

ALASKA LEGISLATION COMMITTEE FILED 2004

2187 HCRA HB 625 - HJR 59 / SJR 34 2187

Alaska State Legislature

Representative John Ringstad
District 20-B
P.O. Box 1848
Fairbanks, Alaska 99707
(907) 456-8336



White in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4998

House of Representatives

Alice H. McKee
Secretary
Two Rivers Grange No. 3
S.R. 50985
Fairbanks, Alaska 99701

December 19, 1983

Dear Ms. McKee,

After reviewing your recent letter concerning farmers having to apply annually for a special tax status, I instructed a member of my staff to look into the problem.

Mr. Dave Braden's office was contacted at the Borough Assessment Department. They explained that the only farmers who need to apply for a special tax status annually are those who own "fee simple" land. It seems that in the past a few "Aq rights only" folks were erroneously required to file for the special status, however, it is not the intent of the Borough to require such action.

I hope this clears up any questions that you may have. If additional questions arise, Mr. Braden may be contacted at 452-4761, ext. 213.

Should you need additional assistance from my office please do not hesitate to call.

Sincerely,

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

Rep. John Ringstad

RJR/aa

MSG 84-0024424 PRTY 1 03/14/84 13:32:39 ORIG: LF20 IN= 0005 OUT= 0082
FROM: LINDA/FBX TO: JND INFO
TARGET: LJKK SUBJ: PCH 9

TO: HSE C & RA (PEPS H.W. MILLER, CATO, HURLBERT, LACHER, PHILLIPS,
LUDWIGER, O'BRIEN)
REF: KOPONEN

FROM: JOHN PEOPLES, PRESIDENT OF INTERIOR FARMING ASSOC.
PO BOX 50779
SBR, AK 99701
#488-6272

RE: HRRS, TAXATION ON AG LAND

NOTE: AT THE INTERIOR FARMING ASSOCIATION'S LAST MEETING, MARCH 2, 1984, THE
MEMBERS VOTED UNANIMOUSLY TO SUPPORT HR625 AS A PIECE OF LEGISLATION HAVING
HIGH IMPORTANCE TO THE AGRICULTURAL DEVELOPMENT OF ALASKA. THIS BILL WILL DO
MUCH AS AN INCENTIVE TO THIS NEWLY DEVELOPING INDUSTRY. WE URGE ACTION ON
THIS BILL.

-----EOM

PLEASE PRINT OR TYPE YOUR NAME, ADDRESS AND CITY, STATE AND ZIP CODE IN THE SPACE PROVIDED. IF YOU HAVE A TELEPHONE NUMBER, PLEASE PRINT IT IN THE SPACE PROVIDED. IF YOU HAVE A FAX NUMBER, PLEASE PRINT IT IN THE SPACE PROVIDED. IF YOU HAVE A BUSINESS OR OCCUPATION, PLEASE PRINT IT IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A PROFESSIONAL SOCIETY, PLEASE PRINT THE NAME OF THE SOCIETY IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A LABOR UNION, PLEASE PRINT THE NAME OF THE UNION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A POLITICAL PARTY, PLEASE PRINT THE NAME OF THE PARTY IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A RELIGIOUS ORGANIZATION, PLEASE PRINT THE NAME OF THE ORGANIZATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A CHARITABLE ORGANIZATION, PLEASE PRINT THE NAME OF THE ORGANIZATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A VOLUNTARY ORGANIZATION, PLEASE PRINT THE NAME OF THE ORGANIZATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A TRADE ASSOCIATION, PLEASE PRINT THE NAME OF THE ASSOCIATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A PROFESSIONAL ASSOCIATION, PLEASE PRINT THE NAME OF THE ASSOCIATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A LABOR UNION, PLEASE PRINT THE NAME OF THE UNION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A POLITICAL PARTY, PLEASE PRINT THE NAME OF THE PARTY IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A RELIGIOUS ORGANIZATION, PLEASE PRINT THE NAME OF THE ORGANIZATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A CHARITABLE ORGANIZATION, PLEASE PRINT THE NAME OF THE ORGANIZATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A VOLUNTARY ORGANIZATION, PLEASE PRINT THE NAME OF THE ORGANIZATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A TRADE ASSOCIATION, PLEASE PRINT THE NAME OF THE ASSOCIATION IN THE SPACE PROVIDED. IF YOU ARE A MEMBER OF A PROFESSIONAL ASSOCIATION, PLEASE PRINT THE NAME OF THE ASSOCIATION IN THE SPACE PROVIDED.

OFFICIAL TAXATION OF LANDS (FORM 625)

FROM: W. M. WILBER, JR., 22201
22201
418-2001-4

TO: W. M. WILBER, JR., 22201
22201
418-2001-4

POSTAGE WILL BE PAID BY ADDRESSEE
FIRST CLASS PERMIT NO. 1000 WASHINGTON, DC 20540
POST OFFICE BOX 1000 WASHINGTON, DC 20540
POSTAGE WILL BE PAID BY ADDRESSEE
FIRST CLASS PERMIT NO. 1000 WASHINGTON, DC 20540
POST OFFICE BOX 1000 WASHINGTON, DC 20540

HSG 94-00024301 PRTY 1 03/14/84 10:40:20 ORIG: LP00 IN= 0003 OUT= 0043
FROM: LYNDIA/FBX TO: JND INFO
TARGET: LUHK SUBJ: POM 15

TO: HSE C & RA - REPS M.W. MILLER, CATO, HURLBERT, LACHER, PHILLIPS,
LINDAUER, MCBRIDE
INT. DELEGATION - REPS DAVIS, BETTISWORTH, KOPOHEN, RINGSTAD
SEPS FAHRENKAMP, NOSS, BENNETT

FROM: JANE BURCHARD
13 HI CHENA HOT SPRINGS-4222
EBX, AK 99701
#480-0068

MAR 16 '84

RE: HB 625, TAXATION OF AG LAND

MSG: I AM IN SUPPORT OF THIS BILL!

-----EOM

22

TO: HOUSE C & RA
REPS H.W. MILLER, CATO, HURLBERT, LACHER, PHILLIPS, LINDAUER, MCBRIDE

HOUSE RESOURCES
REPS RINGSTAD, SHULTZ, UEHLING, COWDERY, RUSSELL, LISKA, VASKA, GOLL,
LARSON

REPS DAVIS, BETTISWORTH, KOPONEN,
SENZ BENNETT, FAHRENKAMP

FROM: DAVID C. NESTER
SR BX 50935
FAIRBANKS, AK, 99701
488-6356-H 452-1557-W

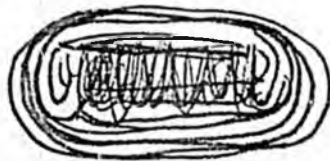
RE: HB 625, MUNICIPAL TAXATION OF AG LANDS

NSC: PLEASE PASS.

CGM

HB 625

Contacts
(Koponen)



Gary & Chena Newman
SR Box 51233
Fairbanks, Alaska 99701

Ben Nester
Pres Interior Trail Riders
SR 50935
Fairbanks, Ak. 99701

John Peoples
Interior Farmer's Ass'n
SR 50799
Fairbanks, AK 99701

488-6292 (w)
474-7617

Chuck Goff
P.O. Box 10296
Fairbanks, AK ~~99701~~ 99710
488-9094 (w)



THE GRANGE

AMERICA'S FAMILY COMMUNITY FRATERNITY

Two Rivers Grange No. 3

S.R. 50985, Fairbanks, Alaska, 99701

March 8, 1984
Rep. Mike Miller
Pouch V
Juneau, Alaska, 99811

MAR 14 '84

Dear Rep. Miller:

The members of the Two Rivers Grange #3 sincerely appreciate your support for the agricultural industry.

We urge your support for HB 625. Enactment would encourage development of agricultural lands. The development stage is tremendously expensive and rarely is offset by any income. Therefore the 10% of gross income required to qualify for farm tax status is often unobtainable.

Our members are opposed to HB 641 to create a recreational area in the Pot Latch Ponds parcel. We would urge that this bill not get out of committee. Some of the land in Pot Latch Ponds is not farmable, but many acres are. People should be given the opportunity to develop these acres.

We would appreciate your support for HB 625 and defeat of HB 641. Thank you.

Sincerely,
Two Rivers Grange #3

Alice H. McKee, Sec.

MSG 81-00021700 PRTY 1 03/15/84 10:32:09 ORIG: LF00 IN= 0004 OUT= 0041
FROM: PULLA FKS TO: JNU INFO
TARGET: LHM SUBJ: POM 16

TO: REPS DAVIS, BETTISWORTH, KOPONEN, RINGSTAD, M.W. MILLER
SENS BENNETT, FAHMENKAMP, MOSS

ALSO: HOUSE C & RA
REPS CATO, HURLBERT, LACHER, PHILLIPS, LINDAUER, HYBRIDE

FROM: NEW NESTER
FREE INTERIOR TRAIL RIDERS
SB 10935
FAIRBANKS, AK, 99701
488-3355-H

MAR 16 '84

RE: HR 25, MUNICIPAL TAXATION OF AG LANDS

NOTE: WOULD LIKE TO URGE YOU TO SEE THIS BILL (PASS.) IT SEEMS TO BE A
PRETTY GOOD BILL AND WITH WELL THOUGHT OUT CHANGES SO A RANCHER/FARMER
IS NOT PENALIZED FOR HAVING BAD LUCK AS BEFORE.

-----EOM

2/13
(H) CRR

TO: BESS DAVIS, BETTLEWORTH, K. RINGSTAD, H.W. MILLER
SENS BENNETT, FAHRENKAMP, N.

FROM: DR. RON ROSSER
1438 COLLEGE
FIRBANKS, AK, 99701
212-0435-1

RE: 11-641, LITTLE CIRCLE LEO

REG I SUPPORT 11-641 AND I OBJECT TO ANY MONEY BEING GIVEN TO THE
DEPT. OF INTERIOR RESOURCES TO SURVEY LAND FOR THE POTLATCH FOODS LAND
DEPT. OF INTERIOR RESOURCES - EOU

H

B

6

2

9

Introduced: 2/13/84
Referred: Community & Regional
Affairs, Judiciary and Finance

1 IN THE HOUSE

BY LINDAUER, ADAMS AND HURLBERT

2

HOUSE BILL NO. 629

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act providing that certain Native governments and corporations are political subdivisions of the state for the purpose of receiving state funds."

7

8

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10

* Section 1. AS 29.73 is amended by adding a new section to read:

11

Sec. 29.73.090. NATIVE GOVERNMENTS AND CORPORATIONS. A Native

12

government organized under 25 U.S.C. 476 or a Native corporation

13

organized under 25 U.S.C. 477 is a political subdivision of the state

14

for the purpose of receiving state funds and qualifies for state

15

assistance available to municipalities or other governmental entities.

STAFF NOTE:
Replacing with Comm. Substitute
gone to Dept. 3/5/84

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

March 28, 1984

POSITION PAPER

RE: CS HB 629 (C&RA)
SPONSOR: Representative Lindauer

PROGRAM EFFECTS:

This bill would qualify Native councils of a federally recognized tribe or an Indian Reorganization Act council to receive State assistance on the same basis as money is made available to second class cities. Native councils representing villages of less than 25 permanent resident voters, or representing villages that would not qualify to incorporate as cities due to population or location, would not be eligible.

Native councils receiving money under this section would have to meet the same requirements as those imposed on second class cities. This would include increased requirements in the areas of budgeting, certified financial statements, annual elections, regular and public council meetings, and a codification of ordinances passed by the council. The bill further requires that funds be used only for a public purpose in a nondiscriminatory way.

The Department shall, by January 1 of each year, certify and transmit to the Legislature a list of all communities which qualify under this provision.

The method used to implement these provisions is a bit confusing because it does not address, or even cross-reference, the actual sections of State law affected by this provision.

COMMENTS:

While the Department supports the concept of this bill, the items mentioned above would need to be addressed.

APPROVED:

Emil Notti

Emil Notti, Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 629
 Title: "Native councils qualify to receive State assistance"
 Sponsor: C&RA Committee
 Requestor: House Finance Committee
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: Community Development
 BRU, Program or Subprogram(s) Affected: Community Assistance Grants
Municipal Revenue Sharing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		770.0				
800 MISCELLANEOUS						
TOTAL OPERATING		770.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		770.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		-0-				
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: N. WINTERS Phone: 465-4700
 Division: Commissioner's Office Date: _____

Approved by Commissioner: *N. Winters* Date: _____
 Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

700 Grants

Approximately 55 Native Councils in unincorporated communities now receive, or are eligible to receive, State Revenue Sharing of \$25,000 as unincorporated communities. To pay Native Councils as second class cities receiving minimum entitlements of \$25,000 plus a cost-of-living adjustment would increase the entitlement going to Native Councils by about \$8,000 per council government. Therefore, part of the fiscal impact of this bill is reflected by:

55 Native Councils X \$8,000 = \$440,000

In addition, the bill would pay about 10 Native Village Councils located outside cities but within organized boroughs about \$33,000 each on average. These communities do not presently receive anything under State Revenue Sharing. Therefore, the remainder of the fiscal impact of this bill would pay:

10 Native Councils inside organized boroughs X \$33,000 =
\$330,000

TOTAL FISCAL IMPACT \$770,000

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: CS HB 629 (C&RA)
 Title: Providing for political sub-
 divisions for state funds.
 Sponsor: C&RA (Lindauer)
 Requestor: House C&RA
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____
 General Government
 BRU, Program of Subprogram(s) Affected: _____
 Shared Taxes, Administrative Services
 Division _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-0-	-	-	-	-
200 TRAVEL	-	-0-	-	-	-	-
300 CONTRACTUAL	-	-0-	-	-	-	-
400 SUPPLIES	-	-0-	-	-	-	-
500 EQUIPMENT	-	-0-	-	-	-	-
600 LANDS & STRUCTURES	-	-0-	-	-	-	-
700 GRANTS, CLAIMS	-	-0-	-	-	-	-
800 MISCELLANEOUS	-	-0-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-0-	-	-	-	-
<u>CAPITAL</u>	-	-0-	-	-	-	-
<u>REVENUE</u>	-	-0-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-0-	-	-	-	-
FEDERAL FUNDS	-	-0-	-	-	-	-
OTHER	-	-0-	-	-	-	-
<u>TOTAL</u>	-	-0-	-	-	-	-

POSITIONS:

FULL-TIME	-	-0-	-	-	-	-
PART-TIME	-	-0-	-	-	-	-
TEMPORARY	-	-0-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached.

Prepared By: Ervin B. Jones
 Division: Administrative Services

Phone: 465-2313
 Date: 3/30/84

Approved by Commissioner: Thomas M. Wells
 Agency: _____

Date: 3/30/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Analysis for CS HB 629 (C&RA):

This bill will have no effect on the administrative cost of the municipal assistance program in the Department of Revenue. The effect of Section 1 would be to reduce the amount of municipal assistance shared with cities and organized boroughs currently covered under the law. The extent of this dilution would depend on the number of native governments and native corporations qualifying under Section 1. The impact would be to reduce the amount available for per capita sharing under AS 43.20.016.

16

TO: REPS HAYES, DAVIS, BETTISWORTH, KOPONEN, RINGSTAD, M.W. MILLER
SENS BENNETT, FAHRENKAMP, MOSS

HOUSE C & RA
REPS CATO, HURLBERT, LACHER, PHILLIPS, LINDAUER, MCBRIDE

FROM: THOMAS SCARBOROUGH
SR 10219
FAIRBANKS, ALASKA 99701
479-3412-H 479-5602-W

APR 4 '84

RE: HB 629, POLITICAL SUBDIVISION

MSG: REQUEST YOU OPPOSE HB 629. POLITICAL SUBDIVISION MUST NOT BE
ESTABLISHED ON THE BASIS OF RACE, RELIGION OR SEX.

-----EOM-----



Ukpeagvik Inupiat Corporation

March 21, 1984

Representative John Lindauer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

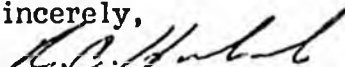
Dear Representative Lindauer:

On behalf of the Board of Directors and the Shareholders of the Ukpeagvik Inupiat Corporation, we would like to commend you on taking the initiative of introducing House Bill No. 629 in the Thirteenth Alaskan Legislature. UIC represents approximately 54 % of the North Slope Inupiat.

We believe that House Bill No. 629 is an important piece of legislation which merits a positive review by the Community and Regional Affairs, Judiciary and Finance Committees. The Ukpeagvik Inupiat Corporation Resolution 84-6, which is enclosed, affirms that position.

If we can be of any assistance to you whatsoever with reference to this legislation, please do not hesitate to contact me at your convenience.

Sincerely,


R.C. MARCHAREK, PH.D
Director of Technical Assistance

Enclosure;

cc: Files

RCH/el



Ukpeagvik Inupiat Corporation

RESOLUTION 84-6

WHEREAS, Ukpeagvik Inupiat Corporation is the village corporation of Barrow, Alaska organized pursuant to Sec. 8 of the Alaska Native Claims Settlement Act; and

WHEREAS, Article III of the Articles of Incorporation of UIC states the purposes for which this corporation is organized; and

WHEREAS, enumerated item number three (3) of Article III states as an organizational purpose: "To engage in all activities, whether economic, cultural, social or charitable to protect and preserve the well-being of the Native residents of the Native Village of Barrow, and to engage in and conduct any and all lawful activity necessary or convenient in furtherance thereof"; and

WHEREAS, enumerated item number five (5) of Article III states as an organizational purpose: "To do all and everything necessary suitable or proper for the accomplishment or attainment of any benefit or object herein set forth, including every act or thing necessary, incidental or pertinent to or growing out of or connected with the affairs of the Corporation"; and

WHEREAS, House Bill No. 629 in the Legislature of the State of Alaska, Thirteenth Legislature was introduced on 13 February 1984 by Representatives Lindauer, Adams and Hurlbert; and

WHEREAS, House Bill No. 629 in the State of Alaska Thirteenth Legislature Second Session states in §. 29.73.090. "Native Governments and Corporations. A Native government organized under 25 U.S.C. 476 or a Native Corporation organized under 25 U.S.C. 477 is a political subdivision of the state for the purpose of receiving state funds and qualifies for state assistance available to municipalities or other governmental entities."; and

WHEREAS, the Ukpeagvik Inupiat Corporation Board of Directors at their regular monthly meeting discussed and analyzed at length the intent and content of House Bill 629,

NOW THEREFORE BE IT RESOLVED, that the Ukpeagvik Inupiat Corporation be on record as endorsing House Bill 629: "An Act providing that certain Native governments and corporations are political subdivisions of the state for the purpose of receiving state funds."

BE IT FURTHER RESOLVED, that the Ukpeagvik Inupiat Corporation commends Representatives John Lindauer, Albert P. Adams and

UIC RESOLUTION 84

14 March 1984

Page two

Vern Hurlbert for taking the initiative of bringing this important matter before the House of Representatives.

FURTHER RESOLVED, that the Ukeagvik Inupiat Corporation requests the Community and Regional Affairs, Judiciary and Finance Committees to take action in support of this legislation.

DATED this 14th day of March, 1984.

James W. Hurlbert, Sr.

President

ATTEST: *Alice A. Solomon*

Corporate Secretary



STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 12, 1984

SUBJECT: State assistance to Native Councils
(CS HB 629 (C&RA))

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

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

Here is the section by section analysis that you requested of the attached draft.

Section 1 A traditional Native council or Native council organized under the Indian Reorganization Act is qualified to receive state aid under any law that makes money available to second class cities. The council receives the aid on the same basis as the city would. To qualify for aid the community represented by the Native council must not be incorporated as a city, must contain at least 25 resident voters or qualify by population and location for incorporation, and must be a Native village as defined under the Alaska Native Claims Settlement Act. (Note that, despite this provision, a Native council may not qualify to receive money under every program that a second class city receives money under. For example, AS 29.38 provides money to "taxing units" and a Native council, which probably does not impose local taxes, may not qualify as a "taxing unit.")

State money received by a Native council may be used only for public purposes and in a manner that does not discriminate. Expenditures are subject to audit and reporting requirements of the Department of Community and Regional Affairs. The department is authorized to adopt regulations to implement this section and is required to transmit to the legislature a list of all communities that qualify for state assistance annually. The section is not to be construed to increase or decrease the authority of a Native council.

Representative Mike W. Miller
Page 2
March 12, 1984

Section 2 The Act takes effect at the beginning of the next fiscal year.

You have also asked whether Metlakatla Indian Community will qualify for aid under this draft. Metlakatla does not qualify under sec. 29.73.090(a)(3) because it is not a Native village for purpose of ANCSA. If it is the intent of the committee that Metlakatla be included, that paragraph could be amended to read:

. . . is a Native village as defined under 43 U.S.C. 1602(c), or is a federally established Indian reserve in existence before enactment of 43 U.S.C. 1618(a) and continued in existence under 43 U.S.C. 1618(a).

If I can be of further assistance with this draft, please let me know.

TBC:ojb
J4/068 Attachment

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3300

March 28, 1984

The Honorable Mike W. Miller
Chairman, House Community
& Regional Affairs Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Proposed CS for HB 629 (C&RA)

Dear Representative Miller:

At the request of your staff we have reviewed the proposed Committee Substitute for House Bill 629, regarding state assistance to Native Councils. We limit this review to legal aspects only and do not address policy or administrative matters.

In our review of the original version of HB 629 we identified four constitutional problems and numerous other legal problems. The proposed committee substitute addresses the non-constitutional problems, but three of the four constitutional problems remain. Specifically,

- 1) the measure may contravene Article X, Section 2, which limits local governments to boroughs and cities, since it could be read as granting local government status, including the right to receive and spend public funds, to other entities;
- 2) the measure would commit the expenditure of public funds to the discretion of a group whose membership is racially restricted, i.e., to a quasi-government elected by citizens of only one race, in violation of Article I, Section 3;
- 3) the measure would be open to attack on equal protection grounds (Article I, Section 1) by similar groups, e.g., nonprofit organizations, performing similar functions in other communities.

The Honorable Mike W. Miller
Chairman, House Community
& Regional Affairs Committee

March 28, 1984
Page 2

In view of these problems, the Department of Law advises caution by the committee, and we are available to assist if the committee wishes to identify other avenues for providing services to rural communities which do not involve these constitutional problems.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 

Douglas K. Mertz
Assistant Attorney General

DKM:dlm

cc: Arthur H. Peterson
Assistant Attorney General

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: HB 629
 Title: Providing for political sub-
 divisions for state funds.
 Sponsor: Lindauer
 Requestor: House C&RA
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	-0-	-	-	-	-
200 TRAVEL	-	-0-	-	-	-	-
300 CONTRACTUAL	-	-0-	-	-	-	-
400 SUPPLIES	-	-0-	-	-	-	-
500 EQUIPMENT	-	-0-	-	-	-	-
600 LANDS & STRUCTURES	-	-0-	-	-	-	-
700 GRANTS, CLAIMS	-	0-	-	-	-	-
800 MISCELLANEOUS	-	0-	-	-	-	-
TOTAL OPERATING	-	-0-	-	-	-	-
CAPITAL	-	-0-	-	-	-	-
REVENUE	-	-0-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-0-	-	-	-	-
FEDERAL FUNDS	-	-0-	-	-	-	-
OTHER	-	-0-	-	-	-	-
TOTAL	-	-0-	-	-	-	-

POSITIONS:

FULL-TIME	-	-0-	-	-	-	-
PART-TIME	-	-0-	-	-	-	-
TEMPORARY	-	-0-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached.

Prepared By: Ervin B. Jones
 Division: Administrative Services Division

Phone: 465-2313
 Date: 03/05/84

Approved by Commissioner: [Signature]
 Agency: Revenue

Date: 3/5/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Analysis for HB 629:

This bill will have no effect on the administrative cost of the municipal assistance program in the Department of Revenue. The effect of Section 1 would be to reduce the amount of municipal assistance shared with cities and organized boroughs currently covered under the law. The extent of this dilution would depend on the number of native governments and native corporations qualifying under Section 1. The impact would be to reduce the amount available for per capita sharing under AS 43.20.016.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 629
 Title: Native Governments as
political subdivisions - funding
 Sponsor: Lindauer, Adams, Hurlbert
 Requestor: House Community & Regional Affairs
 Date of Request: _____

FISCAL DETAIL

Agency Affected: DCRA
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	975.	975.	975.			
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	975.					
FEDERAL FUNDS						
OTHER						
TOTAL	975.					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jon Cecil Phone: 465-4733
 Division: MRAD Date: 3-5-84

Approved by Commissioner: *Quinn Nathan* Date: 3-5-84
 Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 12/29/83

Bill/Resolution No.: HB 629
Title: Native governments as political subdivisions
- funding

ANALYSIS:

Assumptions:

Based on a rough estimate 60 IRA's would be eligible for \$25,000 payments under the Revenue Sharing Program.

Positions:

Other Expenditures:

Funding: This is assuming no additional general funds, but prorated division of appropriation.

Section Cost Analysis:

Computations:

Sixty communities @ \$25,000 plus 30% COLA (standard rate).

Economic Impact:

Impact on Local Government:

Attachments

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: House CRA Committee

From: Scott A. Burgess, Executive Director



Date: February 29, 1984

Re: HB 629 - Native Governments and Corporations

The brevity of HB 629 belies the complexity of the issues it raises. However, if Native governments and corporations are recognized as political subdivisions for the purpose of receiving state funds, the League urges that the total funding for the state programs for which these entities would be eligible be increased accordingly. This is necessary to preclude the dilution of funding to the current recipients, e.g. State Revenue Sharing.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 2, 1984

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

The Honorable Mike W. Miller
Chairman, House Community
& Regional Affairs Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: HB 629

Dear Representative Miller:

At the request of your staff we have examined HB 629 for legal problems. The Department of Law believes HB 629, as written, has several significant defects which render it unconstitutional as well as impractical to implement. The bill would essentially designate native councils created under the Indian Reorganization Act ("IRA") of 1934 as "political subdivisions" of the state.

On the constitutional level, the bill may violate four separate provisions of the Alaska Constitution:

(1) Article X, Section 2 limits local government authority to boroughs and cities. HB 629 would effectively grant local government status -- including the right to receive and spend public revenues -- to entities which have not been created by the constitutional procedure for creating boroughs and cities;

(2) Article IX, Section 6 prohibits the appropriation of public money, or the transfer of public property, except for a public purpose. HB 629 would permit public funds, collected from state taxpayers, to be spent for whatever purposes the IRA council -- a group which does not represent all citizens -- deems proper. There is no requirement in the bill that these state funds be spent to benefit the whole public rather than a limited segment of it;

(3) Article I, Section 3 prohibits denial of political or civil rights on the basis of "race, color, creed, sex, or

national origin." HB 629 would designate as a political subdivision of the State of Alaska an organization which is open only to persons of one race. "Governmental" decisions on spending public funds would be made by a council for which members of all races except one are prohibited from voting;

(4) Even if the above problems were somehow avoided, the bill would still be open to challenge by other organizations occupying a parallel position in villages without IRA councils. Article I, Section 1 guarantees equal protection, which could conceivably be denied if there were no parallel provision for communities with traditional councils or other organization performing tasks similar to those performed by IRA's.

Several other legal/practical problems also exist:

(1) There are 212 communities in Alaska generally considered native villages. 117 of these have regular city governments, some 90 have traditional councils, and approximately 70 have IRA councils; there is quite a bit of overlap, with 46 communities having both city governments and IRA councils. HB 629 makes no distinction between IRA's in communities with city governments and IRA's in communities without them; presumably all IRA's could qualify, while all entities which are not IRA's would not.

(2) IRA councils vary greatly in the way they function in individual communities. In some communities they may perform functions somewhat akin to a limited local government; in other places, especially where there is a regular city government, IRA councils provide only cultural activities for the native segment of the community; in other places, IRA councils may exist on paper but are actually inactive and moribund. HB 629 contains no way to distinguish between these differing situations; presumably all IRA's, including those with no "governmental" role, would qualify.

(3) By officially designating IRA councils as "political subdivisions" of the State, HB 629 would strengthen the argument that such councils are sovereign local governments. The State is already confronting claims by IRA councils that their members are a) exempt from state fish and game laws; b) entitled to exclude non-natives from non-defined geographical areas; c) exempt from state taxation; d) entitled to state funding of social services provided by


IRA councils; and e) entitled to adjudicate the rights of members and non-members in council-created "courts." While it is clear that IRA councils may possess certain rights under federal law, the extent of those rights is not clear and is now in litigation. By designating IRA councils as "political subdivisions," HB 629 may have a serious effect on that litigation and on ongoing discussions with native sovereignty advocates aimed at gaining a consensus on these questions.

We urge the committee to be cautious in its approach to this bill in light of these comments.

Finally, we point out that if the real concern behind this bill is to provide adequate services for all rural communities, there are existing legal avenues, as well as other approaches which could be legally enacted, to achieve that end while avoiding the constitutional and practical pitfalls noted above. We would be happy to work with the committee to explore these alternatives.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Douglas K. Mertz
Assistant Attorney General

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1984

SUBJECT: Native governments as political
subdivisions of the state (HB 629)

TO: House Community and Regional Affairs

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

You have asked what the effect of HB 629 is. That bill provides that corporations and governments organized under the Indian Reorganization Act are political subdivisions of the state for the purpose of receiving state funds and that they qualify for state assistance available to municipalities or other governmental entities.

This provision conflicts with the various statutes that provide for state assistance and probably cannot be reconciled with them. For example, AS 29.88 provides aid based on a formula that includes consideration of locally generated tax revenue. That formula would probably make little sense if applied to IRA councils and corporations, because it is unlikely that these entities tax at all. In addition, that program provides aid to "taxing units" defined as particular tax regions of municipalities. Despite HB 629, an IRA council or corporation cannot be deemed to be either a municipality or one of its specified taxing regions that qualify for aid. Even if the organization were found to qualify for aid, it would be impossible to determine the level of aid it qualified for under the formula provided in AS 29.88 because that formula was never designed to apply to that type of organization. If it is intended that IRA councils and corporations receive assistance under AS 29.88, that program needs to be adjusted to specifically include them. The same is true of other assistance programs. Each program must be specifically amended to include IRA councils and corporations. HB 629 as it is now written only creates confusion in the application of statutes providing for state assistance.

However, simply amending each aid program so that it applies to IRA councils and corporations could create a serious constitutional problem. The United States government has a special trust relationship with Native peoples which permits the federal government to accord certain types of preferential treatment to Natives. The preferential treatment is not considered to amount to racial discrimination so long as it furthers the federal government's trust obligation. Morton v. Varconi, 417 U.S. 535 (1974). However, even the federal trust obligation is a limited one that will not justify every form of legislative preference. United States v. Mitchell, 445 U.S. 535 (1980). It is interesting to note that the extent, or even existence, of a general federal trust responsibility to Alaska Natives has been questioned. North Slope Borough v. Andrus, 642 F2d 589 (1980). In any case, state governments do not have a special trust relationship with Natives that would justify special treatment along racial lines. Oklahoma Tax Commission v. United States, 319 U.S. 598 (1943); White v. Califano, 437 F. Supp. 543 (1977). Should IRA councils and corporations be included in various aid programs, care must be taken to avoid state involvement in racial discrimination. Perhaps this could be done by requiring, as a condition of receiving state assistance, that the state money be used for the benefit of the general public.

41 LED 2d 290 →

63 LED 2d 607 →

87 LCD 1612 →

pg. 611 (Set C)
Fed. Trust Resp.

↑
This section deals with trust responsibility.

STAFF NOTE:

The law library has these cases listed as above in the volume located in margin.

Another constitutional problem may be created by HB 629. To the extent that IRA councils and corporations are recognized as local governments, Article X, sec. 2 of the state constitution is violated. That article provides in pertinent part:

All local government powers shall be vested in boroughs and cities.

It should be remembered that, while IRA councils are at least governmental in nature, IRA corporations do not have the regulatory, tax, and police power of local governments and cannot properly be treated as governments. The use of IRA councils and corporations to provide local governmental services together with the granting of state money to finance governmental activities would raise them to a status dangerously close to that of local governments in violation of Article X, sec. 1, 2, 7 and 8. Consequently, if IRA councils and corporations are included in aid programs, the use that may be made of the money received by them must be carefully considered and defined by statute. For example,

H. C&RA
page 3
February 24, 1984

the municipal assistance program, AS 43.20.016, does not require that grant money be used for any particular purpose. The intent of the program is to reduce the level of local taxes imposed by recipient municipalities. Since this intent is not applicable to IRA councils and corporations, it would appear that this statute would have to be altered considerably if it were to include those organizations.

In restructuring the various aid programs to include IRA councils and corporations, consideration should be given to the relationship between those organizations and incorporated municipalities. Otherwise, conflicting jurisdictions and duplication of efforts to provide services will result, especially as to Native villages located in boroughs.

In conclusion I must point out that the legal effect of HB 629 is far from clear. The bill may, in fact, have no legal effect because of inconsistencies between it and other statutes, and because of uncertainties regarding constitutional matters.

TBC:csh
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Alaska State Legislature

House of Representatives

Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3870

TO: Community and Regional Affairs Committee

FROM: Community and Regional Affairs Staff

DATE: 3/7/84

SUBJ: HB679 - Municipal Bond Bank Authority

Staff contacted Lee Sharp of the Juneau City and Borough government and Daniel Cowden, Anchorage Municipality (OMB).

Mr. Sharp stated that the Juneau Assembly had not addressed this bill. However, in the past, the City and Borough have always supported increases in the total amount of bonded indebtedness.

Mr. Cowden passed on my request for information to the proper departments in the Anchorage Municipality. When no information was forthcoming, staff made a follow up call. Mr. Cowden reiterated that if the department involved does not advise him negatively or if the bill is not listed on the Muni's concern list, he has no alternative but to come to the conclusion that the Muni is not overly concerned by the intent of a bill.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: HB 679
 Title: Relating to the Municipal
Bond Bank Authority
 Sponsor: Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected:
Municipal Bond Bank Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	*	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	*	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	*	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

*The passage of this legislation will ultimately require full funding of \$10 million. At this time, it is difficult to determine if the Bank will have requests to bond into this limit in FY 85.

ANALYSIS: Attach a separate page for analysis.

Prepared By: Marcy Rehfeld
 Division: Revenue

Phone: 465-2300
 Date: 02/10/84

Approved by Commissioner: *Paul O'Leary*
 Agency: DOR

Date: 2/10/84

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

IV. Analysis for Municipal Bond Bank Authority

Additional increase in bonding authority from \$200 million to \$300 million will require an appropriation for funds leveraging of \$10.0 million. Ten percent of the FY 85 borrowing must be backed up by leveraging reserves. As an example, a \$50.0 million bond sale program will require \$5.0 million in appropriation.

Net earnings on the appropriated reserves to the Bond Bank are returned to the General Fund on an annual basis. Attached are the annual amounts returned to date.

Financial Information

Operating Appropriations

Operations of the Bank are not funded by State of Alaska General Fund appropriation. Operational funds are provided by fees and charges and interest earned on investments. The Legislature, however, does review and approve the operational budget. Surpluses earned over and above the budgeted expenditure level are donated to the general fund. A history of operational appropriations is provided below.

General Fund Appropriations to Fund Operations and Surpluses Earned and Refunded to the State

FY-1976 Original General Fund appropriation	(S 24,000)
FY-1977 General Fund appropriation	(60,000)
FY-1978 General Fund appropriation	--0--
FY-1979 General Fund appropriation	--0--
FY-1980 General Fund appropriation	--0--
FY-1981 General Fund appropriation	--0--
FY-1982 General Fund appropriation	<u>--0--</u>
TOTAL operating appropriations to date	(\$4,000)
FY-1977 Surplus refunded to State	\$ 15,872
FY-1978 Surplus refunded to State	143,953
FY-1979 Surplus refunded to State	110,759
FY-1980 Surplus refunded to State	160,619
FY-1981 Surplus refunded to State	1,110,697
FY-1982 Surplus refunded to State	1,111,785
FY-1983 Surplus refunded to State	<u>1,207,617</u>
Net surplus to State since inception	4,467,540

Capital Appropriations

The capital appropriation is utilized to establish a reserve fund which remains intact; not depleted or consumed in any way. The reserve fund is normally used to leverage debt in a ten to one ratio. For every \$1.0 million placed in the reserve fund, \$10 million of outside capital is attracted to the State. While no capital appropriations were received in fiscal year 1982, an additional \$1.8 million was received for fiscal year 1984.

BILL SHEFFIELD
GOVERNOR



HB 679

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 1984

The Honorable Joe Hayes
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Municipal Bond Bank Authority. Present law limits the debt capacity of the authority to \$200,000,000. To enable the authority to continue to assist municipalities to meet their financing needs, this bill increases the statutory debt capacity to \$300,000,000.

While the level of public debt in the state poses a matter of increasing concern, the authorization provided for in this bill is necessary if municipalities without direct access to the capital markets are to meet their financing needs at the lowest available cost. I urge your prompt consideration of this bill.

Sincerely,


A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: House CRA Committee
From: Scott A. Burgess, Executive Director 
Date: February 29, 1984
Re: HB 679 - Municipal Bond Bank

The League adopted the following policy statement November 5, 1983 at its 33rd annual conference in Juneau:

"The League supports the adoption of legislation which would raise the level of bonded indebtedness for the Alaska Municipal Bond Bank to \$300 million and approve a suitable level of bonded indebtedness for revenue bonds."

HB 679 increases the total amount of bonded indebtedness from \$200 million to \$300 million; therefore, the League supports quick and favorable action by the committee and the bill's adoption.

The continued authority to sell, and the ability to market low interest bonds to finance municipal capital projects is a major concern of the League and its member municipalities. As the state continues to grow and develop, its municipalities are facing increasing needs and complex problems with decreasing financial assistance from the state, e.g. shortfalls in the Municipal Assistance and State Revenue Sharing Programs and decreasing state assumption of debt for schools. Many of our municipalities are also facing hard economic times, especially the coastal communities which rely on the fishing industry.

Municipal bonding is an important mechanism to provide necessary community facilities such as schools, libraries, etc. Public capital facilities are necessary not only to provide for the needs of our current residents, but also to attract new business and industry to the state and its communities.

Again, the League supports HB 679.

H T R

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S T R

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HAINES BOROUGH

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

February 17, 1984

FEB 27 '84

The Honorable Mike W. Miller
Alaska House of Representatives
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Miller:

We would urge you to support House Joint Resolution #59 disapproving the Local Boundary Commission recommendation for annexation of territory to the City of Haines.

The Haines City Council and Haines Borough Assembly both agreed that the annexation would not be in the best interest of either party if it would be possible to form a unified government. The City and Borough, in a joint meeting agreed according to minutes of that meeting "to place an effective date of two years on the annexation petition or until the City and Borough of Haines have completed the unification process". Somehow, the last part of the request was not transmitted to the Local Boundary Commission, and as a result, they asked for only a two year delay.

It is our feeling that we have a great deal of education to do before our constituents will vote for unification. It is doubtful if we can do more than get started on the unification process in that time. Our citizens have diverse interests and it will take a long time to develop a charter acceptable to the majority.

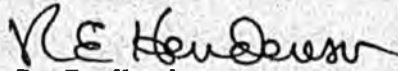
Then we have conflicting legal questions. Can the Local Boundary commission delay the effective date for two years? Can the Local Boundary Commission specify a particular type of government be formed? Lastly, if a two year effective date is proven illegal, then annexation would become effective immediately. This would destroy all chances for unification.

To explain our Borough, we are at present the only Third-class Borough in the State. The City of Haines has a population of approximately 1000 and 800 live outside the City. The annexation proposal would bring 500 more into the City, leaving 300, thirty miles or more from town. These people see little incentive for unification, but I can sell unification to the majority of the present 800, but that will take time.

February 17, 1984
Page Two

In closing I urge your support for House Joint Resolution #59. This would give the City and Borough of Haines an opportunity to work together for a unified government without a time restriction. Annexation disrupts our community year after year. Unification would solve this problem forever. But in order to form an acceptable Charter, we must not be limited in time, as we want the best Charter we can develop for our community.

Sincerely,



R. E. Henderson
Mayor

REH:AMJ

George Figdor
Box 612
Haines, Alaska 99827

FEL-7 '84

Chair
House Committee on
Community and Regional Affairs
State Capital
Juneau, Alaska

Dear Sir or Madam:

I urge you to vote against the Boundary Commission's recommendation for the City of Haines to annex surrounding areas.

Sincerely,

George Figdor



Alaska State Legislature

House of Representatives

Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3870

February 24, 1984

Ms. Dorothy McLaughlin
Box 405
Haines, Alaska 99827

Dear Dorothy:

SJR34, sponsored by Senator Dick Eliason, passed the Alaska State House on February 23rd and is on it's way to the Governor for final signature.

The letters and testimony from you and your neighbors did much to assure my Committee, House Community and Regional Affairs, that we were correct in acting swiftly on the disapproving of the Local Boundary Commission recommendation for annexation of territory to the City of Haines.

As an elected official, I, personally, appreciate the time and effort taken by you to present your thoughts and recommendations for our Committee's consideration.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Rep. Mike W. Miller
Chairman, H C & R A

sd

Rep. Mike Miller
Juneau
Alaska

Feb. 8, 1984

Dear Sir:

Would you please help us by not allowing the annexation proposed for the city of Haines? The city has gone against the wishes of the majority of the people and is trying to get the annexation through.

I see this as the first step in annexing more people to the city. If this goes through the borough will be left with so few people that we won't have a say in any rules and regulations that the city will want the borough to make.

Even though our area (27 mile Haines Hiway) isn't in this annexation plan, it will still effect us with higher taxes. Also, the idea that the annexation will go through if we don't get a unified government, doesn't leave us the choice to stay as we are. Under the unified plan we

would have planning and zoning -
which we don't want, but nothing
in the way of "conveniences."

Please say "no" to the annexation.

Sincerely,

Dorothy McLaughlin

Box 405

Haines, Alaska
99827

Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3870

February 24, 1984

Mr. Ed Hays
6½ Mile Mud Bay Road
Box 98
Haines, Alaska 99827

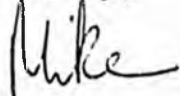
Dear Ed:

SJR34, sponsored by Senator Dick Eliason, passed the Alaska State House on February 23rd and is on it's way to the Governor for final signature.

The letters and testimony from you and your neighbors did much to assure my Committee, House Community and Regional Affairs, that we were correct in acting swiftly on the disapproving of the Local Boundary Commission recommendation for annexation of territory to the City of Haines.

As an elected official, I, personally, appreciate the time and effort taken by you to present your thoughts and recommendations for our Committee's consideration.

Sincerely,



Rep. Mike W. Miller
Chairman, H C & R A

sd

Hays
Box 98
Haines, AK.
99827

Boards
January 7, 1984
Commissioner



Dear Mr. Miller,

I am writing to ask you to vote against the local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines.

My wife and I recently built a home outside the City of Haines in the Borough. It was our choice to live outside the City, beyond the utility serviced areas, and beyond the higher city taxes. If this annexation is allowed to go through, there will be only 300 of us left in the Borough who are not annexed into the City. Since we will then be only a mile and a half from the City limits, it will be just a matter of time until we too are annexed.

It seems to me that this process of annexing people into the City who have clearly said they don't want to be annexed goes against our whole form of government. Borough residents outside the city let it be known both at the Boundary Commission's Public Hearings and in the Oct. 4, 1983 election (80% opposed), that

they didn't want to be answered.

I ask that you consider my concerns.

Thank you.

Sincerely,

Ed Hays

1 1/2 Mile Mud Bay Rd

Box 90

Haines, AK. 99827

Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3870

February 24, 1984

Mr. and Mrs. Richard Fredricks
Box 621
Haines, Alaska 99827

Dear Richard and Susan:

SJR34, sponsored by Senator Dick Eliason, passed the Alaska State House on February 23rd and is on it's way to the Governor for final signature.

The letters and testimony from you and your neighbors did much to assure my Committee, House Community and Regional Affairs, that we were correct in acting swiftly on the disapproving of the Local Boundary Commission recommendation for annexation of territory to the City of Haines.

As an elected official, I, personally, appreciate the time and effort taken by you to present your thoughts and recommendations for our Committee's consideration.

Sincerely,



Rep. Mike W. Miller
Chairman, H C & R A

sd

Box 621
Haines

Feb. 9, 1984

Rep. Mike W. Miller Chair

Community and Regional
Affairs Committee
Juneau, Alaska 99811

Dear Rep. Miller

I am writing to state our strong opposition to the proposed plan of annexation presented by the Local Boundary Commission. This is a plan imposed from "the top" totally against the expressed desire of the people of the area concerned.

We are residents of the Haines Borough and wish to make this our permanent residence. Presently we are living on Small Tract Rd.

The Local Boundary Commission's statement calling our area "The Greater Haines Area" is a creation of their imagination. There simply is no such entity and they obviously do not grasp what is the nature of this area. This becomes even more evident when they classify it as urban in character. I don't care how you stretch the word "urban", it simply can not be applied to this area.

The Borough Assembly does have the power now to plan and zone in its territory and also to create service areas. There is no need to belong to the city to do this.

Finally, we question the motivation involved in the extreme pressure to push this annexation. The City Council can not meet its financial obligation of past bills and is simply looking for more to share their bad investments claiming it's for our good that we be annexed.

Thank you for your attention on this matter.

Richard Fredricks
Susan Fredricks

Richard & Susan Fredricks
Haines, Alaska



Alaska State Legislature

House of Representatives

Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3870

February 24, 1984

Mr. and Mrs. A. W. Jurgeleit
Box 292
Haines, Alaska 99827

Dear A. W. and Harriet:

SJR34, sponsored by Senator Dick Eliason, passed the Alaska State House on February 23rd and is on it's way to the Governor for final signature.

The letters and testimony from you and your neighbors did much to assure my Committee, House Community and Regional Affairs, that we were correct in acting swiftly on the disapproving of the Local Boundary Commission recommendation for annexation of territory to the City of Haines.

As an elected official, I, personally, appreciate the time and effort taken by you to present your thoughts and recommendations for our Committee's consideration.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Rep. Mike W. Miller
Chairman, H C & R A

sd

A. W. Jurgeleit

Box 292

Haines, Alaska 99827

February 10, 1984

Representative Mike W. Miller
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Miller:

We have been advised that Senator Richard Eliason and Representative Peter Goll have introduced resolutions opposing the annexation recommendations of the Local Boundary Commission.

We sincerely hope that as a member of the Community and Regional Affairs Committee you will support these resolutions which reflect the views of the majority of the people in this area.

Thank you.

Yours truly,

A. W. Jurgeleit
James L. Jurgeleit



Alaska State Legislature

House of Representatives

Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3870

February 24, 1984

Mrs. David Woodring
Box 555
Haines, Alaska 99827

Dear Mrs. Woodring:

SJR34, sponsored by Senator Dick Eliason, passed the Alaska State House on February 23rd and is on it's way to the Governor for final signature.

The letters and testimony from you and your neighbors did much to assure my Committee, House Community and Regional Affairs, that we were correct in acting swiftly on the disapproving of the Local Boundary Commission recommendation for annexation of territory to the City of Haines.

As an elected official, I, personally, appreciate the time and effort taken by you to present your thoughts and recommendations for our Committee's consideration.

Sincerely,

A handwritten signature in cursive script that reads "Mike" followed by a horizontal line.

Rep. Mike W. Miller
Chairman, H C & R A

sd

Feb. 13, 1984

I hope you will support Senator Eliasson & Rep. Peter Hall's resolution opposing the annexation recommendations of the Local Boundary Commission. I object to arbitrary decisions made for us by non-elected representatives.

I saw what happened in Juneau when we were included in a service area we didn't want, were promised services we never received & were told "We know what's good for you". Douglas was eventually forced in although they were well in the black financially & Juneau deeply in the red.

Sincerely,

Mrs David Woodring
Box 555
Haines, Alaska 99827

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE



P.O. BOX 143
SITKA, ALASKA 99835
FOUCH V
JUNEAU, ALASKA 99811
1907: 465-4916

February 6, 1984

Senator Eliason Reports on the Haines Annexation Issue

Now that the proposed Haines Annexation has entered the Legislative arena it is important that everyone understand where things stand and how and why we are where we are.

As you know, the boundary change question has had much debate at the local level but the Legislature also has an oversight role mandated by state law in boundary changes. The statutes require the Local Boundary Commission (which is under the Department of Community & Regional Affairs) to submit a report of its proposed changes in local boundaries to the Legislature during the first 10 days of the session. The Haines annexation was submitted this session and referred to the Community & Regional Affairs Committees of each house. The Legislature then reviews these reports and can 1) take no action which then results in the change taking place as proposed or 2) within 45 days of receiving the report, pass a resolution disapproving the change which effectively kills it. Generally the chairpersons of the C& RA Committees will follow the lead of the representatives and senators of the district wherein the boundary changes are proposed. This is where my involvement and that of Rep. Goll come in.

I respect the autonomy of individual communities and am very careful not to interfere with issues best left for resolution at the local level. But in this instance I fear that Haines has already suffered some interference by the state in its efforts to manage its own affairs.

I see my role as one of making sure that everyone understands the process and their rights, and that any annexation that takes place is done properly. Rep. Goll and I held the teleconference last week to discuss the whole issue with the people of the area and get a feel for the questions and concerns. I thank everyone who attended and participated in the teleconference. It was constructive and informative. I know many of you traveled some distance to be there.

Several major concerns have convinced me to take action to insure that the issue and the options remain alive. My main concerns include: (1) The Local Boundary Commission initiated this annexation. While not illegal it seems unwise and a dangerous loss of local autonomy. The Legislature has an obligation to see that the state bureaucracy doesn't get out of hand and begin usurping local initiative. (2) The local vote was against this annexation. We don't want to risk undermining the people's trust in the public input process which becomes a charade if it is ignored and powerless. (3) The clause calling for annexation to kick-in in two years unless unification takes place first. The Attorney General says the delayed effective date is okay but the Legislature's Legal Staff says it is not. But the ringer is the most recent legal opinion, obtained since the teleconference, which says that if the two-year clause were thrown out by a court, the rest of the annexation proposal would stand, meaning the annexation would be immediately in effect. That circumvents the intent to allow time to consider unification and abolishes the compromise which made the proposal palatable to the parties who did sign off on it. (4) I am worried about the precedent set by holding a hatchet over a community's head to "unify or else". Annexation and unification ought to each be weighed and decided on their own merits. Also the big plus in any possible decision to unify is the "custom-built" charter which could, if given enough time and consideration, be drawn up to respond to the variety of special needs and goals of different areas within a unified city and borough. Such a charter could allay many of the objections and fears and allow the community to enter into a unification willingly and comfortably.

Few annexations go through without some objections. Certainly no one would expect 100% consensus on this in Haines where feelings have been strong on these matters for years. But I believe there needs to be more discussion and so I introduced Senate Joint Resolution 34 in the Senate (and Rep. Goll introduced the same one in the House) to disapprove of the proposed annexation.

Now the matter is in the two C& RA Committees which plan to hold hearings and a teleconference. If the Legislature passes the resolution within the 45 days allowed, the annexation as proposed would die and the matter goes back to the drawing board.

So that's where we are right now. I believe we are being fair and sensible in our consideration and action on this matter and hope the people of Haines will agree. I urge your continued involvement in this process and your efforts to make the C& RA Committee members aware of your opinions and concerns as they deliberate on whether to pass the resolutions of disapproval.

I thank the Lynn Canal News for the opportunity to present my viewpoint on this matter of such importance to its readers.

Sincerely,


Senator Dick Eliason

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1984

SUBJECT: Annexation of territory
to Haines (W.O. 13-1776)

TO: Senator Richard I. Eliason

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

You have asked whether the annexation of territory to the City of Haines will take place within the time required by the constitution or whether the entire annexation is invalid if the delayed effective date provided in the Local Boundary Commission's Recommendation Number One is invalid.

Recommendation Number One contains two parts. The first part of the recommendation states in part the annexation ". . . will become effective two years from the date of the Legislature's approval of the commission's recommendation and then only if the City of Haines and the Haines Borough have not unified. . ." The second part of the recommendation provides for the actual annexation of territory. The question of what happens to the second part of the recommendation if the first part is invalid is essentially a separability question. In the area of statutory construction the general rule is that separability questions are to be determined according to either the will of the legislature or its manifested meaning. (Sutherland Statutory Construction, section 44.03) While the recommendation at issue here is not a statute, it seems likely that a court faced with determining the validity of the recommendation will use those principals of statutory construction that it commonly relies on.

It is clear that the Local Boundary Commission possesses the authority to recommend a boundary change to the legislature, (Art. X, sec. 12, Constitution of the State of Alaska). In this particular case, it is also clear from the letter of recommendation itself that the commission intended to

Senator Eliason
Page 2
February 2, 1984

approve the annexation and only added the delayed effective date later at the request of the municipalities concerned. (See paragraphs 4 and 5 of "Recommendation Number One to the Second Session of the Thirteenth Legislature", Senate and House Joint Journal Supplement No. 16). This appears to be an indication that the Local Boundary Commission's primary intent was to recommend annexation rather than to recommend the delayed effective date. While it is a very close question, I believe that a court would be more likely to find the annexation valid and effective within the time required by the constitution in order to carry out the will of the commission rather than finding the annexation invalid and, thus, thwarting the constitutional power of the commission to recommend boundary changes.

However, this question cannot be resolved with certainty until the issue is presented and decided by the court. The entire problem will, of course, be avoided if the legislature acts to disapprove the annexation.

TBC:csh
C2/134

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 31, 1984

SUBJECT: Haines Annexation Recommendation
TO: Representative Peter Goll
FROM: Billy G. Berrier *BGB*
Director
Division Legal Services

You have asked several questions concerning the Recommendation for the Annexation of Territory to the City of Haines by the Local Boundary Commission which is Recommendation No. 1 to the Second Session of the Thirteenth Legislature dated January 17, 1984.

You have asked whether this recommendation essentially ordered unification and whether the commission has the power to order unification.

A local boundary commission is mandated by the Constitution of the State of Alaska and is constitutionally given broad power over local government boundary changes.

Section 12 of Article X provides:

SECTION 12. A local boundary commission or board shall be established by law in the executive branch of state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

Representative Peter Goll
Page 2
January 31, 1984

The Commission was established by law (AS 44.47.565) and is generally regulated by AS 29.18.011 - 150. It has regulations at 19 AAC 10.

Our Supreme Court has had questions before it concerning the Local Boundary Commission several times. It has stated the purpose for the commission saying, for example, in Oesau v. City of Dillingham 439 P.2d 180 (Alaska 1968):

The basic purpose for creating the boundary commission and conferring upon it the powers that it possesses was to obviate the type of situation that existed here where there was a controversy over municipal boundaries which apparently could not be settled at the local level. As we pointed out in the Fairview case, the concept that was in mind when the local boundary commission section of the Constitution was being considered by the constitutional convention was that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. The purpose of the boundary change effected in this case by the boundary commission and the legislature was to establish boundaries at a state level, and resolve a conflict that could not be properly solved at the local level, by doing away with two separate governments in a single community and avoiding multiplication of facilities and services, duplication of tax burdens, and inevitable jurisdictional conflict and chaos.

The Commission does not have authority to itself unify local governments. That procedure is established in AS 29.68.240 - 440 and requires approval at an election.

However, the commission does have broad power and, even though a boundary changed its purposes would result in dissolution of a municipality without following the dissolution procedure, that is within its power. In the case cited above the commission extended the boundaries of the City of Dillingham to encompass all of the City of Wood River. The court held this valid stating:

When the boundary change became effective, the city of Wood River was extinguished as a municipal corporation and its property, powers and duties were then vested in the City of Dillingham.

Representative Peter Goll
Page 3
January 31, 1984

Therefore in my opinion the boundary change is within the power of the Commission even if it were to include all the borough territory and effectively dissolve the borough. It should be noted that the result is not the result reached by unification under AS 29.68.240 - 440 since the result is not one home rule unit of local government.

You have also asked whether the part of the recommendation which reads:

1. The annexation of territory to the City of Haines, as herein described, will become effective two years from the date of the Legislature's approval of the Commission's recommendation and then only if the City of Haines and the Haines Borough have not unified pursuant to the provisions of AS 29.68.240 - 580; and

is valid in our opinion.

In my opinion it is clearly invalid.

The constitution itself clearly states the effective date of a proposed change. In Sec. 12 of Article IX the constitution states:

The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. (emphasis added)

There is no ambiguity. The change becomes effective at the time stated and that phrase clearly refers to "any proposed local government boundary change." The annexation is the boundary change, not the recommendation, and the Commission is not empowered to vary the constitution by providing a different effective date for that change.

BGB:ojb
J3/019

MEMORANDUM

State of Alaska

TO: Jim Sanders
Local Boundary Commission

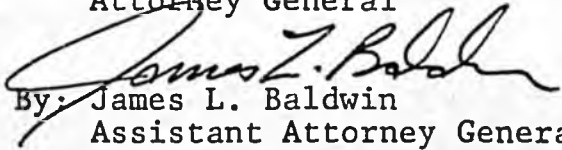
DATE: January 17, 1984


FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Delaying effective
date of boundary
change


By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau


By: Fran Bremer, Legal Intern
Governmental Affairs-Juneau

You have asked us whether the local boundary commission can validly delay the effective date of a boundary change for two years, contingent on the holding of an election for the unification of the Borough and City of Haines. The answer is yes.

Article X, section 12 of the Alaska Constitution provides for the establishment of a local boundary commission, which may present a proposed boundary change to the legislature within the first 10 days of the session. Section 12 provides, "[t]he change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house." AS 44.47.583 repeats essentially the same language: "the change becomes effective 45 days after the presentation"

An examination of the minutes of the constitutional convention shows that the wording of section 12 was not intended to set a definite date on which the boundary change was to physically occur. 4 Proceedings of the Alaska Constitutional Convention 2750-2753 (Jan. 20, 1956). Rather, the language was intended as a limit on the legislature's power to disapprove a proposed boundary change.

At the convention, an amendment was introduced which required active legislative approval of a proposed boundary change. The delegates discussed the merits of permitting the proposed change to occur without legislative intervention, and rejected the amendment. 4 Proceedings at 2751. It is clear from comments made during floor debate that the delegates' main concern was the potential for delay caused by conditioning a boundary change on legislative approval. A delegate noted that a boundary change could be "difficult to get through if it is going

to affect somebody's constituents." Id. Others noted that changes must be submitted to the legislature "but in the press of business ... they may not get around to consider such little things as a minor boundary change ..." and that "this little boundary adjustment will go from session to session ... because they won't have time to make it approved." Id. The 45-day limit on the legislature's power to disapprove avoided the possibility that the boundary change could go "from session to session" without being decided. See also A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980)(discussion of article X, section 12 in terms of the power of the legislature to veto executive action).

We believe the provisions of section 12 do not restrict the power of the local boundary commission to delay the operative date of the boundary change. Alaska courts have recognized that annexation decisions involve policy choices that are incapable of judicial resolution. Port Valdez Co., Inc. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); U.S. Smelting, Refining & Mining Co. v. Local Boundary Comm'n, 489 P.2d 140 (Alaska 1971). The local boundary commission was created to provide an expert and experienced agency to make these policy choices within the guidelines set out by law and regulation. See Town of Stillwater v. Minn. Municipal Comm'n, 219 N.W.2d 82, 87 (Minn. 1974)(commenting on the Minnesota Municipal Commission, whose structure and function is similar to that of the local boundary commission). Accordingly, the statutory scheme grants the commission broad power in matters affecting local boundaries. AS 44.47.565 -- 44.47.583. There is no express provision in either the statute or the regulations dictating the time that a boundary change is to become operative. Therefore, the only restraint on the agency's choice of annexation method is the requirement that there be no abuse of discretion. Port Valdez, 522 P.2d at 1151. The commission's decision to allow a two-year delay was a reasoned choice between the competing objectives of encouraging cooperation between the city and borough, and that of settling boundary questions promptly to facilitate planning and assure responsiveness to current conditions. The commission's choice of method -- to delay the operative date -- is analogous to an agency's power to delay the effective date of a regulation under AS 44.62.180(4). We, therefore, conclude that the commission has the power to delay the operative date of the annexation for two years.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 11, 1984

SUBJECT: Local boundary commission recommendations
TO: Senator Richard Eliason
FROM: Richard A. Bradley ^B
Legislative Counsel

Rocky Plotnick has asked whether the effective date of the recommendations of the local boundary commission may be delayed for a year or more.

It seems that they may not.

The Alaska Constitution provides at art. X, sec. 12 (in part):

It (the commission) may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

While I have not seen the particular recommendation that is of concern (because it has not been presented), at this time I do not see how a recommendation with delayed effectiveness can be squared with art. X, sec. 12.

If I may be of further assistance, please advise.

RAB:lmb
L3/086

HAINES BOROUGH

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

February 6, 1984

The Honorable Don Gilman
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman:

I am writing you because you have been interested in the Haines Borough and I have a great respect for your integrity.

I am requesting your support for a resolution that Senator Eliason (Goll) will introduce against the annexation of some 7 square miles by the City of Haines.

The proposed annexation will pull into the City some 500 citizens now living outside the city. This will give the City of Haines a population of some 1500, while only 300 would remain outside. Since municipal assistance is based on population of a borough outside of a city, the borough would have just 300 citizens and our State funds would be reduced to a very low level. Furthermore, the city has 3 members on the current Assembly, the outside area 2 members and 1 member-at-large who now comes from the outside area. If annexation occurred, only 1 member would come from outside and five from the new city. This would not give outside citizens much representation on our Assembly.

In the October election 382 citizens voted against annexation and 255 citizens favored annexation (66% favored).

Both City and Borough have been trying to work out our problems. We feel that a unified government would solve our problem. At a joint meeting of the Council and Assembly, we agreed to request the Local Boundary Commission to delay the effective date of the annexation petition for two years or until the City and Borough have completed the unification process.

Unfortunately, the Local Boundary Commission delayed the annexation for two years, only. Thus on March 3, 1986, if the unification process is not completed, annexation will occur. I do not feel that a Charter Commission, to do the best job, should have to meet deadlines. We have a diversity of people and it is going to take a long time to get a charter that the majority can approve.

Senator Don Gilman
February 6, 1984

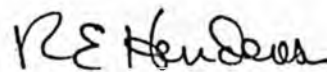
Page 2

Furthermore, there seems to be a question of legality as to whether the Local Boundary Commission can set a date (other than 45 days of legislature after the petition is introduced), as well as specify the kind of government that must be formed. Some legal opinions also tell us that if the present petition is approved by the Legislature and it is challenged in court and found at fault, then annexation would occur immediately.

Because of all these questions, I believe that the Local Boundary Commission recommendation should be rejected. This would allow the City and Borough of Haines to work out our differences and hopefully come up with a unified government that we can all live with that would benefit us all and thereby solve the annexation problem that disrupts our community every few years.

I sincerely hope that you will help us in any way you can to resolve this issue.

Sincerely,


R. E. Henderson
Mayor

REH:AMJ

HISTORY OF HAINES ANNEXATION ISSUE

- 1977 - City purchased Lutak Dock from State.
- 1979 - City proposes annexation.
Area -wide advisory vote - 63% opposed annexation
Voters protest to city - annexation proposal withdrawn.
- Sept. 15, 1982 - City petitions State for annexation of 3.5 square miles. Made necessary by AG's opinion that operation of dock outside city's limit is illegal
- Oct. 6, 1982 - C&RA accepts petition.
- Oct. 19, 1982 - Borough resolution to allow the City to operate the dock facility extratorially.
- Nov. 5, 1982 - C&RA written report to Local Boundary Commission -- recommends annexation of 6.9 square miles. They felt compelled to recommend annexation of larger area than petitioned for because the 3.5 mile annexation " didn't meet certain of the regulatory standards which apply" (i.e. urban in character), having an extremely low population density (4 persons per square mile) while " the Greater Haines Area meets more of the standards and to a far greater extent." (38 persons per square mile)
- Nov. 10, 1982 - Letter from C&RA to Local Boundary Commission - " anticipates substantial opposition from residents in area to be annexed, particularly in light of Department's recommendation."
- Nov 23, 1982 - Borough resolution rejects Local Boundary Commission's recommendation.
- Dec. 2, 1982 - 345 residents sign petition requesting City to withdraw annexation resolution.
- Dec. 12, 1982 - Local Boundary Commission holds public meeting in Haines, which is cut short by a power failure before all testimony can be heard.

Jan. 14, 1983 - Commission meets in Anchorage - recommends annexation of dock only. Due to letters received from Haines residents, the Commission decides to hold second public meeting in Haines on proposed annexation of territory other than the dock.

Annexation of dock is not disapproved by the First Session of the Thirteenth Legislature.

Jan. 20, 1983 - Borough requests Local Boundary Commission postpone the public hearing until fall because of planned proposition to be put before the public on Borough's acquiring the powers of planning and zoning and hopes that the new Administration would change attitude re: Third Class Borough.

There is a widespread perception in Haines that C&RA is intentionally trying to eliminate the Third Class Borough despite strong local support.

The suggested annexation of 6.9 miles would leave only 301 residents in the Borough crippling it as a political subdivision

Feb. 19, 1983 - Local Boundary Commission holds second public hearing in Haines, despite Borough's request to postpone until fall.

According to the Lynn Canal News, Feb. 24, 1983 almost 70 people were in attendance, the meeting lasted four hours and "besides the several city officials ... less than a handful of the audience was in favor of it" (the annexation).

March 26, 1983 - Local Boundary Commission holds decisional meeting in Anchorage finding:

1. Greater Haines Area is urban in character (population density greater than that which defines a community -14 persons per square mile.)

2. Greater Haines receives municipal services which can only be provided by the City.

3. Growth potential - need for planning and zoning.

4. Conditions exist which endanger health, welfare and safety of city residents (sewage contamination within Piedad Road area).

5. Direct and indirect benefits to Greater Haines Area from City without tax contributions.

Local Boundary Commission expands City's petition for annexation to fit C&RA's recommendation and approves annexation.

December, 1982 -

Legal Brief submitted by the Haines Citizen's Against Annexation claims:

1. The area to be annexed is not urban in character. The Commission would be well advised to utilize a lay definition of "urban"-"characteristic of a city as distinguished from country". (Webster's New World Dictionary)

2. 70% of City's budget is generated by 4% sales taxes which are paid by all residents. A further portion is generated by user fees from residents who live outside the City and pay for their own fire protection and water supply.

3. Borough provides all schools, the museum, the library, the swimming pool and the Chilkat Center for the Arts. The funding comes from municipal assistance and revenue sharing which depends on number of citizens living outside city. City residents do not contribute to these facilities.

4. Proposed annexation would halt development of 550 acres presently owned by the Borough which are presently planned for land disposal.

In addition Planning and Zoning was approved by Borough voters in October, prior to this annexation order.

October 1983 -

1. Area-wide vote on annexation question.

Total vote: 391 (64%) opposed;
216 approved.

Outside city: 243 opposed;
26 approved.

Inside city: 148 opposed;
190 approve.

2. Borough's voters approved planning, platting and zoning.

Total vote: 382 approve;
255 opposed.

Inside city: 193 approve;
172 opposed.

Outside city: 189 approve
53 opposed

3. Favored form of government.

Total vote: 284 - Third Class Borough
217 - Unified Government
52 - Second Class Borough

December 5, 1983 - Division of Legal Services memo in response to request for comments as to how citizen input into annexation decisions can be guaranteed within the limits of existing constitutional restraints:

- advisory vote best way to insure residents feelings being heard.

- Local Boundary Commission would be advised of majority's feeling.

- if after negative vote, Local Boundary Commission still approves annexation, the unpopularity of the decision would be immediately clear to the legislature. Legislature would undoubtedly take that into consideration.

- as a vocal minority can predominate at public hearings it is easier for any agency to ignore public input than to ignore a vote that reflects majority opinion.

- Dec. 7, 1983 - letter from City of Haines to Representative Goll stating agreement with Borough to request Local Boundary Commission to forestall effective date until Borough has opportunity to conduct elections on unification.
- December 29, 1983 - Borough letter to Local Boundary Commission requests reconsideration of annexation proposal and two year delay to allow the community to work together to solve its problems.
- January 7, 1984 - Local Boundary Commission approves two year extension.
- January 9, 1984 - Special meeting of Borough Assembly called at 4:03 p.m. to approve the two year extension. One of the Borough members opposing annexation arrived late, the 40 mile member was never called. Motion to accept LBC's decision passed.
- Jan. 17, 1984 - Local Boundary Commission's Report of 1983. Recommends annexation to become effective in two years if the City and Borough have not unified during that period. Different from agreement reached between City and Borough according to Borough.
- Jan 17, 1984 - Memo from Attorney General to Local Boundary Commission concludes that the LBC has the power to delay the effective date for two years.
- Jan 31, 1983 - Division of Legal Services Memo concludes that the Commission does not have the authority to itself unify local governments, although by annexation it can eliminate the Borough. But the result would not be that reached by unification.

Note: no Borough wide annexation was

recommended.

Expresses the opinion that the delayed effective date is clearly invalid. The change becomes effective at the time stated in the constitution. Local Boundary Commission is not empowered to vary the Constitution by providing a different effective date for the change.

Jan 31, 1984 - Senator Eliason and Representative Goll hold special teleconference with Haines sites to hear public opinion. Over 50 residents were in attendance. Of the thirty people testifying, 26 were in opposition to annexation.

Feb. 2, 1984 - Division of Legal Services opinion on validity of LBC's final recommendation with delayed effective date.

Indication that the LBC's primary intent was to recommend annexation rather than to recommend the delayed effective date.

Feb. 6, 1984 - Matching resolutions filed in the Senate and the House to disapprove the Local Boundary Commission's recommendation of Haines annexation.

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

EXCERPTS FROM PUBLIC TESTIMONY GIVEN AT LOCAL BOUNDARY
COMMISSION MEETING IN HAINES FEB. 19, 1983

From the LYNN CANAL NEWS

Feb. 24, 1983

Residents say to city: 'No trespassing please'

Pete LaRoque: "I was all for progress in Anchorage" years ago, "and today I've yet to apologize to a lot of old timers for it. I'm sure we all like progress, but now that I'm older, I'd like to see it come a little slower."

John Koehler: "We're being railroaded... why they keep trying to push this down our throats I don't know."

David Menaker: "I've got about all the government I can handle right now. I don't need anymore."

Tim June: "These are real people who bought property outside the city because they wanted to go their own way. There's no sense in making them part of the city when they originally chose not to live in it."

Paul Nelson: "After all my daily dealings with the city I'd say they'd be well advised to get their act together, before they take on any more."

Joey Hinman: "People in the city go clear out the highway to get their water" because they can't drink the city's water. "Now, they want to give us city water too—no thanks."

Pete LaRoque: "I can flush my toilet at home (and it's clean), but when I come to the city and flush my toilet it looks like I just used it."

Marge Matthews: "Sewage isn't the issue here, it's our way of life."

City Mayor Jon Halliwill: "We do have differences of opinion" on annexation here.

Borough Mayor Bob Henderson: "It shouldn't be the boundary commission's intent to push one municipality against another in order to make one strong and one weak."

Gordon Sandy: "People in the city don't understand my problems. I'd rather deal with my neighbors who do."

Diane Benson: "People are getting tired. You guys won't leave them alone. It shouldn't be this way. The people voted it (annexation) down once and it should stay that way. What we want to know is why our vote doesn't count."

Bruce Gilbert: "My dog killed my neighbors chicken and their pig comes down and makes doo-dos in my garage. It's an even exchange. We all get along. It's the city we don't get along with."

Buster Benson: "If my sawmill is annexed it'll probably put me out of business. I'm agin' annexation."

Ray Menaker: "I hope people who want to be annexed have an opportunity to be annexed and that those who don't want to be annexed aren't."

Borough Mayor Bob Henderson: "If the borough and the city spent as much time cooperating as they do fighting we'd be a much better place."

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

January 19, 1984

Dear Representative Goll:

Hopefully the question of annexation of Haines Borough lands by the City of Haines will come before the legislature this coming session. Please vote AGAINST this annexation.

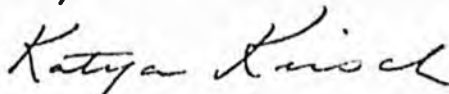
As you are probably aware, the state Boundary Commission voted to allow the Haines City to annex many square miles of Haines Borough lands last year. This is wrong and strange, as the majority of the people in the Haines Borough are against annexation. In a recent vote 64.4% of the population voted against annexation. At a Boundary Commission hearing in Haines an overwhelming number of citizens spoke out against annexation (approximately 45 to 4).

The City of Haines cannot supply all of its present residents with basic services like sewer, water, and roads. So we can't expect them to properly service newly annexed areas. Notwithstanding its inability to render such services, the city would be happy to collect more tax money from newly annexed areas. This would be wrong!

Haines Borough residents have a different lifestyle and values than City residents. Please respect our wishes and vote against the Boundary Commission's recommendation to the legislature to annex Haines Borough lands into the City of Haines.

Thank you,

Katya Kirsch



Box 521
Haines, AK 99827

12/15/83
P.O. Box 124
Haines 99827

Rep. Peter Goll
Pouch V
Juneau 99811

Dear Peter -

I'm sure you are aware of the events relating to annexation in Haines.

A significant majority of our voting citizens — 64.4% — are against the proposed annexation, as we indicated at the polls last October.

Please vote against the Boundary Commission's recommendation to the legislature for annexation to the City of Haines.

Thank you!

Yours truly
Carol R Gilliam
Carol R Gilliam

November 27-1983
Box 602
Haines, Alaska 99821

Representative Peter Goll
Pouch V,
State Capital
Juneau, Alaska.

Dear Representative Goll:

It has been brought to our attention, that the Boundary Commission is still considering annexation of areas outside Haines City limits, as you are aware we do not wish to be annexed, as we will not benefit in any way, and it will only bring about an increase in property taxes.

Representative Goll, please vote against the Boundary Commission's recommendation which is to annex the out lying area of Haines.

Thank you.

Sincerely
Eugene Kockler.
John M. Kockler

December 1, 1983
B.&D. Lumber Co.
P.O. Box 441
Haines, Alaska
99827

Representative Peter Goll
Pouch V
State Capital
Bureau Alaska

Sir,

Please vote against the Boundry Comissions recomendation to
the Legislature of lands for Annexation to the city of Haines
Alaska.

The Annexation will take in my Sawmill that I have operated in
this area since 1977. I beleive this will create a hardship on
me and the people I sell Lumber.

This proposal has been voted down by the people twice but they
keep pushing it on us. Thank you very much.

Yours Truly

LeRoy (Buster) Benson

LeRoy (Buster) Benson
B. & D. Lumber Co.
P.O. Box 441
Haines, Alaska
99827
766-2236

P.O. Box 297
Haines, AK 99827
December 16, 1983

The Honorable Peter Goll
Representative, State of Alaska
P.O. Box 581
Haines, Alaska 99827

Subject: ANNEXATION OF LANDS
BY THE CITY OF
HAINES, ALASKA

Dear Representative Goll:

In 1977 the City of Haines and the State of Alaska negotiated a purchase for the City of Haines of the Lutak Dock. Later the City of Haines claimed that they asked the State of Alaska Attorney General for a decision on this dock to see if it was legal to operate. The decision was handed down that it was illegal in that it was not adjacent to the City of Haines.

The City of Haines also owns another dock at about five mile on Mud Bay Road. This dock brings in revenue for the City, and the State or the City does not claim that this dock is illegal.

In October, 1979, the City of Haines attempted to annex an area about three times the size that it is now, and an area-wide vote was taken which shows 63% were against annexation. The voters protested to the City, and the annexation proposal was withdrawn.

In September, 1981, the City again passed a resolution asking the Department of Regional Affairs to let them annex an area to Lutak Dock.

Regional Affairs again in 1982 proposed that the City annex an area about seven times its size as they did in 1979. The Boundary Commission promised two hearings, and they came the first time in early January of 1983 and the City officials and one local real estate company asked to have the proposed area annexed.

Another hearing was held in Haines, and there were the same few that stood up and asked to have the annexation go through. Many, many people stood up and asked for the annexation NOT to go through.

It is quite apparent that this did not make any impression on the Boundary Commission, as on March 26, 1983, they had a meeting in Anchorage to decide on the annexation. (They had promised to do it in Haines after the last meeting.)

The Boundary Commission allowed two people from Haines to be at the final decision meeting. These two people were for annexation as they had some acreage to sell that was located near the City of Haines, and the annexation would bring it into the City limits and therefore make it more valuable to sell.

These two people not doubt put pressure on the Boundary Commission to pass on full annexation. If the Commission allowed this, which they did, they should have invited people against the annexation also from Haines. This was