 28, insert new line (26) 29.3-5.060 (franchise and permits) and renumber following paragraphs accordingly.

page 77, after line 6, add a new subsection - (c) this section applies to home rule and general law municipalities.

page 77, line 9, after "regulate" delete [,] and add a utility service and"

page 77, line 12 after "is" delete [not] and after AS 42.05, delete [and] and add "or"

page 77, line 14 delete [(2)...law.] and add (2) municipal regulation is prohibited by AS 42.05.711 (k) or other law.

page 77, line 17-20, delete subsection (c) and add a new subsection (c) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose, the municipality may acquire, maintain, and operate utility facilities together with necessary interests in real property outside its municipal boundaries.

page 77, lines 21-22, delete subsection (d) and add a new subsection (d) Unless a utility is owned by the municipality that is regulating it, all rates, charges, and regulations shall be established by the municipality in accordance with an ordinance that provides procedures for regulating service and establishing and changing rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges established under this section shall be reasonable and permit a fair return on invested capital.

page 77, Sec. 29.35.070, add new subsection (e) A dispute involving a utility certificated under AS 42.05 as to the reasonableness of the fees or the terms, conditions, or exceptions to a permit to use municipal streets shall be decided under AS 42.05.251.

page 77, Sec. 29.35.070, add a new subsection (f) In case of a conflict between the provisions of this section and AS 42.05 or concerning an action taken under this section or AS 42.05 involving the regulation of service or the rates or charges of a utility certificated under AS 42.05, the provisions of AS 42.05.641 apply.

page 77, Sec. 29.35.070, add a new subsection (g) This section applies to home rule and general law municipalities.

page 195, line 22, add Sec. 62. AS 42.05.711 is amended by adding a new subsection (k) A public utility that is exempt or partially exempt under this section from the provisions of AS 42.05.010 - 42.05.721 may not be regulated by a municipality. This subsection does not apply to a public utility exempt under (b) of this section.

Renumber the following sections accordingly.

page 107, line 29, after "borough" delete [including...period;]

page 61, line 10, after "(3) delete [is] and add "has been
after "elections" add for at least 30 days immediately preceding the municipal election; and

page 14, lines 17-26, after "action." add The standards and procedures established under this subsection that apply to detachment shall be the same as the standards and procedures that apply to annexation, except that the standards and procedures that apply to detachment must include provisions for equitable prorated payment of debts acquired by the municipality before the detachment.

page 14, line 19 after (1) add, subject to (2) and (3) of this subsection,

page 14, line 23 after "annexed" delete [by ordinance ...approval] and add or detached by ordinance without an election;

page 14, line 24 after "annexed" add or detached

page 14, after subsection (3) add a new subsection (4) within 90 days after receipt of a petition for annexation or detachment, the Local Boundary Commission shall make a decision on the petition. (S.D.#20)

adopted

AMENDMENT #13 - Change effective dates to present year.

END

TO: House Community and Regional Affairs Committee

FROM: Staff

SUBJ: HB172 - Amendment #13

DATE: February 8, 1984

All effective dates should be changed to the present year.

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

March 29, 1984

To: All members of House Judiciary Committee
and Fairbanks Delegation

Re.: Opposition to CSHB 172 (C&RA), an act changing local government law

Dear Legislators:

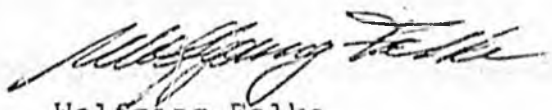
CSHB 172 conflicts with numerous constitutional provisions. In the past I have written extensively and pointed out the problems with this bill (attached is a copy of my twelfth letter to all Legislators, a letter to the editor and one addressed to Governor Hammond in 1982 concerning the basically same bill then, that was stopped by veto).

Now, like then, the public is not aware that this notorious administration-pushed bill is moving again. The public is uninformed of the changes in present law should CSHB 172 be passed and in fact is denied a fair opportunity to comment. This bill is to the public like a thief in the night that will rob the people of their constitutional right to maximum local self-government, to property, etc.

(Upon your request I will gladly, within a reasonable time, prepare a more detailed analysis of this bill with respect to the the provisions of the Alaska Constitution and the people as a whole.)

Without further public input, this bill should die in your committee. Present law provides adequately for the necessary administration and for maximum local self-government.

Very truly yours,



Wolfgang Falke

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

Twelfth open letter to all
Legislators of the State of Alaska

May 19, 1982

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

Dear Legislator:

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

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

Delete proposed AS 29.05.060(13) "for a home rule municipality a proposed home rule charter" (at page 6);
delete proposed AS 29.05.110(d) "A home charter included in an incorporation petition under AS 29.05.060(13) is considered to be part of the incorporation question. The home rule charter is adopted if the voters approve incorporation of the municipality." (at page 8);
add "Because a home rule municipality has all legislative powers not prohibited by law or charter, a listing of each additional municipal power (additional to the mandatory powers of tax assessment and collection, education etc.) must appear separately on the ballot so that each could be voted on for the purpose of exclusion from exercise by the proposed new municipality.";
delete proposed AS 29.10.010(g) "The proposed charter for an unincorporated community or an area of the unorganized borough shall be filed with the incorporation petition filed under AS 29.05.060." (at page 28); and
add the following to AS 29.10.020:
"Model charters may serve only as an example or as a guideline to the members of the charter commission and must not be made a part of the incorporation petition under AS 29.05.060."

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

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

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

Very truly yours,

Wolfgang Falke

P.S.
The third class borough form of local government is not "only a school district"! Please see AS 29.41.010(b), and my 10th and 4th open letter to all Legislators.
The third class borough must remain law as a first step to borough organization.

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

Jay S. Hammond, Governor
3rd Floor State Capitol
Pouch A
Juneau, Alaska 99811

June 3, 1982

Re.: HCS-CSSB-180(Jud)amH,"An Act relating to municipal government"

Dear Governor Hammond:

HCS-CSSB-180(Jud)amH,"An Act relating to municipal government", having passed both the House and the Senate, now comes across your desk for approval, inaction, or veto. Before you decide the fate of this bill, please consider the following comments for the good of the people of Alaska as a whole:

This bill has received little publicity and only in recent weeks was labeled by the Municipal League and the Associated Press as just revising or reorganizing "chaotic laws regulating cities". In reality this bill is fundamentally changing the form of borough government and eliminating local voter approval of additional municipal powers to be exercised by second class boroughs, as well as deleting the reclassification option from second to third class status and the formation of new third class boroughs. Among other fundamental changes, it will, without the vote of the people, allow second class boroughs to provide for economic development, i.e. unrestricted government business and government industrial development. That is something the Voters of Fairbanks turned down by about 75% "No"-votes at the last general election.

By conferring authority to exercise additional municipal powers without the approval of the local electorate, and by prohibiting the formation of new third class boroughs the legislature is violating the constitutional mandate to provide for maximum local self-government. The Municipal League is pushing for passage of the bill and hiding the bills true intention of stripping the local citizens of their right to voter approval for the exercise of additional powers by the borough governments. This is also evidenced in my recent letter to the Editor of the Fairbanks Daily News-Miner, copy of which is attached hereto.

At the time the people of Alaska adopted the Constitution of the State of Alaska it was their will to retain the right of self-determination over local government, and that any additional exercise of municipal powers or special services must be approved by the voters of the locality affected. It is your duty as Governor of the State of Alaska to support and defend the Constitution of the State of Alaska, therefore you are obligated, pursuant to Article I, Sections 2, 15, and 21, Article II Sections 13 and 19, and Article X of our Alaska Constitution to exercise your veto power over this unconstitutional enactment created in HCS-CSSB-180-(Jud)-am-H by our legislators.

For the good of the people as a whole I urge you to veto this bill.

Very truly yours,

Wolfgang Falke

Wolfgang Falke

cc: Editors of
Alaska newspapers

P.O.Box 1166
Fairbanks, Alaska 99707

May 29, 1982

Fairbanks Daily News-Miner
200 No. Cushman St.
Fairbanks, Alaska 99701

Dear Editor:

This is in response to the Juneau AP report in your May 26, 1982 issue regarding Senate Bill 180, "An act relating to municipal government", wherein it was stated:

> "Alaska Municipal League Executive Director Ginny Chitwood defended the bill. She said city officials have struggled for years with Alaska's disorganized set of rules regulating their decisions, and the bill would straighten out the complicated municipal code."

A quick look at SB 180 and present law will convince overwhelmingly that the contrary is true! The proposed new law will allow existing second class boroughs to exercise many new additional powers circumventing local voter approval. Among such additional powers are the powers to provide for unrestricted government business and government industrial development, something that the voters of Fairbanks turned down by about 75 % "No" votes at the last general election. It is unconstitutional and unlawful for the legislature to "confer" the authority to exercise such powers to second class boroughs without the consent of the local voters.

The Municipal League's further statement, that

> "... local governments formed under other law (general law, other than home-rule) may do only what is specifically allowed in the municipal code."

<u>is false</u>! Present law confers undiscriminatingly all municipal powers to any class of borough or city. Third class boroughs must exercise the areawide powers of tax assessment and collection, and education; second class boroughs must exercise the areawide powers of tax assessment and collection, education, and planning, platting and zoning. Any additional powers proposed for exercise by a second or third class borough must be approved by the local voters affected; and if more than one power is proposed, each must appear separately on the ballot. That is the law that was approved by the citizens when they voted to incorporate as a second or third class borough, and the legislature cannot legally change that law without the approval of the voters of

existing second or third class boroughs.

The Municipal League's further statement, that

> "The reason for prohibiting any new third class boroughs is that state law limits the powers of third class boroughs making it difficult for the locality to spend revenue sharing money they collect from the state."

is a careless misconstrual. State law does not limit the powers of a second or third class borough - the citizens do, by a majority vote of the electorate! The citizens of a third class borough can approve by majority vote any additional municipal power they would like their local government to exercise on a service area basis, and should they desire their local government to exercise areawide or non-areawide additional powers they would vote to reclassify to second or first class status. It's not the legislature that limits the powers to be exercised by the local government, the local citizens do. The Alaska Constitution, Article X, Section 1, demands that the legislature shall prescribe law for maximum local self-government, and for different classes of boroughs and cities, and to provide for their reclassification. Therefore new incorporation of third class boroughs, as well as reclassification from second to third class borough status, must not be tampered with!

SB 180 MUST NOT BECOME LAW IN ANY FORM!

Very truly yours,

Wolfgang Falke

Wolfgang Falke

HB

172

#2

SENATE AMENDMENT

MAR 15 1982

BY Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

file #B 172
C+RA
Title 29

PAGE: 33 LINE: 27

Insert "(26) 29.35.060 (franchise and permits)". Renumber following paragraphs accordingly.

Page 33, line 29, insert:

"(28) 29.35.075 (disputes and conflicts with state certificated utilities)"

Page 77, after line 3, insert:

"(c) This section applies to home rule and general law municipalities."

Page 77, line 4-19, delete Section 29.35.070 and insert:

"Sec. 29.35.070. PUBLIC UTILITIES. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate the service, and may fix, establish, and change the rates and the charges imposed for a utility service provided to the municipality or its inhabitants by a utility except to the extent

(1) the utility is subject to regulation under AS 42.05; or

(2) municipal regulation is prohibited by AS 42.05.711(k) or otherwise specifically prohibited by law.

(b) The municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality that is regulating it, all rates, charges and regulations established under this section shall be established as provided by an ordinance of the municipality establishing

the procedures for regulating service and procedures for establishing and changing the rates and charges of the utility. The ordinance shall provide for notice, hearing and other procedures necessary to guarantee due process. The rates and charges established shall be reasonable and shall permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities.

Page 77, after line 19, insert:

"Sec. 29.35.075. DISPUTES AND CONFLICTS WITH STATE CERTIFICATED UTILITIES. (a) A dispute as to the reasonableness of the fees for or the terms, conditions, or exceptions to a permit for a utility certificated under AS 42.05 to use municipal streets, alleys or other public ways of the municipality shall be decided under AS 42.05.251.

(b) In case of a conflict between the provisions of AS 29.35.070 or AS 42.05 or an action taken under either as to the regulation of service rates or charges of a utility, the provisions of AS 42.05.641 apply.

(c) This section applies to home rule and general law municipalities.

Page 195, after line 19, insert:

"*Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) Except for municipally owned and operated utilities subject to (b) of this section, municipalities may not regulate utility services, including but not limited to rates, terms and conditions of services, provided by a person, utility or cooperative that is exempt from regulation under AS 42.05.711."

Renumber following sections accordingly.

SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 74 LINE: 9

Delete "utility services,"

Page 77, after line 17, insert:

"(d) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary interests in real property outside its municipal boundaries."

Page 77, line 18, delete:

"(d)" and insert "(e)"

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

March 3, 1983

SUBJECT: Impact of land use regulation on development of energy resources (Work Order No. 13-0881)

TO: Representative Barbara Lacher
Chairman, House Community and
Regional Affairs Committee

FROM: Tamara Brandt Cook
Legislative Counsel TBC

You have asked whether the changes in HB 172 to the provisions dealing with land use regulation discourage development of energy resources as compared to existing laws that authorize land use regulation by municipalities.

Under AS 29.33.090, a municipality is required to regulate the use of land in accordance with a comprehensive plan through zoning by districts. The zoning regulations must be uniform for each type of building or area within a particular district, but the regulations may differ between the various districts. In addition, a municipality is authorized to rezone property to a less restricted use if the owner of the property agrees to place restrictions on the use of the land beyond those restrictions imposed under the general zoning requirements. Subsection (b) of that section contains a list of the types of restrictions that may be imposed through zoning. While paragraphs (2) - (6) deal with very specific restrictions relating to buildings, paragraph (1) grants broad authority to restrict "land use". It should be noted that the list is by way of example of various zoning restrictions and does not limit the types of restrictions that a municipality may impose through zoning. However, under this section a municipality is authorized to regulate land use only through zoning and may not use other land use techniques.

In contrast to existing law, under sec. 29.40.040 of HB 172, a municipality may implement the comprehensive plan through zoning, land use permit requirements, or any other method of

land use regulation. To the extent that greater flexibility is authorized in the implementation of a comprehensive plan, HB 172 makes it more practical for a municipality to adopt measures that may have the effect of discouraging the development of energy resources. Nevertheless, under both HB 172 and under existing law a municipality has the general authority to regulate land use regardless of whether this regulation places burdens on the development of energy resources and thereby discourages that development. In addition, the change in HB 172 that allows municipalities to use other techniques in addition to zoning impacts only general law municipalities, since under existing law home rule municipalities are not limited to the use of zoning in regulating land use.

In considering whether the changes in HB 172 may discourage development of energy resources it is necessary to determine whether the power to regulate land use has been significantly expanded under this bill with respect to each class of municipality. Under secs. 29.10.200(32), 29.35.180(b), 29.35.250(c), and 29.35.260(c) of HB 172, a home rule borough and home rule city in the organized borough or in the third class borough must provide for land use regulation, but a home rule municipality is not bound by the general provisions dealing with land use regulation set out in Title 29. Under existing law, although some provisions appear contradictory, most home rule municipalities are not required to provide land use regulation, nor are they restricted from providing land use regulation. A home rule municipality that does regulate land is not required to comply with provisions contained in Title 29 dealing with land use regulation except for provisions dealing with zoning and platting of state land (AS 29.13.100(37) and (39)). The general requirement that boroughs provide for planning, platting and zoning contained in AS 29.33.070 is not a home rule limitation. Under AS 29.43.040 home rule cities in third class boroughs and outside boroughs are required to provide for planning, platting and zoning ". . . as provided for boroughs". This is a home rule limitation under AS 29.13.100(12). Since, under AS 29.43.010, powers incorporated by reference to laws governing boroughs apply to home rule cities outside boroughs only if applicable to home rule boroughs and home rule boroughs are not required to provide for planning, platting and zoning, the net result is that only home rule cities in third class boroughs are required to provide land use regulation.

In summary, under HB 172, home rule boroughs and home rule cities in the third class borough or in the unorganized borough must provide land use regulation, but need not comply with provisions dealing with land use regulation contained in Title 29. Under existing law, only home rule cities in the third class borough are required to provide land use regulation, but home rule boroughs and home rule cities in the unorganized borough are not prohibited from providing land use regulation. No home rule municipality must comply with provisions contained in Title 29 dealing with land use regulation, with the minor exception of the provisions dealing with state land. The changes in HB 172 do not appear to confer broader authority upon home rule municipalities than they now have in the area of land use regulation, and consequently should not present any special discouragement to the development of energy resources in home rule municipalities.

HB 172 does not appear to expand the authority of the various classes of general law municipalities to provide land use regulation. As in existing law, these must comply with specific provisions regarding land use regulation contained in Title 29. Under AS 29.33.070, first and second class boroughs must provide for planning, platting and zoning. Under secs. 29.35.180(a) and 29..40.010 of HB 172 first and second class boroughs must provide for land use regulation. AS 29.41.010(b) allows third class boroughs to exercise the power of planning, platting and zoning in service areas. Secs. 29.35.220 and 29.35.300(b) of HB 172 provide for exercise of the power of land use regulation by third class boroughs in service areas. AS 29.43.040 authorizes first class cities and second class cities in the unorganized borough or in the third class borough to provide for planning, platting and zoning. Secs. 29.35.250 and 29.35.260 of HB 172 grant the same authority to regulate land use to these cities. HB 172 does not grant the power to regulate land use to any general law municipality that does not have that power under existing law, so, in that respect, does not present additional impediments to development of energy resources.

TBC:ljb
9/039

Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE OR FEDERAL AGENCIES. (a) Ordinances, regulations, permit decisions, coastal management or other land use plans adopted or promulgated under AS 29.35.180, AS 29.40 or AS 46.40 may not preclude or otherwise impede a hydrocarbon, mineral or geothermal exploration, development or production activity or project conducted pursuant to a lease, license, permit or other authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity or project.

(b) The provisions of this section apply to home rule and general home rule and general law municipalities.

=Voted down=

CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559

543-2297—Area Code 907

MAR 28 1983

March 10, 1983

Rep. Barbara Lacher
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Lacher:

As presented in the enclosed Resolution #398. the City of Bethel has gone on record fully supporting the adoption of legislation revising and reorganizing Title 29 of the Alaska Statutes.

A great deal of work has gone into this most important piece of legislation; but more importantly, the communities of Alaska need Title 29 revised. Not only does this piece of legislation make the municipal code more understandable, but it also grants to local governments greater flexibility in handling local problems. Bethel's difficulty in moving Home Rule status demonstrates the need for such flexibility in the municipal code statute. At the present time Bethel is a second class city. The community has considered the option of becoming a first class city and assuming the administration of the Bethel school system. However, Bethel is reluctant to do so because first class status is more restrictive than Home Rule. But Bethel is precluded from going directly to the more favorable Home Rule status under the present Title 29 provisions. The flexibility given to local governments under the proposed Title 29 revisions would save Bethel the unneeded expense and time delay now required by Title 29 to achieve its goal of Home Rule.

The City of Bethel requests your full support for the Title 29 revision now before the Legislature in the form of SB 1.

Thank you.

Sincerely,

Lyman Hoffman

Lyman Hoffman
City Manager

LH:skj

MAR 29 1983

RESOLUTION #393

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA, FULLY SUPPORTING THE ADOPTION OF LEGISLATION REVISING AND REORGANIZING THE MUNICIPAL CODE AS PRESENT IN THE FORM OF SENATE BILL NO. 1.

WHEREAS, the existing Alaska Statute, Title 29, Municipal Government, has been amended numerous times; and

WHEREAS, the revision of the Municipal Government Statute was mandated in 1980 by SCR66 "Directing the Alaska Legislative Council to revise AS 29 (Municipal Government)"; and

WHEREAS, a thirteen (13) member Policy Advisory Group was appointed from the Legislature and various levels of local government to draft a revision of AS 29; and

WHEREAS, the present Senate Bill No. 1 revision represents a simplification of the title's organization and provides for maximum flexibility in the structure and functioning of local government; and

WHEREAS, several drafts and much work at numerous meetings have resulted in this revision; and

WHEREAS, communities across the State of Alaska are awaiting the adoption of this most important piece of legislation,

NOW THEREFORE BE IT RESOLVED that the City Council of Bethel, Alaska, fully supports the adoption of legislation revising and reorganizing the Municipal Code as present in the form of Senate Bill No. 1.

PASSED AND APPROVED THIS 28th DAY OF February, 1983.

John Guinn, Mayor

ATTEST:

Wayne J. Maiers, City Clerk

Check HB172 ✓

check w/ Ky Campbell
Ferguson

check w/ John Gabinelli
Berry's office

THE CITY AND BOROUGH OF JUNEAU
CAPITAL OF ALASKA
155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

February 8, 1983

Senate Community and
Regional Affairs Committee
Juneau, Alaska

File: Legislature - 1983 - Senate Bill 1

Gentlemen:

Please consider the following recommendations in your deliberations on Senate Bill 1.

On page 42, line 22, insert the phrase "charter or" immediately before the word "ordinance." In at least one community, and possibly others, this matter is dealt with by a charter provision rather than by ordinance.

On page 56, beginning at line 25, I suggest that lines 25 through 29 be deleted along with the reference to this section under the home rule laundry list at line 17 on page 23. Alaska Statute 36.25.025 applies to all municipalities whether home rule or general law. If a home rule municipality wishes to exempt its contractors from those provisions it must do so in accordance with the procedures set out in AS 36.25.025. Those procedures clearly specify the use of an ordinance to establish the exemption.

Page 76, line 17. Although this is the language used in the present law, I think it is inartful. Municipalities do not exercise the right of eminent domain merely to determine fair market value. Eminent domain is used to acquire property. The determination of fair market value is merely one of the incidences of acquiring property through the use of eminent domain. I suggest the phrase "determine fair market value" which starts in line 16 be deleted and replaced with the phrase "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Page 78, beginning at line 25 and extending through line 8 on page 80. I think this entire section is unneeded. The authority for a municipality to enter into a joint agreement for the exercise of one of its powers or functions with other municipalities, the state and the federal government is found in Section 13 of Article 10 of the Alaska Constitution. The subject section in the Bill just provides unnecessary details. It is my recollection that this section was included in the revision because it was adopted either while the Title 29 Revision Committee was revising Title 29 or shortly after the committee produced its revision. It was incorporated in the revision without substantive review. We do not have provisions in the code detailing the procedures for entering into joint

agreements with the Forest Service for fire protection of rural properties of mutual concern, or for joint state, federal, and local drug enforcement operations or for a host of other municipal functions which are exercised jointly or in cooperation with state or federal agencies or other municipalities. I strongly suggest that this section be eliminated as it is not only superfluous, but its existence may lead courts to two unfortunate conclusions; first, that the only way municipalities may engage in a cooperative or joint emergency service communication center is as provided in the subject section; and second that inasmuch as the legislature went to great pains to detail the procedures and structures for joint operation of emergency communication centers, other similar joint operations must have specific and detailed legislative authorization. It was for these types of reasons that the technical committee for the Title 29 revision recommended striking or generalizing such detailed procedures found in the present Title 29. If there is some feeling that striking this section would jeopardize the authority of municipalities to enter into such arrangements, I suggest the section be struck and replaced with a new section under the general powers portion of the Bill which would authorize a municipality to enter into an agreement or association, including membership in a corporation, with any other municipality, the state, or federal agencies, for the purpose of exercising any power or function of the municipality. 29.35.010(13)

Page 96, beginning at line 5. Subsection (c) of this section makes subsections (a) and (b) applicable to all home rule municipalities. Actually, there appears to be little need to have this apply to any home rule municipality; however, because subsection (a) deals with the different disposition of a vacated public square depending on whether the square is within a city or outside a city but within the borough, it may be appropriate to make subsection (a) applicable only to home rule boroughs and general law municipalities. In addition, the last sentence of subsection (a) which begins in line 17 could lead to some very awkward situations. If, in the original plat, a lot is dedicated as a holding area for storm waters, or as a park or for some other non-street use and is later vacated because the lot is no longer needed for that purpose it may be very difficult to determine who is the "rightful" owner; and if this "rightful" owner is someone other than the abutting property owners, it may be impossible to locate the owner. I suggest deletion of the sentence which begins on line 17, and in line 14, just before the word "public" the insertion of the phrase "lot or".

Page 105, beginning at line 7. I don't think that the definition of "developed" clarifies anything. For example, when a native corporation subdivides some of its property and puts in roads and

utilities, that would seem to be "developed" under the common use of that word; however, this definition casts serious doubts as to whether such land would be developed for tax purposes. Lines 19 and 20 establish a situation which is contrary to the subdivision laws and will create problems if there is a tax foreclosure on non-exempt land. Unless I read this part of the section incorrectly, its intent is to limit the loss of the exemption to only that portion of the parcel which is developed. That is, if the corporation owns a U.S. Survey consisting of 25 acres and it develops three acres of that parcel with an industrial park, only the three acres would be taxable. The problem this approach creates is that if the municipality forecloses on the property it must foreclose on the parcel of record; that is, the 25 acre parcel and not some lesser parcel. If it were to foreclose on a parcel other than a parcel of record, the foreclosure proceeding would have the effect of subdividing the property without going through the platting procedure. Therefore, I suggest that the language relating to the loss of the exemption to the smallest practicable tract be deleted. The corporation may protect its remaining property by subdividing the parcel into two lots; one which will be developed and will lose its exemption, and one which will not be developed. This will protect the undeveloped property.

Page 106, beginning at line 1. I suggest you consider deleting this section (n) as municipalities are already going to have a difficult enough time determining <u>when</u> an exempt property is "developed." To foist on it the burden of also determining if the property has subsequently become "undeveloped" is merely adding more situations for conflict between the municipality and certain of its property owners. Once property becomes taxable because it is put to productive use, is there any real reason it should not remain taxable even though the productive use may cease?

Page 107, lines 24 through 28. I believe this section should be rewritten to eliminate the now superfluous reference to excluding personal property from taxation as this is now included as a specific power for all municipalities in line 22 above. I also believe the reference to extending the redemption period should be deleted as it has nothing to do with exemptions. It also appears that this language contemplates some sort of system of partial redemption of property. If you believe this is an appropriate option for municipalities, I suggest that it should be placed in the section of this chapter which deals with foreclosure and redemption.

Page 109, beginning at line 19. You may want to consider whether to leave greenhouses under this section. Exempting greenhouses does not fit at all with the policy or purpose of the special

procedure used to determine the value of farm or agricultural land for tax purposes. That purpose is to assist the owner of farm or agricultural land in resisting the pressures of urban growth so that he or she can afford to continue farming rather than being forced to subdivide farm land because of inflated land values. Note that only the farm land receives the special treatment, not improvements to the land such as barns, sheds, irrigation systems, etc. However, with greenhouses, the greenhouse, that is the improvement, also receives the special valuation. The effect of the addition of greenhouses to the existing farm land section results in special tax treatment for commercial greenhouses which raise dieffenbachia and cactus to be sold for use in hotel and office lobbies and to adorn file cabinets and kitchen windows. It has been my understanding that the special tax treatment for farm land was to help the industry which provides us with food to keep the price of this basic need to a minimum. Extending such special treatment to greenhouses which exist for the purpose of raising ornamental plants does not seem to fall within this lofty purpose. I believe the committee should consider incorporating the existing Title 29 language in this section by deleting the changes that were made to incorporate greenhouses.

In packet.

Sincerely,

Gerald L. Sharp
City-Borough Attorney

GLS:jr

Copy & put in packets RECEIVED 4/11/85

THIRTEENTH ALASKA LEGISLATURE

FIRST SESSION

HB172 Suggested Amendments - Cape Fox Corporation

Line 15, Page 105

(1) (m) (1) ... gainful and [or] productive present use...

Line 18-19, Page 105

(2) (m) (1) ... process even though income may be derived from related incidental timber harvesting, utility usage, or similar activities.

Line 3, Page 106 - Add New Subsection:

(3) (m) (4) "Gainful" means a condition resulting in net taxable income or when revenue derived from an activity taking place over the tax year of the property owner exceeds the expenses and deductions related to the activity.

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

BOROUGH ATTORNEY'S OFFICE

April 6, 1983

file w/ Bill

The Honorable Barbara Lacher
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Barbara:

Subject: HB 172 "DEVELOPED" DEFINITION

The present version of HB 172 provides for a tax exemption as required by 43 U.S.C. 16.20(d) for certain Native lands. This exemption provides a definition of "developed" for implementing the federal law. I recommend that this matter be treated in a separate bill rather than in HB 172 or SB 1, the parallel bills intended as housekeeping measures to revamp Title 29.

During the last legislative session certain amendments were made to the Title 29 bill on the House floor which caused a great deal of controversy. In re-introducing the Title 29 in the present legislature, all of these amendments were removed except for the provisions for implementing the tax exemptions under 43 U.S.C. 16.20(d). This amendment was incorporated in AS 29.45.030 of the bill.

Pursuant to federal law, certain Native lands are not taxable until "developed". The intent of the proposed definition in AS 29.45.030 is to clarify what improvements of land will constitute "development" for tax exemption status.

I believe that the intent of this section is to assure that lands will not be taxed simply because an access road is constructed to the property or improvements are placed on the property in anticipation of future development. However, the language is sufficiently ambiguous to permit the interpretation that even a regular, residential or commercial subdivision development would not be taxable until the lots were sold. Once land is subdivided, roads are constructed and other improvements are put in place, the available lots become the sale inventory of the real estate developer. An exemption from taxation of these lots would give the exempted developer an unfair advantage over other developers with which it was in competition.

Because this provision is not in existing Title 29 and because there is potential controversy involved, I recommend that

it not be included in HB 172, a housekeeping bill. As a separate bill, I believe that the Borough would support a definition between a taxable subdivision development and tax exempt lands which have been surveyed and have constructed roads.

Sincerely,

Steven H. Morrissett
Borough Attorney

er

cc: Steve VanSant, Borough Assessor

HB 172

KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

February 24, 1983

TO: Stan Thompson, Mayor

FROM: Don Thomas, Assessor

SUBJECT: Native Lands, Title 29 Revisions – sec M #1 lines 28 + 29 page 100 – 101

By the definition included in the work draft of Title 29 the Kenai Peninsula Borough would loose approximately 13.9 Million in assessed valuation. This would equal about $41,727 based on a 3 mill average.

This would also put the Native lands in a better position to develope and compete in the open market, if they wished. They could do all the preliminary work, such as roads, utilities, survey, and hold the property for the highest return, and still not pay taxes. – this would only apply to Native & would potentially be unfair to other land owners as well as the Bor.

We currently have 13.9 million in assessed value that the different regions have been paying taxes on. We have had them on the tax rolls for 4 or 5 years and they paid their taxes without paying under protest.

Cook Inlet	7,281,205
Ninilchik	924,950
Seldovia Native	2,882,300
Slamatoff	589,500
English Bay	2,708,800
Port Graham	1,068,000
Total	15,454,755

also when 20 years are up & Native lands would be on the tax rolls – then they would be Exempt at a tremendous loss to the Boro – until sold

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 1

Page 35, line 4:
After "request" insert "by a member of the governing body"

Page 35, line 5:
Delete "and"

Page 35, line 6:
After "request" insert "by a member of the governing body"

Page 35, line 8:
Delete "." insert ";"

Page 35, after line 8:
Insert "(4) a municipal employee or official, other than a member of the governing body, may not participate in any official action in which the employee or official has a substantial financial interest.

(b) If a municipality fails to adopt a conflict of interest ordinance within 180 days after July 1, 1983, the conflict of interest provision of this section is automatically applicable to and binding upon that municipality."

Page 35, line 9:
Delete "(b)" and insert "(c)"

Page 163, line 24:
Delete "allocable" insert "allocatable"

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 2

The following changes are proposed by Ginny Chitwood, Alaska Municipal League.

Page 68, lines 5-7:
Delete section 29.26.250.

Page 68, line 15:
Delete "grounds of", insert "reasons for".

Page 68, line 24:
Delete "grounds" insert "reasons".

Page 69, lines 20,24:
Delete "25", insert "35".

Page 71, line 18:
Delete "grounds of" insert "reasons for".

Explanation: The issue of determining the sufficiency of grounds for a recall election was discussed by the committee. It appeared that a concensus was reached to eliminate the requirement for providing legal grounds to conduct a recall election and to increase signatory requirements for the petitioners.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 3

Page 76, lines 19 and 20:
Delete "determine fair market value" insert "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Explanation: The right of eminent domain is not used to determine fair market value. The determination of fair market value is a step in the process of exercising eminent domain. As written, the statement may not meet the intent of allowing municipalities to excercise the right of eminent domain to acquire certificates or property.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 4

Page 126, line 3:
Delete "$100,000.00" insert "$20,000.00".

Explanation: During Committee review of House Bill 172, there appeared to be a concessus of the committee that the minimum value of property to be foreclosed upon without notification to the owner by certified mail is too high ($100,000.00).

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 5

Page 204, lines 7 and 8:
Recommend change to read:

Sec. 85. AS 29.45 "as enacted in Sec. 11 of this Act is effective on January 1 of the year following enactment.

Explanation: HB 172 may be enacted into law in 1983 or 1984, depending on legislative action. The amendment will avoid the possibility of a "split" tax year and will provide time for municipal planning purposes.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 6

The attached letter of intent and proposed language for implementation was prepared during hearings of SB 1, comparison legislation to HB 172.

Present law requires first class and home rule cities in the unorganized borough to accept the responsibility for delivery of Educational services. It is perceived that the requirement to be responsible for educational services may be a deterrant to certain cities or areas to organizing or upgrading to first class or home rule status. The opposition for a city to assume the educational powers could come either from an existing REAA or the city

The proposed change to HB 172 would resolve the issue of the assumption of education powers by vote of the residents in the city and in the REAA.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 7

During Committee review of HB 172 there was discussion but no apparent concensus concerning the exemption of greenhouses from assessement at full valuation for taxation purposes (Page 109, line 22).

The existing law does not give special treatment for greenhouses. The intent of providing special tax treatment for farm lands (not including barns, houses, sheds, etc.) was to assist the farmer in resisting the pressures of urban growth rather than being forced to subdivide farm land because of inflated land values. The effect of the new language is to provide a special tax treatment for greenhouses, including commercial greenhouses raising ornimental flowers.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 amendment 8

Sec. 29.45.030 dealing with required tax exemptions contains new language that defines "developed" for the implementation of a required federal tax exemption (Page 105, line 10). The new definitions are supported by Alaska Native Corporations and are opposed by municipalities. Similar definitions were added as last minute floor amendments during legislative action on the municipal code revision in 1982 which were, in large part, responsible for the subsequent Governor's veto.

In that the purpose of HB 172 is to administratively revise Title 29 into a usable document and not to make substanative or controversial changes, staff recommends that all new materials pertaining to the federal tax exemption, including references to reverting to an undeveloped state, be deleted from HB 172 and that the issue be addressed in separate legislation.

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

M E M O R A N D U M

TO: Committee on Community and Regional Affairs

FROM: Staff

DATE: April 25, 1983

RE: House Bill 172 proposed amendment number 9

The attached amendment proposed by representatives of utility companies is a significant change from present law.

The net effect of the amendment is to prohibit municipalities from regulating utilities unless the type of regulation proposed or the particular utility is also subject to regulation by the Alaska Public Utilities Commission. Stated in another way, if the Alaska Public Utilities Commission does not or can not regulate a utility or a matter pertaining to a utility, then a municipality may not impose a regulation.

Present law provides municipalities the power to regulate utilities and matters pertaining to utility services to the extent the utilities are not regulated by the Alaska Public Utility Commission.

In several instances, the regulation of a condition of service by a utility company, or the regulation of a utility company is optional for the Public Utilities Commission, or optional for the utility.

In cases where utilities are not regulated by the Alaska Public Utilities Commission, Municipalities generally feel they need to have the authority to exercise regulatory powers. On the other hand, utility companies believe that; if the Alaska Public Utility Commission does not regulate them, then the municipalities should not have the authority to provide regulation.

Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE OR FEDERAL AGENCIES. (a) Ordinances, regulations, permit decisions, coastal management or other land use plans adopted or promulgated under AS 29.35.180, AS 29.40 or AS 46.40 may not preclude or otherwise impede a hydrocarbon, mineral or geothermal exploration, development or production activity or project conducted pursuant to a lease, license, permit or other authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity or project.

(b) The provisions of this section apply to home rule and general home rule and general law municipalities.

PROPOSED AMENDMENT TO

HB 172

Page 33, after line 28, insert:

"(26) AS 29.35.060 (franchise and permits)"
Renumber following paragraphs accordingly.

Page 33, after line 29, insert:

"(28) AS 29.35.075 (disputes and conflicts with state certificated utilities)"
Renumber following paragraphs accordingly.

Page 74, line 12, delete:

"utility services,"

Page 77, after line 6 add a new subsection to read:

"(c) This section applies to home rule and general law municipalities."

Page 77, lines 7 through 22, delete present language and replace it with the following:

"Sec. 29.35.070. PUBLIC UTILITIES. (a) The assembly for the area outside all cities in the borough and the council acting for the area in a city may regulate a utility service and fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility except to the extent

(1) the utility is subject to regulation under AS 42.05; or

(2) municipal regulation is prohibited by AS 42.05.711(k) or other law.

(b) A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose the municipality may acquire, maintain, and operate utility facilities together with necessary interests in real property outside its municipal boundaries.

(d) Unless a utility is owned by the municipality that is regulating it, all rates, charges, and regulations shall be established by the municipality in accordance with an ordinance that provides procedures for regulating service and establishing and changing

rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges established under this section shall be reasonable and permit a fair return on invested capital.

(e) A dispute involving a utility certificated under AS 42.05 as to the reasonableness of the fees for or the terms, conditions, or exceptions to a permit to use municipal streets shall be decided under AS 42.05.251.

(f) In case of a conflict between the provisions of this section and AS 42.05 or concerning an action taken under this section or AS 42.05 involving the regulation of service or the rates or charges of a utility certificated under AS 42.05, the provisions of AS 42.05.641 apply.

(g) This section applies to home rule and general law municipalities."

Page 195, after line 22, add a new section to read:

"* Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) A public utility that is exempt or partially exempt under (d) through (j) of this section from the provisions of AS 42.05.010 - 42.05.721 may not be regulated by a muncipality."

THE CITY AND BOROUGH OF JUNEAU
CAPITAL OF ALASKA
155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT - 586-5242

May 20, 1983

Bob Harris
House Community & Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

FILE: HB 172

SUBJECT: Substitute Utility Language
for Title 29 Revision

Dear Bob:

If the House Community and Regional Affairs Committee would like to consider alternative language to that which has been proposed for the utilities section of the Title 29 revision, may I suggest the following. This language, I believe, accommodates the interests of the municipalities and of the utilities. It would exempt from municipal regulation those utilities, including co-ops, which have elected to exempt themselves from APUC regulation by a vote of the subscribers or members. It would also exempt from municipal regulation those small electric, telephone and garbage utilities which are presently exempt from APUC regulation but which may come under APUC regulation if 25% of the subscribers petition the commission for regulation. In addition, it would exempt from municipal regulation those utilities which the APUC itself exempts upon a finding of no legitimate public interest in regulation if the commission also finds that the utility should also be exempt from municipal regulation. If cable TV is given an exemption from APUC regulation, and the legislature believes that it should also be exempt from municipal regulation, a simple amendment to the following language making reference to the statute exempting cable TV would extend the exemption to municipal regulation of cable TV also. The substitute language would be as follows:

> AS 29.35.070 PUBLIC UTILITIES. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate the service and may fix, establish and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility except as provided in (b).
>
> (b) A municipality may not regulate a utility
>
> (1) to the extent it is subject to regulation under AS 42.05; or

(2) exempt from Alaska Public Utility Commission regulation under AS 42.05.711(d) if the commission finds that no legitimate public interest will be served by regulation by the commission or a municipality; or

(3) exempt from Alaska Public Utility Commission regulation under AS 42.05.711(e), (f), (g), (h) or (i); or

(4) specifically exempted by law from municipal regulation.

(c) The municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(d) Unless the utility is owned by the regulating municipality, all rates, charges and regulations established under this section shall be established as provided by an ordinance of the municipality which sets forth the procedures for regulating service and establishing and changing the rates and charges of the utility. The ordinance shall provide for notice, hearing and other procedures necessary to guarantee the utility due process. The rates and charges established shall be reasonable and shall permit a fair return on invested capital.

(e) This section applies to home rule and general law municipalities.

Sincerely,

Gerald L. Sharp
City/Borough Attorney

GLS:jr

1984 DRAFT POLICY STATEMENT

Following is the 1984 draft policy statement prepared by the Alaska Municipal League Legislative Committee and Board of Directors at their summer meetings. Please review it in preparation for the policy section meetings that will be held on Wednesday afternoon and all day Thursday at the Annual Local Government Conference to be held in Juneau, November 2-5, 1983. Changes, additions, and deletions will be made at that time, to be voted on by all the delegates at the business meeting on Saturday, November 5.

PART I
TAXATION AND FINANCE

A. LOCAL TAX RELIEF

The League supports state-funded relief for local taxpayers where such relief does not reduce the tax base or the tax-levying authority of the municipality and does not adversely affect the marketability of municipal bonds.

B. STATE ASSISTANCE IN FINANCING LOCAL GOVERNMENT

1. Funding Legislation Passed in Timely Manner: In order to assist local governments in financial planning, the League urges the Governor and the Legislature to pass the necessary funding legislation for state revenue sharing and local school funding in sufficient time for municipalities to incorporate the additional revenues in the annual budgets. The League also urges the Governor and the Legislature to pass the necessary funding legislation for on-going, state-funded grant and contract programs to local governments in sufficient time to maintain an orderly continuation of operations, but in no case later than June 1 of each year. The League further advocates that if such funding legislation is not approved by that date, that the Legislature authorize funding and disbursement of the on-going programs for the first quarter of the year.

2. Administration of Grants & Entitlements: The League supports legislation eliminating delay, administrative regulations, and complexity associated with administration of municipal entitlements and grants programs by state departments and agencies. Administration of grants and entitlements should, when possible, be consolidated in a single state department. The League further supports elimination of administration fees deducted by state departments administering the grants.

3. Pass-Through Funds and Grants: The League encourages the Legislature to adopt policies for pass-through funds to non-profit corporations that do not cause any present or future liabilities to the municipality.

4. Population Determination and Impact: The League supports following federal census practices for determination of population based on residency and encourages the Legislature and Governor to recognize the need for a comprehensive policy to alleviate the social and economic impact of major development on municipalities by state funding from funds appropriated separately from revenue sharing and municipal assistance funding.

C. MUNICIPAL ASSISTANCE/REVENUE SHARING PROGRAMS

1. Consolidation of Municipal Assistance and State Revenue Sharing Programs: The League endorses the consolidation of the current Municipal Assistance and State Revenue Sharing Programs together with the funding of the consolidated program at a level of at least 8% of the prior year's state operating budget so that municipalities can continue to provide important, needed services while holding down taxes.

2. State Revenue Sharing: (a) If the Legislature does not consolidate the current State Revenue Sharing and Municipal Assistance programs, the League supports annual increases in the State Revenue Sharing Program. The annual appropriation by the Legislature to the State Revenue Sharing Program should include an increase of the FY 84 legislative appropriation based on such criteria as state population, inflation, cost of local government services, and other timely considerations.

(b) In those cases where legislation is approved increasing the state revenue sharing entitlement for specific recipients or for a specific purpose, the League advocates that the total funding for state revenue sharing be increased accordingly in order to preclude the dilution of funding to other recipients.

(c) The League supports an increase in the state revenue sharing minimum allocation to $100,000 for each city and $50,000 for each eligible unincorporated community.

(d) The League supports continued full state funding for road maintenance at levels determined by the First Session of the 11th State Legislature and adjusted annually to reflect increased cost of maintenance.

3. Municipal Assistance: (a) If the Legislature does not consolidate the current State Revenue Sharing and Municipal Assistance Programs, the League supports the funding of the FY 85 entitlement at the statutory level of at least 30% of the FY 84 corporate income tax proceeds.

(b) The League further endorses a change to the existing Municipal Assistance Program that would provide for the disbursement of municipal assistance funds to all municipalities on February 1 of each year.

4. FY 84 Supplemental Appropriation: The League supports the supplemental appropriation of $10.5 million FY 84 Municipal Assistance revenues to fully fund the entitlement at the level authorized by state statutes. The League further encourages the Legislature to appropriate and the Governor to approve this supplemental appropriation by April 15, 1984 so that local governments can use the additional funding in setting their 1984 mill levies.

D. OTHER STATE ASSISTANCE PROGRAMS

1. Permanent Endowment For Local Government: The League encourages legislation to place on the 1984 ballot a constitutional amendment to establish a permanent endowment for local governments. The purpose of the endowment would be to establish a predictable source of income to fund the programs of state assistance to municipalities. Criteria for developing any permanent endowment and allocation of income approach should include equity, predictability, and maximum local control.

2. State-Collected, Locally Shared Taxes: Municipalities in Alaska presently derive significant revenues from state-collected, locally shared taxes to help meet their basic operating expenses. The League, therefore, opposes reduction of such revenues through elimination of such taxes unless other equal sources of revenue are made available to local governments, or appropriations to compensate for lost revenues are made by the state.

3. Funding of Local Capital Projects: The League supports the establishment by statute of a "block grant" approach to the state funding of local capital projects in order to allow the decisions regarding local capital project priorities to be made at the local level.

E. LOCAL TAXES

1. State-Mandated Exemptions: The League opposes the imposition of state-mandated exemption of certain classes of property, individuals, organizations, or commodities from the application of taxes unless adequate compensation is made by the state to reimburse local governments for revenues lost due to these exemptions.

2. Payments-in-Lieu: The League endorses the position whereby the state would pay to the local governments a payment-in-lieu of ad valorum taxes for the state-owned property as well as payments for its share of the cost of improvements and services which specially benefit such property.

3. Right To Tax: The League opposes any further effort on the part of the state to levy a property tax which would infringe upon the rights of local governments to levy the same rate of tax as levied on other property within the taxing jurisdiction.

4. Personal Property: The League supports legislation which would provide for the optional exemption or a partial exemption of personal property.

5. Interest Rate Limit: The League supports legislation to remove the limits established in Title 29, the Municipal Code on the penalty and interest rate for deliquent property and sales tax payments and allow municipalities to set their own rates.

6. Waiver of Tax Collection: The League endorses legislation to permit the waiver of collection of taxes when collection costs exceed taxes due.

F. FORMATION OF NEW MUNICIPALITIES

The League supports legislation to provide adequate funds to assist in the study of the feasibility of forming new municipalities and in the formation of newly organized municipalities.

G. PUBLIC EMPLOYEES RETIREMENT

The League urges that in any legislation passed which increases benefits under the Public Employees Retirement System and Teachers Retirement System, the increased cost be borne by contributions from the employees. The League urges the Legislature to recognize the effect on participating municipal employers if any amendments are made to PERS and TRS.

.. LOCAL HOSPITAL USE

1. Utilization of Local Health Facilities: The League urges the state and federal agencies responsible for health care to utilize the local health facilities and to transport patients to regional centers only when necessary services are not available.

2. Increased State Funding: The League strongly supports increased state funding of hospital construction costs and of special hospital and health facility construction and operating costs.

3. Separate Funding For Hospitals: The League strongly supports funding of hospital and health facility grants outside the municipal revenue sharing program.

4. Funding for Air Ambulance Services: The League supports a program to cover the cost of transporting patients to regional health care facilities for treatment in a medical emergency.

I. FISCAL NOTES/STATE MANDATES

1. Fiscal Notes: The League supports enactment of legislation requiring preparation of notes assessing the fiscal impact on local government of any proposed bill or regulation, including pass-through grants.

2. State Mandates: The League urges passage of legislation which would require the state to reimburse municipalities for costs they incur in programs or activities mandated by the State of Alaska.

PART II
EDUCATION

A. SCHOOL SUPPORT

1. Permanent Endowment: The League supports the concept of a permanent endowment for funding public school education. The income from this endowment would be made available for use for public school education expenses and/or capital programs.

2. Funding for Schools: The Constitution of Alaska is very specific in its requirement that education is the responsibility of the state. Therefore, the League urges the Legislature to modify the foundation program formula to reflect the actual cost of public school education with awareness toward the different funding needs of public education in the rural and urban areas including special education, student transportation (including kindergarten, inclement weather, and hazardous bus routes), and community schools. Full funding should not be used as a reason for the state to infringe upon the rights of local people to supplement the foundation formula or to administer local schools.

3. Funding for School Construction: The League urges the Legislature to support school capital projects at full construction level (as defined by the rules and regulations established by the Department of Education), and calls upon the Legislature and Governor to fund this amount annually. The League also supports legislation under which the state will provide funding for all approved school capital projects to the local district at the time of approval, including value of land provided by municipalities for school sites. The League also urges the Legislature to assume the total state approved school capital indebtedness incurred by municipalities.

4. Funding of State Programs: The League recommends that the Legislature fully fund all special programs required by state law.

5. Education Program on Abuse: The League recommends passage of legislation that funds educational programs in the area of substance and person abuse, including staff training, with such programs to be optional by each school district.

6. PSFP Unit Value: The League strongly urges the Legislature to resume the policy establishing the amount of the public school foundation support unit value two years in advance.

7. Bilingual Programs: The League recommends that the Legislature continue to provide funding for multi-cultural programs and for bilingual programs to assist those for whom English is not their first language.

8. Rural BIA Schools: The League urges the Legislature and the Office of the Governor to continue considering the impact of the transfer of BIA schools in rural areas of the state and taking the leadership in acquiring the funds needed to bring these facilities up to state standards.

9. Reclassification Guidelines: The League urges the Legislature to set up guidelines to assist communities considering municipal reclassification with the educational system aspects of